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## Title X

**ZONING-UNIFIED DEVELOPMENT CODE\***

\***State law reference**—Subdivisions and partitions, ORS 92.010 et seq.; comprehensive land use planning, ORS 197.005 et seq.; city planning and zoning, ORS 227.010 et seq.

**CHAPTER 110. GENERAL ZONING PROVISIONS****Sec. 110.001. Title.**

~~SRC~~ chapters 110 through 900 ~~of the Salem Revised Code~~ shall be known as the “Unified Development Code” or “UDC.” Unless the context otherwise specifically requires, references to “the Code” in the Unified Development Code are references to other titles in the Salem Revised Code.

(Prior Code, § 110.001; Ord. No. 31-13)

**Sec. 110.005. Authority.**

The City ~~of Salem~~ Charter confers upon the City Council the authority to adopt all forms of regulations for the public health, safety and welfare, including those related to land use. Oregon Revised Statutes, including ORS chs. 92, 197, and 227, also provide authority for the adoption of regulations related to land use.

(Prior Code, § 110.005; Ord. No. 31-13)

**Sec. 110.010. Purpose.**

The purpose of the Unified Development Code is to implement the Salem Area Comprehensive Plan through a comprehensive land use and development code governing all land within the corporate limits of the City and establishing regulations to:

- (a) Promote and protect the health, safety, and general welfare of the public;
- (b) Provide for the orderly growth and development of the City;
- (c) Ensure an appropriate mix of land uses to provide for the economic and social benefits which result from the orderly, planned use of land;
- (d) Ensure the provision of adequate public facilities and services;
- (e) Allow for adequate open space;
- (f) Protect property from risks and dangers;
- (g) Preserve and restore historic resources; and
- (h) Preserve and enhance environmental resources, the natural scenic beauty of the area, and aesthetic qualities of the community.

(Prior Code, § 110.010; Ord. No. 31-13)

**Sec. 110.015. Organization.**

The UDC is organized under the following major sections:

- (a) *General Administration (Division 100)*. The “General Administration” chapters govern the overall administration and enforcement of the UDC and establish definitions for selected terms and methods of measurement under the UDC.
- (b) *Land Use and Development Review (Division 200)*. The “Land Use and Development Review” chapters govern the various types of land use and development review applications under the UDC. These chapters identify the specific submittal requirements, the applicable review procedure types, and the approval criteria for such applications.
- (c) *Procedures (Division 300)*. The “Procedures” chapter governs the applicable procedures for the review and processing of land use and development review applications, and legislative land use proceedings,

under the UDC. The chapter establishes general submittal requirements, specific procedure types for the processing of land use and development review applications, and requirements for public notice, hearings, and appeals.

- (d) *Use Classifications (Division 400)*. The “Use Classifications” chapter governs the classification of land uses under the UDC. The chapter establishes general categories of land uses. Uses falling within these categories are defined by their functional characteristics. Examples of activities which meet those characteristics are provided. The land uses in SRC chapter 400 form the basis for identifying uses allowed in the City’s zones and overlay zones.
- (e) *Zones (Division 500)*. The “Zone” chapters establish the City’s different zones. These chapters identify the land uses that are allowed within each zone, and also establish development standards (e.g., lot standards, setbacks, and height) applicable within each zone. The City’s zones are shown on the City’s official zoning map. Zones are intended reserve land for planned land uses, provide compatibility between different uses, and implement planned housing densities.
- (f) *Overlay Zones (Division 600)*. The “Overlay Zones” chapters establish the City’s different overlay zones. These chapters establish additional regulations beyond those of the base zone in order fulfill specific community objectives within identified areas of the City. Overlay zones are shown on the City’s official zoning map. Overlay zone standards apply in addition to the standards of the base zone, or, in some cases, may supersede them.
- (g) *Special Requirements (Division 700)*. The “Special Requirements” chapters establish special standards that apply to specific uses in some or all zones where those uses are allowed. The standards in these chapters apply in addition to the standards of the zones, or, in some cases, may supersede them.
- (h) *Development Standards (Division 800)*. The “Development Standards” chapters establish standards generally applicable to development throughout the City, including, but not limited to, standards for City utilities, streets, driveways and driveway approaches, off-street parking and loading, landscaping, tree preservation, and sensitive lands. These standards are used in preparing development plans and reviewing development applications.
- (i) *Sign Code (Division 900)*. The “Sign Code” chapter establishes the regulations applicable to all signage in the UDC. The chapter establishes the types of signs allowed within the City’s zones and overlay zones and their applicable development standards.

(Prior Code, § 110.015; Ord. No. 31-13)

#### **Sec. 110.020. Zones and overlay zones, generally.**

Land in the City is zoned to provide areas suitable for certain types of development. Each zone provides a set of regulations governing the uses, lot size, building setbacks, height, and other development standards. Property may also be subject to an overlay zone. An overlay zone establishes additional regulations beyond the base zone to address specific community objectives. In some cases, an overlay zone may provide exceptions to or supersede the regulations of the base zone.

(Prior Code, § 110.020; Ord. No. 31-13)

#### **Sec. 110.025. Zones.**

- (a) ~~Zones~~—The zones applicable to land within the City are listed in Table 110-1:

<b>TABLE 110-1. ZONES</b>			
<b>Broad Zone Category</b>	<b>Zone</b>	<b>Abbreviation</b>	<b>SRC chapter</b>
Agricultural	Exclusive Farm Use	EFU	500
Residential	Residential Agriculture	RA	510
	Single Family Residential	RS	511

<b>TABLE 110-1. ZONES</b>			
<b>Broad Zone Category</b>	<b>Zone</b>	<b>Abbreviation</b>	<b>SRC chapter</b>
	Duplex Residential	RD	512
	Multiple Family Residential-I	RM-I	513
	Multiple Family Residential-II	RM-II	514
	Multiple Family High-Rise Residential	RH	515
Commercial	Neighborhood Commercial	CN	520
	Commercial Office	CO	521
	Commercial Retail	CR	522
	Commercial General	CG	523
	Central Business District	CB	524
Mixed-Use	Fairview Mixed-Use	FMU	530
	South Waterfront Mixed-Use	SWMU	531
	Neighborhood Center Mixed-Use	NCMU	532
Public	Public Amusement	PA	540
	Public and Private Cemeteries	PC	541
	Public and Private Educational Services	PE	542
	Public and Private Health Services	PH	543
	Public Service	PS	544
	Capitol Mall	PM	545
Industrial and Employment	Employment Center	EC	550
	Industrial Commercial	IC	551
	Industrial Business Campus	IBC	552
	Industrial Park	IP	553
	General Industrial	IG	554
	Intensive Industrial	II	555

(b) Unless otherwise specifically provided, wherever the broad zone category terms “agricultural zone,” “residential zone,” “commercial zone,” “mixed-use zone,” “public zone,” or “industrial and employment zone” are used under the UDC, they shall be deemed to refer to all zones falling under that broad zone category. For example, “residential zone” includes the RA, RS, RD, RM-I, RM-II, and RH zones; “commercial zone” includes the CN, CO, CR, CG, and CB zones; and “industrial and employment zone” includes the EC, IC, IBC, IP, IG, and II zones. (Prior Code, § 110.025; Ord. No. 31-13)

**Sec. 110.030. Overlay zones.**

~~(a) Overlay Zones.~~ The overlay zones applicable to land within the City are listed in Table 110-2:

<b>TABLE 110-2: OVERLAY ZONES</b>	
<b>Overlay Zone</b>	<b>SRC chapter</b>
Willamette Greenway Overlay Zone	600

<b>TABLE 110-2: OVERLAY ZONES</b>	
<b>Overlay Zone</b>	<b>SRC chapter</b>
Floodplain Overlay Zone	601
Airport Overlay Zone	602
Portland/Fairgrounds Road Overlay Zone	603
Pine Street Mixed-Use Area Overlay Zone	604
Northgate Mixed-Use Area Overlay Zone	605
Wallace Road Corridor Overlay Zone	606
West Salem Gateway Overlay Zone	607
West Salem General Industrial Overlay Zone	608
Patterson Street Corridor Overlay Zone	609
Edgewater Street Corridor Overlay Zone	610
Second Street Corridor Overlay Zone	611
Walker School Residential Area Overlay Zone	612
Broadway/High Street Retail Overlay Zone	613
Broadway/High Street Housing Overlay Zone	614
Broadway/High Street Transition Overlay Zone	615
Riverfront High Density Residential Overlay Zone	616
Riverfront Overlay Zone	617
Chemawa/I-5 Northeast Quadrant Gateway Overlay Zone	618
Mixed-Use Overlay Zone	619
Salem Hospital Overlay Zone	620
Superior/Rural Overlay Zone	621
Oxford/West Nob Hill Overlay Zone	622
Oxford/Hoyt Overlay Zone	623
Hoyt/McGilchrist Overlay Zone	624
Saginaw Street Overlay Zone	625
Commercial/High Density Residential Overlay Zone	626
22nd and Electric Overlay Zone	627
State Street Overlay Zone	628
McNary Field Overlay Zone	629
South Gateway Overlay Zone	630
Compact Development Overlay Zone	631
General Retail /Office Overlay Zone	632
Front Street Overlay Zone	633

(Prior Code, § 110.030; Ord. No. 31-13)

**Sec. 110.035. Official zoning map.**

The boundaries of zones and overlay zones shall be depicted on an official map titled the Salem Zoning Map. The Salem Zoning Map may be maintained in digital form. The Salem Zoning Map may be divided into geographic units for convenience of use, and to more readily identify locations on the map, and may contain any additional information that reflects the application of the UDC to property within the City.

(Prior Code, § 110.035; Ord. No. 31-13)

**Sec. 110.040. Interpretation of zone boundaries and overlay zone boundaries.**

Where uncertainty exists as to the boundary of any zone or overlay zone as shown on the Salem Zoning Map, the Director shall apply the following rules to determine the location of the boundary:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be deemed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be deemed to follow such platted lot lines.
- (c) Boundaries indicated as approximately following city limits shall be deemed to follow city limits.
- (d) Boundaries indicated as following railroad lines shall be deemed to fall midway between the main tracks.
- (e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be deemed to follow such centerlines.
- (f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) of this section shall be deemed to be parallel to or extensions of such features.
- (g) Where the boundary is based on a legal description adopted by ordinance, the legal description shall establish the boundary.
- (h) Where two or more legal descriptions adopted by ordinance establish conflicting boundaries, the legal description set forth in the most recent action shall be deemed to establish the boundary.
- (i) Where a legal description adopted by ordinance and a depiction on the Salem Zoning Map establish conflicting boundaries, the legal description shall be deemed to establish the boundary.
- (j) Where a legal description adopted by ordinance includes a scrivener's error, the Director shall refer an amendment to the Council to correct the error.

(Prior Code, § 110.040; Ord. No. 31-13)

**Sec. 110.045. Application, compliance, and scope of regulations.**

(a) The UDC is intended to provide minimum regulations for the use and development of land, and shall apply uniformly to land, uses, buildings, and structures unless otherwise allowed by the UDC.

(b) The UDC applies to the owners of record, to persons undertaking the development or the use of land, and to those persons' assigns and successors in interest.

(Prior Code, § 110.045; Ord. No. 31-13)

**Sec. 110.050. Relationship to Salem Revised Code regulations.**

(a) Unless otherwise provided in the UDC, if a conflict exists between standards in the UDC, the most restrictive standard shall govern.

(b) Unless otherwise provided in the UDC, if a standard in the UDC conflicts with other rules or regulations in the Salem Revised Code, the most restrictive standard shall govern.

(Prior Code, § 110.050; Ord. No. 31-13)

**Sec. 110.055. Relationship to state and federal regulations.**

(a) The UDC shall not be construed in any way to impair or interfere with any applicable state or federal law or regulation relating to the use or development of land, or any buildings, structures, or other improvements thereon.



- (b) Where a reference to state or federal law or regulation is included in the UDC, such reference:
  - (1) Is provided for information purposes only and does not necessarily constitute a complete listing of the applicable laws or regulations; and
  - (2) Shall not imply any responsibility by the City for enforcement.

(Prior Code, § 110.055; Ord. No. 31-13)

**Sec. 110.060. Relationship to private regulations and restrictions.**

(a) The UDC shall be applied independently of, and without regard to, any private easement, covenant, condition, restriction, or other legally enforceable interest in, or obligation imposed on, the use or development of land.

(b) The City does not enforce any easement, covenant, condition, restriction, or other agreement between private parties, nor is the UDC generally intended to abrogate, annul, or impair such easements, covenants, conditions, restrictions, or agreements. In those instances where the UDC imposes a greater restriction or higher standards than required by an easement, covenant, condition, restriction, or other agreement between private parties, or where the UDC otherwise conflicts with those private party agreements, the UDC shall control.

(Prior Code, § 110.060; Ord. No. 31-13)

**Sec. 110.065. Compliance with standards.**

No property shall be developed, redeveloped, or changed in use; no building, structure, or premises shall be used or occupied; and no building or structure or portion thereof shall be erected, constructed, moved, structurally altered, or enlarged unless done so:

- (a) In conformity with all applicable regulations in the UDC;
- (b) In compliance with all conditions imposed in any applicable land use action; and
- (c) Only after applying for and securing all permits, licenses, or other approvals required by applicable laws and ordinances.

(Prior Code, § 110.065; Ord. No. 31-13)

**Sec. 110.070. Director; authority; enforcement.**

(a) The Director shall have authority to administer and enforce, to render written and oral interpretations of, and to adopt administrative rules and procedures necessary and proper for the administration and enforcement of, the UDC.

(b) Nothing in the UDC shall be construed to create mandatory enforcement obligations for the City. The enforcement shall be a function of the availability of sufficient financial resources consistent with adopted budgetary priorities and prosecutorial priorities within the range of discretion delegated to the Director. Neither the Director nor the City shall be liable for any damages for failure to enforce the UDC.

(Prior Code, § 110.070; Ord. No. 31-13)

**Sec. 110.075. Formal interpretations.**

(a) *Purpose.* The purpose of a formal interpretation is to clarify ambiguous provisions in the UDC and their application in particular circumstances.

(b) *Procedure.* In lieu of the procedures set forth in SRC chapter 300, formal interpretations shall follow the procedures set forth in this section.

(c) *Issuance.* The Director is authorized to issue formal interpretations of the UDC. Requests for formal interpretations shall be submitted on a form provided by the Director.

- (1) The Director shall make a written interpretation of the specific provision of the UDC subject to the request for formal interpretation. Appeals of formal interpretations by the Director shall be to the City Council.
- (2) In lieu of issuing an interpretation under ~~paragraph subsection (c)(1) of this subsection~~, the Director may

refer the request for formal interpretation to the Hearings Officer, in which case the Hearings Officer shall make a written interpretation of the specific provision of the UDC subject to the formal interpretation request. Appeals of formal interpretations referred to the Hearings Officer shall be to the ~~City Council~~.

(d) *Notice.* Notice of adoption of the formal interpretation shall be provided within ten days of the date the interpretation is issued. Notice shall be:

- (1) Provided to the applicant, all City-recognized neighborhood associations, and anyone who has submitted a written request to receive notification of formal interpretations; and
- (2) Posted on the City's website.

(e) *Appeal and review.* Unless appealed, or review is initiated by the ~~City Council~~ pursuant to SRC chapter 300, the formal interpretation shall become final 21 days after the date it appears on the ~~City Council~~ agenda.

(f) *Record of formal interpretations.* The Director shall keep a permanent file of all formal interpretations.

(g) *Effect of formal interpretation.* Formal interpretations which have become final shall control future application and enforcement of the UDC, unless superseded by subsequent formal interpretations.

(Prior Code, § 110.075; Ord. No. 31-13)

#### **Sec. 110.080. Rules of construction.**

The following rules of construction shall be used in interpreting the UDC:

- (a) An interpretation shall be consistent with generally accepted principles of statutory construction as recognized by the Oregon courts, and shall not, by way of interpretation, add new restrictions, standards, or policies that are not apparent or necessarily implied within the text or context of the provision.
- (b) In making an interpretation, the duty is to simply ascertain and declare what is, in terms or in substance, contained in the provision.
- (c) No interpretation shall insert what has been omitted or omit what has been inserted.
- (d) Where there are several provisions relating to the same subject, a construction shall be given where, if possible, all provisions will be given effect.
- (e) As used in the UDC, words used in the present tense include the future, the singular number includes the plural, and the word "shall" is mandatory and not directory.
- (f) An interpretation shall consider the Salem Area Comprehensive Plan, where applicable. No interpretation shall be inconsistent with the Salem Area Comprehensive Plan.
- (g) In construing an ambiguous provision, the legislative history of the provision may be considered.
- (h) In making interpretations, great weight shall be given to prior interpretations of the same or any related provision.
- (i) Chapters in the UDC contain purpose statements which are intended to provide general explanatory information concerning the chapter. The content of these sections does not constitute approval criteria.

(Prior Code, § 110.080; Ord. No. 31-13)

#### **Sec. 110.085. Amendments to the UDC.**

(a) *Procedure type.* Amendments to the UDC are legislative land use decisions, and are processed according to the legislative procedures set forth in SRC chapter 300.

(b) *Criteria.* An amendment to the UDC may be made if:

- (1) The amendment is in the best interest of the public health, safety, and welfare of the City; and
- (2) The amendment conforms with the Salem Area Comprehensive Plan, applicable statewide planning goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.

(Prior Code, § 110.085; Ord. No. 31-13)

**Sec. 110.090. Fees and charges.**

Fees and charges for applications and other services provided pursuant to the UDC shall be set by resolution of the ~~City Council~~. Fees and charges shall be paid at the time of application submittal, or, if no application is required, at the time the request for a particular service is made. No application shall be deemed complete until the fee or charge for such application has been paid in full. For applications or services requiring payment of a deposit, the amount of the deposit shall be credited against the exact final calculated costs. If applicable, any unused portion of the deposit shall be refunded once all incurred fees are paid.

(Prior Code, § 1100.090; Ord. No. 31-13)

**Sec. 110.095. Computation of time.**

(a) Unless otherwise specifically provided in the UDC, where a period of time is expressed as a number of days, such period of time shall mean consecutive calendar days. The period of time shall be calculated by excluding the first day, the day on which the period begins to run, and including the last day, the day on which the period ends. If the last day falls on a Saturday, Sunday, or legal holiday, the period of time shall extend to the next following business day. The period of time shall end at 5:00 p.m. on the last day.

(b) Unless otherwise specifically provided in the UDC, where a period of time is expressed as between particular hours, the period of time shall begin and end on the same day unless the first hour stated is after 12:00 noon and the second hour stated is before 12:00 noon, in which case the period of time shall end at the second hour stated on the day following the first hour stated.

(Prior Code, § 110.095; Ord. No. 31-13)

**Sec. 110.100. Performance guarantees.**

(a) An applicant shall provide a performance guarantee, where required by the UDC or by SRC 77.120, to ensure completion of a required improvement. The amount of the performance guarantee shall be equal to 100 percent of the estimated construction costs of the required improvement, as determined by the ~~Public Works~~ Director. The performance guarantee shall remain in place until the required improvements have been completed by the applicant and accepted by the City.

(b) The ~~Public Works~~ Director has discretion to determine which performance guarantee, or combination of performance guarantees, is acceptable to ensure the completion of the required improvement, as set forth in subsection (c) of this section.

(c) The performance guarantees that may be provided to ensure completion of a required improvement are:

(1) A surety bond executed by a surety company authorized to transact business in the State of ~~Oregon~~, in a form approved by the City Attorney.

(2) A deposit of cash or negotiable securities with the City, together with an agreement that provides:

(A) The applicant shall forfeit the deposit to the City upon the ~~Public Works~~ Director declaring that the required improvements have not been ~~not~~ completed in a satisfactory manner, or that there has been a default under the improvement agreement; and

(B) The ~~Public Works~~ Director may release portions of the deposit as progress payments, in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the ~~Public Works~~ Director.

(3) A deposit of cash or negotiable securities with an escrow agent or trust company, selected by the ~~Public Works~~ Director, together with an escrow agreement that provides:

(A) The deposit may be disbursed only upon written approval of the ~~Public Works~~ Director;

(B) The ~~Public Works~~ Director may release portions of the deposit as progress payments, in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the ~~Public Works~~ Director; and

- (C) The escrow agent or trust company shall release the deposit to the City upon receipt of a statement from the ~~Public Works~~ Director stating that the required improvements have ~~not~~ been ~~not~~ completed in a satisfactory manner, or that there has been a default under the improvement agreement.
- (4) A guaranty agreement between the City, the applicant, and one or more financial or lending institutions, in a form approved by the City Attorney. The guaranty agreement shall provide:
  - (A) An unconditional provision that funds in an amount equal to 100 percent of the estimated construction cost of the required improvements are available and guaranteed as payment for the construction cost of the required improvements; and
  - (B) The lending institution shall release funds to the City upon receipt of a statement from the ~~Public Works~~ Director stating that the required improvements have not been completed in a satisfactory manner, or that there has been a default under the improvement agreement.
- (5) An irrevocable standby letter of credit issued by a financial institution acceptable to the ~~Public Works~~ Director, in a form approved by the City Attorney. The irrevocable standby letter of credit shall:
  - (A) Name the City as the beneficiary; and
  - (B) Provide for automatic extensions equal to the original term, unless the issuing financial institution gives not less than 60 days written notification to the ~~Public Works~~ Director prior to its expiration, and the issuing institution agrees that any unused portion of the credit shall be available upon presentation of the City's sight draft within 60 days of the issuing bank's receipt of notice of non-renewal.
- (6) For subdivisions and partitions, a no-build agreement between the applicant and City, in a form approved by the City Attorney. The no-build agreement shall:
  - (A) Provide that no building permits for any buildings or structures within the subdivision or partition shall be issued until all required improvements have been substantially completed, as certified by the ~~Public Works~~ Director;
  - (B) Be binding on the applicant and the applicant's heirs, successors and assigns until such time as all improvements are complete;
  - (C) Be recorded in the deed records of the appropriate county; and
  - (D) Provide that upon completion and acceptance by the City of the required improvements, that the ~~Public Works~~ Director shall record a certificate of completion releasing the property from the no-build agreement in the deed records of the appropriate county.
- (d) City remedies if applicant fails to construct required improvement.
  - (1) If an applicant fails to complete a required improvement, the City may seek any remedy available at law or in equity to remedy such failure, including, but not limited to, money damages and specific performance of an improvement agreement for which performance security has been provided.
  - (2) In addition to the remedies set forth in ~~paragraph subsection (d)(1) of this subsection~~, if an applicant fails to complete a required improvement, the Director may estimate the cost of completing the required improvement, obtain the necessary funds from one of the performance guarantees specified in ~~SRC 110.100-subsections (c)(1) through (5) of this section~~, and complete the improvement. If the funds are insufficient to cover the costs of completion, the City may hold the funds obtained until additional funds have been provided by the applicant, or expend the funds on a modified improvement or on such portion of the required improvement as is deemed reasonable by the ~~Public Works~~ Director; provided, however, that such action by the ~~Public Works~~ Director shall not relieve the applicant of the obligation to construct the required improvement.

(Prior Code, § 110.100; Ord. No. 31-13)

#### **Sec. 110.105. Inspection and right of entry.**

When necessary to investigate a suspected violation of the UDC, or an application for or revocation of any

permit issued under the UDC, the Director may enter on any site, building, or structure open to the public for the purpose of investigation, provided entry is done in accordance with law. Absent a search warrant, no site, building, or structure that is closed to the public shall be entered without the consent of the owner or occupant. No owner or occupant or agent thereof, shall, after being presented with a search warrant, refuse to permit entry authorized by the warrant. If entry is refused, the Director shall have recourse to the remedies provided by law to secure entry.

(Prior Code, § 110.105; Ord. No. 31-13)

**Sec. 110.110. Civil enforcement.**

- (a) *Stop work orders.*
  - (1) The Director may order development or other work regulated by the UDC stopped whenever the Director has reason to believe that:
    - (A) The work is not authorized by a valid permit or approval;
    - (B) Inaccurate information was used to obtain the permit or approval;
    - (C) The development or other work is being performed in violation of a provision of the UDC or the term of a permit or approval; or
    - (D) The development or other work is, or threatens to become, an imminent hazard to property or public health, safety, or welfare.
  - (2) The City shall post a written notice of the stop work order at the site, or serve such notice on any person engaged in the work or causing such work to be performed. The notice shall specify the nature of the violation or problem which must be remedied prior to resuming work. Upon the posting or service of notice, all persons engaged in the development or other work or causing the work to be performed shall immediately stop such development or other work until authorized in writing by the Director to proceed. Failure to stop work shall be independent grounds for penalties and additional enforcement actions.
  - (3) Persons violating the UDC, or the terms of a permit or approval issued under the UDC, shall be responsible for restoring damaged areas in conformance with a plan approved by the Director which provides for repair of any environmental or property damage and restoration of the site. The plan shall result in conditions upon the site which, to the greatest extent practical, equal the conditions that would have existed had the violation not occurred, as verified by the Director.
  - (4) Any person to whom a stop work order is issued pursuant to this section may file a written notice of appeal in the manner prescribed in SRC chapter 20J. Notwithstanding any provisions of this Code to the contrary, the filing of an appeal shall not stay an order issued hereunder, which shall remain in effect until the final determination of the appeal, or the Director issues a revised order lifting the stop work order.
- (b) *Stop use orders.*
  - (1) The Director may order a use or activity stopped or limited when:
    - (A) The use or activity is not a permitted use, special use, conditional use, or nonconforming use properly authorized under the UDC; or
    - (B) The use or activity violates the terms of any land use approval or permit issued pursuant to the UDC.
  - (2) The Director shall post a written stop use order on the property and serve a copy of the order on any person engaged in the use on the property, and on the property owner, if different. The order shall fix a time limit within which compliance must be reached. Unless compliance is reached, no person shall use or occupy the property in violation of the order after the time limit has expired.
  - (3) Any person to whom an order is issued pursuant to this section may file a written notice of appeal in the manner prescribed in SRC chapter 20J. Notwithstanding any provisions of this Code to the contrary, the filing of an appeal shall not stay an order issued hereunder, which shall remain in effect until the final determination of the appeal, or the Director issues a revised order lifting the stop use order.

(c) *Civil penalty.* Any person who fails to comply with the requirements of the UDC, or the terms of a permit or approval issued thereunder, who undertakes an activity regulated by the UDC without first obtaining a permit, or who fails to comply with a stop work order or stop use order issued pursuant to this chapter shall also be subject to an administrative civil penalty as provided in SRC chapter 20J, not to exceed \$2,000.00.00 per violation. Each day that a permit violation continues shall constitute a separate violation.

(d) *Civil penalties against agents.* Any person who acts as the agent of, or otherwise assists, a person who engages in an activity which would be subject to a civil penalty, may likewise be subject to a civil penalty.

(e) *Abatement.* Any use, building, or structure established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to the UDC is a public nuisance and may be abated as provided in SRC chapter 50.

(f) *Reconsideration.* Any person aggrieved by any decision, action, or determination, including stop work and stop use orders, made by the Director pursuant to this section may seek reconsideration by filing a written request for reconsideration with the Director within ten days after notice of such decision, action, or determination has been provided to the user; provided, however, the filing of a request for reconsideration shall not be a prerequisite for the filing of an appeal. The notice shall set forth in detail the facts supporting the request for reconsideration. The Director's decision, action, or determination shall remain in effect during such period of reconsideration.

(g) *Appeals.* Any person aggrieved by any decision, action, or determination, including stop work and stop use orders, made by the Director pursuant to this section may appeal the decision to the Hearings Officer by following the process set forth in SRC 20J.220. The hearing on the appeal shall follow the contested case procedures set forth in SRC 20J.240 through 20J.430.

(h) *Proceedings by City Attorney.* The City Attorney, upon request of the Director, may institute any legal proceedings in circuit court necessary to enforce the provisions of the UDC. Proceedings may include, but are not limited to, injunctions to prohibit the continuance of any use, occupation, building, structure, or sign, or the carrying on of other conduct or activities in violation of any provision of the UDC.

(i) *Remedies not exclusive.* The remedies provided in this chapter are cumulative and not mutually exclusive and are in addition to any other right, remedies, and penalties available under any other provision of law.

(Prior Code, § 110.110; Ord. No. 31-13)

#### **Sec. 110.115. Unlawful use of property.**

(a) It shall be unlawful for any person to engage in any use on any real property if the use is not a permitted use, special use, or authorized conditional use in the zone or overlay zone where the property is located.

(b) A violation of this section is an infraction.

(Prior Code, § 110.115; Ord. No. 31-13)

#### **Sec. 110.120. Unlawful failure to obtain a permit or approval.**

(a) It shall be unlawful for a person to engage in any activity for which a permit or other approval is required by the UDC without first obtaining a permit or approval therefor.

(b) A violation of this section is an infraction.

(Prior Code, § 110.120; Ord. No. 31-13)

#### **Sec. 110.125. Unlawful development of land.**

(a) It shall be unlawful to knowingly develop or redevelop buildings, structures, or land, or to construct or structurally alter a building or structure, or to grade, excavate, or fill any premises, in violation of any applicable standard in the UDC, or in violation of any permit or approval issued pursuant to the UDC.

(b) A violation of this section is an infraction.

(Prior Code, § 110.125; Ord. No. 31-13)

#### **Sec. 110.130. Unlawful occupancy or maintenance.**

(a) It shall be unlawful to occupy or maintain a building, structure, or premises in a manner that violates any applicable development standard of the UDC, or any permit or approval issued pursuant to the UDC.

- (b) A violation of this section is an infraction.

(Prior Code, § 110.130; Ord. No. 31-13)

**Sec. 110.135. Violation of stop work and stop use orders.**

- (a) It shall be unlawful to knowingly violate a stop work order or stop use order issued pursuant to SRC 110.110.

- (b) A violation of this section is a misdemeanor.

(Prior Code, § 110.135; Ord. No. 31-13)

**Sec. 110.140. Excavation, injury, destruction, or alteration of archeological resources.**

- (a) It shall be unlawful for a person to knowingly excavate, injure, destroy, or alter an archaeological site or to knowingly remove an archaeological object located on public or private lands unless that activity is authorized by a permit issued under ORS 390.235. As used in this section, the terms "archaeological site" and "archaeological object" shall have the meanings set forth in ORS 358.905.

- (b) A violation of this section is a misdemeanor.

(Prior Code, § 110.140; Ord. No. 31-13)

**Sec. 110.145. Demolition of historic resources.**

- (a) It shall be unlawful to knowingly or negligently demolish a historic contributing building or individually listed resource, without first obtaining a historic resource demolition permit under SRC chapter 230.

- (b) A violation of this section is a misdemeanor.

(Prior Code, § 110.145; Ord. No. 31-13)

**Sec. 110.150. Unlawful activity in Floodplain Overlay Zone.**

- (a) No person shall construct, locate, extend, convert, alter any structure, or intensify the use of land, or construct, locate, or extend any obstruction within the floodplain established by SRC chapter 601 without fully complying with SRC chapter 601 and any other applicable state or federal regulations.

- (b) No person shall negligently, recklessly, or intentionally violate any condition imposed by a floodplain development permit or variance issued pursuant to SRC 601.130.

- (c) No person shall make, cause, suffer, or permit any intensification, change of use, or development within any floodplain without full compliance with the terms of SRC chapter 601, Floodplain Overlay Zone.

- (d) A violation of this section is a misdemeanor.

(Prior Code, § 110.150; Ord. No. 31-13)

**Sec. 110.155. False information.**

- (a) It shall be unlawful for any person to knowingly make a false or fraudulent statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to the UDC.

- (b) A violation of this section is a misdemeanor.

(Prior Code, § 110.155; Ord. No. 31-13)

## CHAPTERS 111. DEFINITIONS

### **Sec. 111.001. Definitions, generally.**

Unless the context otherwise specifically requires, terms used in the UDC shall have the meanings set forth in this chapter; provided, however:

- (a) Where chapter specific definitions are included in another chapter of the UDC, those definitions are the controlling definitions; and
- (b) Where a term is not defined within the UDC, the term shall have its ordinary accepted meaning within the context in which it is used. Webster's Third New Int'l Dictionary (unabridged ed. 2002) shall be the standard reference to ordinary accepted meanings.

(Prior Code, § 111.001; Ord. No. 31-13)

### **Sec. 111.005. "A" definitions.**

(a) ~~Abutting~~: means touching along a boundary or point.

(b) ~~Accessory building or structure~~: means a building or structure that is incidental and subordinate to, and dependent upon, the principal use on the same premises.

(c) ~~Accessory short-term rental~~: means a type of short-term rental which is operated as an accessory use to a Household Living use where a resident family rents guest rooms within their dwelling unit, or a guest house if applicable, when they are present as hosts, or rents their entire dwelling unit, including a guest house if applicable, during periods of time when they are away, to overnight guests on a daily or weekly basis for periods of less than 30 consecutive days.

(d) ~~Accessory dwelling unit~~: means a second dwelling unit that is attached to or detached from a single family detached dwelling, manufactured home, or zero side yard dwelling on the same lot. The accessory dwelling unit is accessory to and is smaller than the primary dwelling unit.

(e) ~~Adjacent~~: means near or close, but not necessarily contiguous with.

(f) ~~Adjoin~~: means to abut.

(g) ~~Adult day care center~~: means day care for adults in a nonresidential structure.

(h) ~~Adult day care home~~: means day care for five or fewer adults provided in the home of the adult day care provider.

(i) ~~Alley~~: means a public way not less than ten feet and not more than 20 feet in width that is primarily used as a secondary means of motor vehicle access to abutting property.

(j) ~~Ambulance service facility~~: means a building used for the administrative offices of an ambulance service, the housing of emergency medical personnel, and the ordinary maintenance and repair of emergency vehicles and equipment.

(k) ~~Ambulance station~~: means a building, or a specific portion of a building or development, that is utilized for the housing of on-call emergency medical ambulance personnel.

(l) ~~Apartment~~: means a building that contains three or more dwelling units and which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the said building; or a building in condominium ownership containing three or more dwelling units.

(m) ~~Arcade~~: means a continuous covered arched passageway located parallel to a building, street, or open space, and open and accessible to the public.

(n) ~~Arterial street~~: means a major arterial street or minor arterial street.

(Prior Code, § 111.005; Ord. No. 31-13; Ord. No. 10-17, § 2, 7-10-2017)



**Sec. 111.010. “B” definitions.**

(b) ~~Buildable width~~: means the distance along the street right-of-way, exclusive of side setbacks, wetlands, and riparian corridors, that is sufficiently deep to accommodate a lot depth of 70 feet and meet setback requirements. Where a development fronts on a street which is curved, the buildable width shall be measured radial to the curve.

(c) ~~Building~~: means any structure used or intended for supporting or sheltering any use or occupancy.

(d) ~~Building articulation~~: means design emphasis given to walls, roofs, windows, balconies, entries, and other architectural features to divide buildings into smaller identifiable pieces, reduce the appearance of building bulk and mass, provide visual interest, and introduce elements of scale.

(e) ~~Building Official~~: means the Administrator of the Building and Safety Division of the Department of Community Development of the City of Salem, Oregon, or the Building Official's designee.

(f) ~~Building offset~~: means a change in vertical planes along the exterior facade of a building used to divide the building into smaller identifiable pieces and reduce the appearance of building bulk and mass. An offset that does not continue the entire length of the building, and therefore, configured as a "bump out," counts as one building offset. Decks or covers over entryways do not count as building offsets.

(g) ~~Building offset interval~~: means the space between building offsets.

(Prior Code, § 111.010; Ord. No. 31-13)

**Sec. 111.015. “C” definitions.**

(a) ~~Canopy tree~~: means a deciduous shade tree planted primarily for its high crown of foliage.

(b) ~~Carport~~: means a permanent structure used for the parking or storage of vehicles which is unenclosed on two or more sides.

(c) ~~Central Salem Development Program (CSDP) Area~~: means that area of the City within the following boundaries:

Beginning at the SE corner of 12th Street SE and Mission Street SE in Section 27 Township 7 South Range 3 West in Marion County, Oregon; Thence Northerly along the East line of 12th Street SE to its intersection with the East Right-of-Way line of the Southern Pacific Railroad; Thence continuing Northerly along said East line of Railroad to the North side of “D” Street NE; Thence Westerly along the North side of “D” Street NE to the West Side of Fifth Street NE; Thence Northerly along the West side of Fifth Street NE to the North side of Market Street NE; Thence Easterly along the North side of Market Street NE to an Alley running between Fifth Street NE and Church Street NE; Thence Northerly along Said Alley to the North side of Gaines Street NE; Thence Easterly along the North side of Gaines Street to the West side of Church Street NE; Thence Northerly along the West Side of Church Street to the North line of an Alley running between Hood Street NE and Shipping Street NE; Thence Westerly along the North side of Said Alley to the East bank of the Willamette River; Thence Southerly along the East Bank of the Willamette River and Willamette Slough to the Westerly projection of the South line of Mission Street SE; Thence running Easterly along the South side of Mission Street SE to the Place of Beginning (see Figure 111-3).

(d) ~~Child or children~~: means a person under 13 years of age, or a person under 18 years of age who has special needs or disabilities and requires a level of care that is above normal for the child’s age.

(e) ~~Child day care center~~: means a facility that provides day care for 17 or more children.

(f) ~~Child day care home~~: means day care for 16 or fewer children provided in the home of the child day care provider.

(g) ~~City infrastructure~~: means public infrastructure providing vehicular and pedestrian transportation, City utilities, and parks.

(h) ~~City utilities~~: means public improvements providing water, wastewater, and stormwater facilities.

(i) ~~Collector street~~: means a street that allows traffic within an area or neighborhood to connect to an arterial street, and designated as such in the Salem Transportation System Plan. Collector streets shall have priority over

local streets in the installation of any traffic control devices. Single family and duplex access onto collector streets may be limited according to Public Works Design Standards.

(j) *Columnar tree*: means a tree species that is tall and cylindrical or tapering.

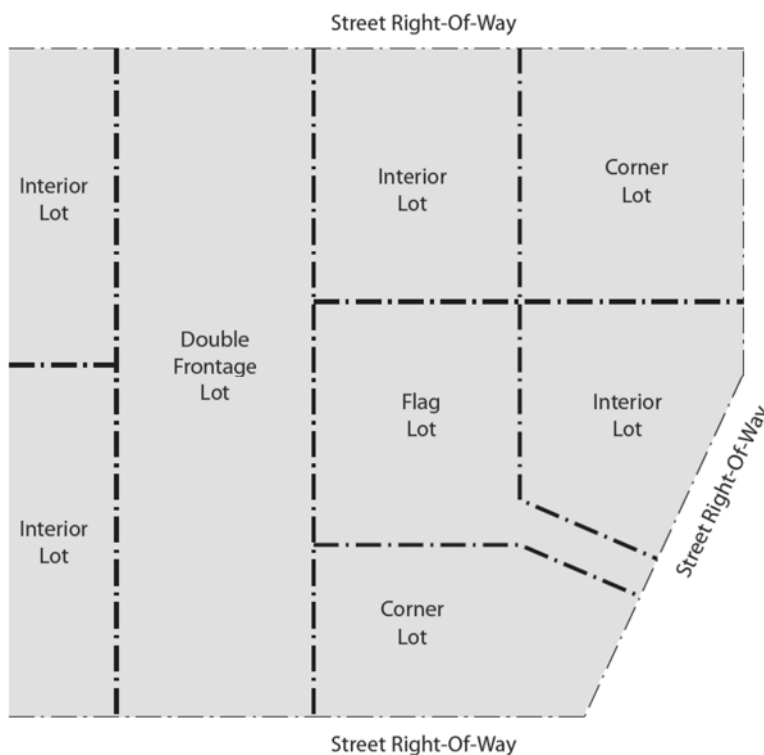
(k) *Common open space*: means open area intended for shared use and enjoyment in a development. Common open space includes landscaping, walkways, play areas, swimming pools, roof gardens, or other open areas which provide active or passive recreational or visual amenities for residents. Common open space does not include parking areas, streets, or other areas designed for motor vehicle circulation or storage.

(l) *Complex*: means a group of buildings, structures, or other development that is functionally or conceptually integrated, regardless of the ownership of the development or underlying land, and regardless of whether located on one or more lots or parcels.

(m) *Contiguous*: means TOUCHING along a boundary or point. Unless otherwise provide under the UDC, any properties that are separated by public right-of-way shall not be considered contiguous.

(n) *Corner lot*: means a lot abutting two or more intersecting streets, where the interior angle formed by the intersection of the streets does not exceed 135 degrees; or a lot having two or more adjacent front lot lines in which the interior angle formed by the extensions of the front lot lines in the direction which they take at their intersections with the side lot lines forms an angle of 135 degrees or less. In the event a street front lot line is a curve at its point of intersection with a side lot line, the tangent to the curve at that point shall be considered the direction of the front lot line (see Figure 111-1).

**FIGURE 111-1. LOT TYPES**



(o) *Cottage housing*: means a development consisting of at least two or more attached and/or detached dwelling units on one lot as a legal nonconforming use as of May 15, 1979.

(p) *Court apartment*: means a dwelling unit which is one of three or more dwelling units contained in two or more buildings on the same lot.

(q) *Crime prevention through environmental design*: means specific measures taken to enhance the safety of residents and minimize the potential for crime through the physical design of a development.

~~(f)~~ *Cul-de-sac*: means a dead end street having a turnaround area at the dead end.

~~(g)~~ *Curblin*: means the line indicating the edge of the vehicular roadway within the overall right-of-way.

(Prior Code, § 111.015; Ord. No. 31-13)

**Sec. 111.020. “D” definitions.**

~~(a)~~ *dbh*: means the diameter of a tree measured in inches at a height of 4.5 feet above grade. When a fork in the trunk occurs at or above 4.5 feet, the dbh is the smallest diameter at 4.5 feet or below. When the fork occurs below 4.5 feet, or the tree splits into multiple stems at ground level, each stem is considered a separate tree trunk and is measured accordingly. The term “dbh” is also known as “diameter at breast height.”

~~(b)~~ *Dead-end street*: means a street which terminates without a turnaround area and is intended to continue through at some future time.

~~(c)~~ *Development*: means to construct or alter a structure, to make alterations or improvements to the land or to make a change in use or appearance of land, to divide or reconfigure land, or to create, alter, or terminate a right of access. The term “development” does not include:

~~(1)~~ ~~(a)~~ Maintenance and repair, usual and necessary for the continuance of an existing use;

~~(2)~~ ~~(b)~~ Reasonable emergency procedures necessary for the safety or operation of property; or

~~(3)~~ ~~(c)~~ Interior or exterior remodeling that does not increase the square footage or height of a structure, or substantially alter the appearance of a structure.

~~(d)~~ *Development site*: means an individual lot or multiple contiguous lots accommodating a single development or a complex.

~~(e)~~ *Director*: means the City Manager, or the department head charged by the City Manager with the implementation and enforcement of the UDC, or that department head’s designee.

~~(f)~~ *Double frontage lot*: means a lot that has frontage on two streets that do not intersect at the lot’s boundaries (see Figure 111-1).

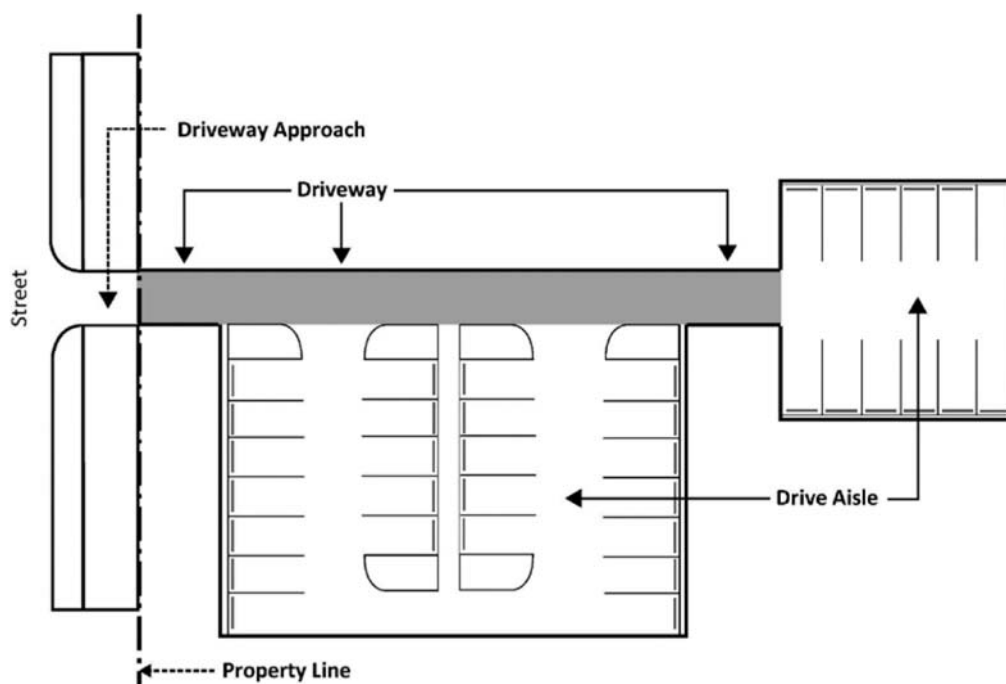
~~(g)~~ *Downhill lot*: means a hillside lot which slopes downhill from the front lot line.

~~(h)~~ *Downtown Parking District*: means that certain district, established under SRC chapter 7, which provides for the financing and administration of programs for economic promotion and public parking for motor vehicles in the Central Business District of the City of Salem (see Figure 111-4).

~~(i)~~ *Drive-through*: means a facility where goods or services are provided to a patron of a business while in their motor vehicle, and typically including queuing lanes leading to drive-up service windows or service areas. A drive-through does not include motor vehicle services, as set forth in SRC 400.055(b).

~~(j)~~ *Driveway*: means an area providing vehicular access to a site that begins at the property line and extends into the site; or an area providing vehicular circulation between parking areas on a site (see Figure 111-2). A driveway does not include maneuvering areas or drive aisles within parking areas.

**FIGURE 111-2. DRIVEWAY**



(k) ~~\_\_\_\_\_~~ *Duplex*: means a building that contains two dwelling units. For the purposes of this section, a building that contains an accessory dwelling unit attached to a single family detached dwelling, manufactured home, or zero side yard dwelling shall not be considered a duplex.

(l) ~~Dwelling~~: means a building, or portion thereof, which contains one or two dwelling units.

(m) ~~\_\_\_\_\_~~ *Dwelling unit*: means a single independent unit providing complete living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. For the purposes of this definition, “independent” means the dwelling unit:

(1) ~~(a)~~ Is detached from any other dwelling unit or is separated from any other dwelling unit by an approved fire separation as required under the Building Code;

(2) ~~(b)~~ Includes a kitchen area with a sink and an approved electrical service connection for a stove or range; and

(3) ~~(c)~~ Does not have a direct interior connection to any other dwelling unit, but may have fire-separated access to a common facility shared with any other dwelling unit.

~~(Prior Code, § 111.020; Ord. No. 31-13; Ord. No. 10-17, § 3, 7-10-2017)~~

#### **Sec. 111.025. “E” definitions.**

(a) ~~Employees~~: means all persons, including proprietors, performing work on a premises for compensation. For purposes of SRC chapter 806, employees include all persons, including proprietors, performing work on a premises for compensation during the largest shift at peak season.

(b) ~~\_\_\_\_\_~~ *Excavation*: means any act by which earth, sand, gravel, rock, or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed, including the conditions resulting therefrom.

(c) ~~Existing wildlife rehabilitation facility~~: means any building, structure, or land which is occupied or being used by a wildlife rehabilitator who is licensed by the Oregon Department of Fish and Wildlife and actively engaged in wildlife rehabilitation as of July 14, 1994.

~~(Prior Code, § 111.025; Ord. No. 31-13)~~

#### **Sec. 111.030. “F” definitions.**

(a) ~~Facade~~: means the vertical plane of one exterior side of a building.

~~(b)~~———*Family* means:

~~(1)-(a)~~ An individual;

~~(2)-(b)~~ Two or more persons related by blood, marriage, domestic partnership, legal adoption, or guardianship;

~~(3)-(c)~~ Two or more persons with disabilities, as defined in the Fair Housing Amendments Act of 1988, who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship living together in a dwelling unit; or

~~(4)-(d)~~ A group of not more than five persons who need not be related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit.

~~(e)~~*Fence*: means an unroofed structure used as an enclosure, barrier, or restriction to light, sight, air, or passage.

~~(d)~~———*Fill or backfill*: means a deposit of earth or other natural or manmade material placed by artificial means.

~~(e)~~*Finished grade*: means the final grade upon completion of excavation, fill, or paving.

~~(f)~~*Flag lot*: means a lot that is set back from the street at the rear or at the side of another lot, with vehicular access to the street provided by a flag lot accessway (see Figure 111-1).

~~(g)~~———*Flag lot accessway*: means a portion of a lot that provides legal access from a street to one or more flag lots. An accessway may be through fee-simple ownership as part of a flag lot or by an access easement with associated reciprocal and irrevocable access rights for all lots using the accessway.

~~(h)~~———*Floor area*: means the area within the exterior walls of a building or structure, or portion thereof, exclusive of vent shafts and courts. The floor area of an unenclosed building or structure, or portion thereof, is the usable area under the horizontal projection of the roof or floor above.

~~(i)~~*Floor area ratio (FAR)*: means a measure of the intensity of a development, expressed as a ratio of total building floor area to total lot area.

~~(j)~~*Frontage*: means that portion of real property which abuts a street, whether or not access to the property is accorded thereby, and whether or not a building or structure faces the street. In context, when coupled with the term "alley," the term "frontage" has the same meaning with respect to an abutting alley.

(Prior Code, § 111.030; Ord. No. 31-13)

#### **Sec. 111.035. "G" definitions.**

~~(a)~~*Garage*: means a building or portion thereof used for the parking or storage of vehicles.

~~(b)~~———*Grade*: means the lowest point of elevation of the ground or paved surface excluding stairwells and area wells at the point's contact with a building's foundation, a property line, or a street, depending upon the context.

~~(c)~~*Grading*: means the act of excavating and filling.

~~(d)~~———*Guest house*: means an accessory building maintained for the purpose of providing temporary and gratuitous living accommodations, but dependent upon the main dwelling for cooking or bathroom facilities, or both.

~~(e)~~*Guest room*: means any room or rooms used or intended to be used by a guest for sleeping purposes.

(Prior Code, § 111.035; Ord. No. 31-13)

#### **Sec. 111.040. "H" definitions.**

~~(a)~~*Habitable space*: means space within a structure for living, sleeping, eating, or cooking. Bathrooms, closets, halls, storage or utility space, and similar areas are not considered habitable space.

~~(b)~~———*Hillside lot*: means a lot having an average cross slope of 15 percent or more and that is residentially zoned or developed for uses falling under household living.

~~(e)~~*Household pet*: means a domesticated animal that is kept in the home for pleasure rather than for a commercial purpose such as breeding, boarding, grooming, or medical care. Common household pets include cats, dogs, hamsters, gerbils, guinea pigs, canaries, parakeets, parrots, turtles, lizards, and tropical fish.

~~(Prior Code, § 111.040; Ord. No. 31-13)~~

**Sec. 111.045. “I” definitions.**

~~(a)~~*Infill lot*: means a residential flag lot created by the partition of land after February 8, 2006.

~~(b)~~———*Interior lot*: means any lot, other than a corner lot or double frontage lot (see Figure 111-1).

~~(c)~~*Interior lot line*: means a lot line that is not adjacent to a street.

~~(Prior Code, § 111.045; Ord. No. 31-13)~~

**Sec. 111.050. (Reserved for “J” definitions).**

**Sec. 111.055. (Reserved for “K” definitions).**

**Sec. 111.060. “L” definitions.**

~~(a)~~*Land division*: means the act of dividing land to create lots or parcels. A property line adjustment is not a land division.

~~(b)~~———*Land use action*: means the City’s process of reviewing an application for a land use or limited land use decision.

~~(c)~~*Livestock* means:

~~(1)~~~~(a)~~ One or more members of any species of cattle, swine, sheep, goat, horse or other equine, llama, alpaca or related ruminant, or poultry, excluding chickens, regardless of the purpose for which they may be kept; and

~~(2)~~~~(b)~~ Any species of rabbit, bee, fur-bearing animal, or chicken kept for sale, for sale of byproducts, for livestock increase, or for value increase.

~~(d)~~———*Loading space*: means an off-street space for the parking of a vehicle while loading or unloading.

~~(e)~~*Local street*: means a street not designated as a collector, minor arterial, major arterial, or parkway in the Salem Transportation System Plan. A local street primarily serves to provide direct access to abutting land and offers the lowest level of traffic mobility.

~~(f)~~*Lot*: means a single unit of land that is created by a subdivision of land. Except where otherwise stated, the term “lot” includes the term “parcel.”

~~(g)~~———*Lot line*: means one of the property lines forming the exterior boundaries of a lot.

~~(Prior Code, § 111.060; Ord. No. 31-13)~~

**Sec. 111.065. “M” definitions.**

~~(a)~~*Major arterial*: means a street for moving large volumes of intra-city and regional traffic, and designated as such in the Salem Transportation System Plan. A fully improved major arterial serves as the main radial, and provides peripheral routes through the City. The ultimate cross-sectional width of a major-arterial is multi-lane, as shown in the Salem Transportation System Plan.

~~(d)~~———*Manufactured dwelling*: means a residential trailer, mobile home, or manufactured home. A manufactured dwelling does not include any building or structure constructed to conform to the Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630, or any unit identified as a recreational vehicle by the manufacturer.

~~(e)~~*Manufactured dwelling park*: means any place where four or more manufactured dwellings are located on a development site and intended for residential use. The term “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 pursuant to SRC chapter 205.

~~(f)~~ *Manufactured home*: means a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed after June 15, 1976, and in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

~~(b)~~ ——— *Marijuana*: means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. The term “marijuana” does not include industrial hemp, as defined in ORS 571.300.

~~(e)~~ *Marijuana production*: means the commercial manufacture, planting, cultivation, growing, or harvesting of marijuana for wholesale or retail trade. The manufacture, planting, cultivation, growing or harvesting of marijuana for personal use, or as a state registered medical marijuana grower for up to four state registered patients, as allowed by state law is not included in this definition.

~~(g)~~ ——— *Minor arterial*: means a street providing primarily intra-area and inter-neighborhood access, and designated as such in the Salem Transportation System Plan. A fully improved minor arterial has a minimum of two travel lanes with left-turn pockets and center left-turn lanes.

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

~~(Prior Code, § 111.065; Ord. No. 31-13; Ord. No. 22-15, § 1, 11-23-2015)~~

#### **Sec. 111.070. “N” definitions.**

~~(a)~~ *Native vegetation*: means plant species which are indigenous to Oregon and appropriate to local site conditions such as hydrology, soils, light availability, and slope aspect.

~~(b)~~ ——— *Natural grade*: means the grade of the land in an undisturbed state.

~~(c)~~ *Neighborhood*: means a localized area within the City with a development pattern that provides infrastructure and services which meets the needs of persons residing or working in the area. A neighborhood encompasses a larger area than vicinity.

~~(d)~~ ——— *Neighborhood association*: means a neighborhood organization that is officially recognized as provided in SRC chapter 64.

~~(e)~~ *Nightclub*: means an establishment open at night that provides music and space for dancing, and usually serves alcohol.

~~(f)~~ *Nuisance vegetation*: means native and non-native plant species with a tendency to dominate plant communities, or which are considered harmful to humans, and which are designated as nuisance vegetation in the tree and vegetation technical manual.

~~(Prior Code, § 111.070; Ord. No. 31-13)~~

#### **Sec. 111.075. “O” definitions.**

~~(a)~~ *Office complex*: means a group of businesses falling primarily under the business and professional services use category that form a centralized unit and that have a joint parking area available for use by patrons of any single business.

~~(b)~~ ——— *Off-street parking area*: means an area of a development site used for short-term off-street parking of vehicles. An off-street parking area includes aisles and maneuvering areas within the parking area.

~~(c)~~ *Open space*: means land designated to preserve community livability, significant plant materials, and natural resources.

~~(d)~~ ——— *Owner*: means the owner of record of real property as shown on the latest tax rolls or deed records of the county, and includes a person who furnishes evidence that the person is purchasing property under a written recorded or unrecorded land sale contract.

~~(Prior Code, § 111.075; Ord. No. 31-13)~~

**Sec. 111.080. “P” definitions.**

~~(a)~~ *Parcel*: means a single unit of land that is created by a partition of land.

~~(b)~~ *Parking space*: means a designated space in a parking area for the parking of one motor vehicle.

~~(c)~~ *Parking structure*: means a structure, or portion thereof, that provides two or more levels of parking.

~~(d)~~ *Parkway*: means a street for moving large volumes of both intra-city traffic and regional traffic at higher speeds, and designated as such in the Salem Transportation System Plan. A fully improved parkway is a divided highway with a minimum of four travel lanes and extremely limited access.

~~(e)~~ *Partition*: means dividing land to create not more than three parcels of land within a calendar year, but does not include:

~~(1)-(a)~~ Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;

~~(2)-(b)~~ A property line adjustment;

~~(3)-(c)~~ Dividing land as a result of the recording of a subdivision or condominium plat;

~~(4)-(d)~~ Selling or granting by a person to a public agency or public body of property for state highway, county road, city street or other right-of-way purposes if the road or right-of-way complies with the applicable comprehensive plan and ORS 215.213(2)(p) to (r) and 215.283(2)(q) to (s). However, any property sold or granted for state highway, county road, city street or other right-of-way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned; or

~~(5)-(e)~~ Selling or granting by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision, or special district for highways, county roads, city streets, or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

~~(f)~~ *Pedestrian connection*: means a continuous, unobstructed, and reasonably direct route between two points that is intended and suitable for pedestrian use.

~~(g)~~ *Pedestrian pathway*: means any sidewalk, footpath, or trail which provides on-site pedestrian access and circulation.

~~(h)~~ *Pedestrian scale*: means site and building design elements that are dimensionally less than those intended to accommodate automobile traffic, flow, and buffering. Examples include ornamental lighting of limited height; bricks, pavers or other modules of paving with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the height of walls; and signage and signpost details that can only be perceived from a short distance.

~~(i)~~ *Planning Administrator*: means the Administrator of the Planning Division, Department of Community Development of the City of Salem, Oregon, or the Planning Administrator’s designee.

~~(j)~~ *Plaza*: means an area generally open to the public on a controlled basis, and usually adjoining and connecting directly to a sidewalk, pedestrian walkway, transit stop, or building entrance, that provides a place for individuals to sit, stand, or rest. Plazas typically include low walls or planters and landscaping to create a semi-enclosed space and to buffer and separate the plaza from adjoining parking lots and vehicle maneuvering areas. Plazas also typically include amenities such as seating, art, and fountains.

~~(k)~~ *Primary building entrance*: means the principal pedestrian entrance into a building. A building may have more than one primary building entrance. A primary building entrance does not include a service or employee-only entrance.

~~(l)~~ *Private open space*: means a semi-enclosed area which is intended for use by the occupants of an individual dwelling unit. Private open spaces may include porches, patios, balconies, terraces, roof top gardens, verandas, and decks.



~~(m)~~——*Property line*: means the boundary line between two units of land.

~~(n)~~——*Public right-of-way or right-of-way*: means the present and future streets, roadways, alleys, public highways, avenues, and pedestrian ways in the City, which may be held by the City in fee, easement, or dedication.

~~(o)~~——*Public utilities*: means privately owned improvements providing the following services: natural gas; electricity; telephone, internet, and other electronic data or communication services; and cable television.

~~(p)~~——*Public Works Director*: means the Director of the Department of Public Works of the City of Salem, or such director's designee.

~~(Prior Code, § 111.080; Ord. No. 31-13)~~

**Sec. 111.085. (Reserved for “Q” definitions).**

**Sec. 111.090. “R” definitions.**

~~(a)~~*Recreational vehicle* means:

~~(1)~~~~(a)~~ A vehicle, with or without motive power, that is designed for sport or recreational use, or human occupancy on an intermittent basis, such as motor homes, off-road vehicles, dune buggies, boats, snowmobiles, and other similar vehicles; or

~~(2)~~~~(b)~~ A portable vehicular structure designed for sport or recreation use, or for human occupancy on an intermittent basis, that is capable of being towed or transported on the highway by a motor vehicle, such as travel trailers, fifth-wheel trailers, campers, and other similar portable vehicular structures.

~~(b)~~——*Recycling depot*: means a building, or portion thereof, not more than 1,000 square feet in floor area used for the collection, sorting, and temporary storage of waste and discarded materials which may be reprocessed elsewhere into usable raw materials. The term “recycling depot” does not include a structure maintained solely to provide shelter for no more than three types of recyclable material, such as paper, tin cans, and bottles, deposited by members of the public and collected at regular intervals for further transfer or processing elsewhere.

~~(c)~~*Resident family*: means a family who occupies a dwelling unit as their primary residence on a non-transient long-term basis for 30 or more consecutive days. A resident family must be either the owner or the tenant of the dwelling unit.

~~(c)~~*Residential facility*: means as defined under ORS 197.660, a residential care, residential training, or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to 15 individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

~~(d)~~——*Residential home*: means as defined under ORS 197.660, a residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500, or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet 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.

~~(e)~~*Residential trailer*: means a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962.

~~(f)~~*Riparian corridor*: means the area adjacent to a waterway, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem. The riparian corridor boundary is measured:

~~(1)~~~~(a)~~ 50 feet horizontally from the top of bank on each side of a waterway with less than 1,000 cubic feet per second average annual stream flow; and

~~(2)~~~~(b)~~ 75 feet horizontally from the top of bank on each side of a waterway with 1,000 or more cubic feet per second average annual stream flow (Willamette River).

~~(g)~~——*Riparian restoration*: means actions undertaken to improve degraded, or recover lost, ecological or habitat functions in the area adjacent to a waterway in the zone of transition from an aquatic ecosystem to a terrestrial ecosystem, determined by the City to provide net ecological benefits, not reduce the stream's capacity to convey flood flows in a floodplain or floodway, nor pose an impediment to fish passage.

~~(h)~~——*R-VIS*: means the percentage of light in the visible spectrum, 380 to 780 nanometers, that is reflected from the glass surface. The term "R-VIS" is also known as "visible light reflectance."

~~(Prior Code, § 111.090; Ord. No. 31-13)~~

**Sec. 111.095. "S" definitions.**

~~(a)~~*Scrap and waste materials dealers*: means establishments primarily engaged in the assembling, breaking up, sorting, and wholesale distribution of scrap and waste materials.

~~(b)~~——*Screening*: means a method of blocking or obscuring view of an area through the use of fencing, walls, berms, densely planted vegetation, of a combination thereof.

~~(c)~~*Setback*: means the distance between a building, accessory structure, vehicle use area, or other structure or area and a property line, special setback line, flag lot accessway, easement, or other specified point.

~~(d)~~——*Shopping center*: means a group of businesses falling primarily under ~~primarily~~ the retail sales and service use category that form a centralized unit and that have a joint parking area available for use by patrons of any single business.

~~(e)~~*Short-term rental*: means short-term commercial lodging where a single family dwelling unit, or guest room(s) within a single family dwelling unit, are rented to overnight guests on a daily or weekly basis for periods of less than 30 consecutive days. For purposes of this definition, a dwelling unit within a condominium is considered a single family dwelling unit.

~~(f)~~*Single family dwelling*: means a detached freestanding dwelling unit located on its own lot.

~~(f)~~*Solid waste disposal site*: means land used for disposal of solid waste, including lumber; tile; bricks; concrete rubble; siding; roofing; asphalt; structural metal work; plaster and gypsum board; mortar stones; concrete blocks; pipe; plumbing fixtures; electrical wiring and fixtures; and shredded or split tires. A solid waste disposal site does not include land used for the disposal of leaves, prunings, and grass clippings; household appliances; machinery; motor vehicles and parts, other than shredded or split tires; or any putrescible substance. Solid waste disposal sites do not involve the collection or storage of items for sale or reuse in any form.

~~(g)~~——*Solid waste transfer station*: means a fixed or mobile facility normally used as an adjunct of a solid waste collection system or resource recovery system between a collection route and a disposal site, including, but not limited to, a large hopper, railroad gondola, or barge. See ORS ch. 459 and OAR ch. 340.

~~(h)~~——*Story*: means the horizontal division of a building, making up the area between two adjacent levels, but excluding that portion of the building that comprises the horizontal division that is the roof, unless that area includes living space.

~~(i)~~*Stream enhancement*: means to modify the stream channel width, length, depth, alignment, location, profile, bank shape, or in-stream structures for the purpose of improving ecological or habitat functions determined by the City to be degraded or lost in the immediate project area, specific stream corridor, or watershed.

~~(j)~~*Street*: means a public or private way that is created to provide ingress or egress to one or more lots, parcels, areas, or tracts of land, excluding a private way that is created to provide ingress or egress to land in conjunction with the use of the land for forestry, mining, or agricultural purposes. The term "street" includes the terms "highway," "thoroughfare," "parkway," "throughway," "road," "avenue," "boulevard," "lane," "court," "place," "loop," "drive," "circle," and other such terms. The term "street" does not include alleys or flag lot accessways.

~~(k)~~——*Street tree*: means a tree planted in proximity to a street in order to provide canopy over the street, to provide shade, and soften the street environment.

~~(l)~~*Structural alteration*: means any alteration, addition, or removal of any structural member of a building, other than a minor alteration. As used in this ~~subsection~~ definition:

(1) *Minor alteration* means the alteration, replacement, or repair of a structural member so as not to alter structural integrity or the manner in which structural integrity was achieved before the alteration, replacement, or repair;

(2) *Structural integrity* means the capacity of the building and its component parts, other than non-bearing walls, fixtures, electrical systems, plumbing systems, mechanical systems, openings, and ornamental appendages, to withstand the forces, stresses, and loads which are contemplated in the Oregon Structural Specialty Code for the type of construction involved; and

(3) *Structural member* means any component part of a building which contributes to structural integrity.

(m) ~~Structure~~ *Structure* means that which is built or constructed; an edifice or building of any kind; or any piece of work artificially built up or composed of parts joined together in some definite manner; any of which is an addition to or fixture on real property. ~~Such~~ The term “structure” does not include paving, or mobile homes.

(n) ~~Subject property~~ *Subject property* means the real property that is the subject of any land use proceeding. For notification purposes, subject property includes not only the real property that is the subject of the land use proceeding for which notice is required, but also any contiguous property in which the applicant or owner holds a legal or equitable interest.

(Prior Code, § 111.095; Ord. No. 31-13)

#### **Sec. 111.100. “T” definitions.**

(a) ~~Temporary~~ *Temporary* means unless otherwise provided under the UDC, a limited duration more than two hours but less than six months, and which does not involve the construction or alteration of any permanent structure.

(b) ~~Townhouse~~ *Townhouse* means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on its own lot and shares a common side wall or walls with the adjacent units. A townhouse is also called a rowhouse.

(c) ~~Turnaround area~~ *Turnaround area* means a paved area of a sufficient size and configuration that a motor vehicle having a curb-to-curb turning radius of 30 feet or less may maneuver around to head in the opposite direction without having to move in reverse more than once.

(d) ~~T-VIS~~ *T-VIS* means the percentage of light in the visible spectrum, 380 to 780 nanometers, that is transmitted through the glass. The term “T-VIS” is also known as “visible light transmittance.”

(Prior Code, § 111.100; Ord. No. 31-13)

#### **Sec. 111.105. “U” definitions.**

(a) ~~Unit of land~~ *Unit of land* means a lot, parcel, or other tract of land described by a metes and bounds, which is lawfully established and which has been recorded. A lot, parcel, or tract is “lawfully established” only if:

(1)(a) The lot or parcel was created in compliance with all applicable legal requirements for a land division in effect at the time it was created; or

(2)(b) The lot, parcel, or tract has been validated pursuant to SRC 205.060.

(b) ~~Uphill lot~~ *Uphill lot* means a hillside lot which slopes uphill from the front lot line.

(c) ~~Use standard~~ *Use standard* means any standard or condition imposed by the UDC, or a decision in a land use action, which regulates, restricts, prohibits, or allows the conduct of a use. A use standard does not include a development standard.

(d) ~~Utility or utilities~~ *Utility or utilities* means water; wastewater; stormwater facilities; natural gas; electricity; telephone, internet, and other electronic data or communication services; and cable television. As the context requires, the term “utility” or “utilities” may include City utilities or public utilities.

(Prior Code, § 111.105; Ord. No. 31-13)

#### **Sec. 111.110. “V” definitions.**

~~(a)~~ *Vehicle display area*: means an area of a development site where motor vehicles, recreational vehicles, trailers, boats, or other vehicles are displayed for sale or lease.

~~(b)~~ *Vehicle storage area*: means an area of a development site used for the storage of motor vehicles, utility trailers, recreational vehicles, boats, aircraft, or other vehicles.

~~(c)~~ *Vehicle use area*: means an area of a development site used for parking, storage, display, loading, maneuvering, access, or circulation of vehicles. A vehicle use area includes off-street parking areas, vehicle storage areas, vehicle display areas, loading areas, driveways, and drive-through lanes.

~~(d)~~ *Vertical window*: means a window with a vertical dimension greater than its horizontal dimension.

~~(e)~~ *Vicinity*: means land that is surrounding, near, or within close proximity of a particular place. Vicinity is smaller in size than a neighborhood.

~~(f)~~ *Vision clearance area*: the area adjacent to the intersection of a street, alley, flag lot accessway, or driveway where an unobstructed clear field of vision is required to ensure safe visibility for vehicular, bicycle, and pedestrian traffic.

~~(Prior Code, § 111.110; Ord. No. 31-13)~~

**Sec. 111.115. “W” definitions.**

~~(a)~~ *Wetland*: means an area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

~~(b)~~ *Wetland restoration*: means to restore former wetlands, create new wetlands, or enhance existing wetlands for the purpose of improving ecological or habitat functions. Restoration means to reestablish wetland hydrology to a former wetland. Creation means to successfully convert an area that has never been a wetland to wetland conditions. Enhancement means the alteration and/or active management of degraded wetlands for the sustainable recovery or improvement of lost or degraded wetland functions and values.

~~(c)~~ *Wildlife*: means any animal defined as wildlife under ORS ch. 496.

~~(d)~~ *Wildlife rehabilitation*: means the restoration of injured, sick, or immature wildlife, except cougars, wolves, and bears, that are native to Oregon to a condition where they are capable of being released into the wild or, if incapable of survival on their own, retained for educational purposes or transferred to an organization, educational institution, museum, publicly funded zoo, or other facility as determined by the Oregon Department of Fish and Wildlife.

~~(e)~~ *Wildlife rehabilitator*: means an individual who is licensed as a wildlife rehabilitator by the Oregon Department of Fish and Wildlife and actively engaged in wildlife rehabilitation.

~~(f)~~ *Wildlife rehabilitation facility*: means any building, structure, or land being used for the purpose of wildlife rehabilitation.

~~(Prior Code, § 111.115; Ord. No. 31-13)~~

**Sec. 111.120. (Reserved for “X” definitions).**

**Sec. 111.125. (Reserved for “Y” definitions).**

**Sec. 111.130. “Z” definitions.**

~~(a)~~ *Zero side yard dwelling*: means a detached dwelling unit located on its own lot and constructed contiguous to one, but not both, interior side lot lines.

~~(Prior Code, § 111.130; Ord. No. 31-13)~~

~~(Prior Code, §§ 111.001, 111.005, 111.010, 111.015, 111.020, 111.025, 111.030, 111.035, 111.040, 111.045, 111.060, 111.065, 111.070, 111.075, 111.080, 111.090, 111.095, 111.100, 111.105, 111.110, 111.115, 111.130; Ord. No. 31-13; Ord. No. 22-15, § 1, 11-23-2015; Ord. No. 5-17, §§ 18(111.005), 19(111.010), 20(111.090), 21(111.095), 6-12-2017; Ord. No. 10-17, §§ 2, 3, 7-10-2017)~~

**FIGURE 111-3. CENTRAL SALEM DEVELOPMENT PROGRAM AREA**



## FIGURE 111-4. DOWNTOWN PARKING DISTRICT

### CHAPTER 112. MEASUREMENTS

#### **Sec. 112.001. Purpose.**

The purpose of this chapter is to establish methods for measurements in the UDC.

(Prior Code, § 112.001; Ord. No. 31-13)

#### **Sec. 112.005. Cul-de-sac length.**

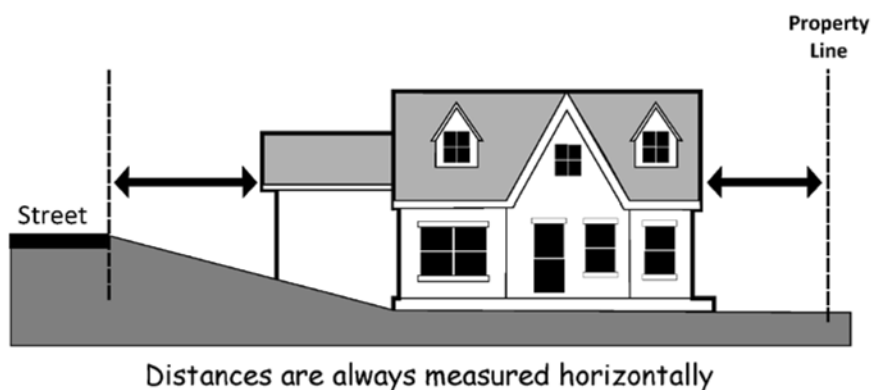
Cul-de-sac length shall be measured from the nearest right-of-way line of the nearest intersecting street to the throat or point of beginning of the turnaround area.

(Prior Code, § 112.005; Ord. No. 31-13)

#### **Sec. 112.010. Distance.**

Unless otherwise provided under the UDC, all distances shall be calculated by measuring the horizontal distance between two points (see Figure 112-1).

**FIGURE 112-1. DISTANCE**



(Prior Code, § 112.010; Ord. No. 31-13)

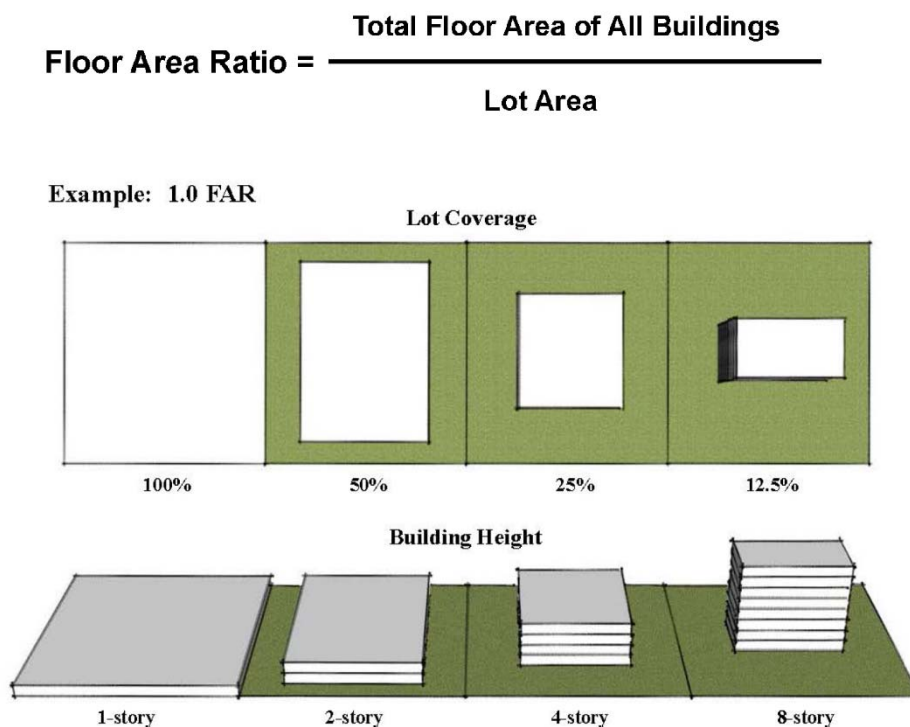
#### **Sec. 112.015. Dwelling unit density.**

The number of dwelling units permitted on property shall be calculated by dividing the lot area in square feet by 43,560 and multiplying that figure by the minimum or maximum density allowed. Any fractional number shall be rounded to the next highest whole number.

(Prior Code, § 112.015; Ord. No. 31-13)

#### **Sec. 112.020. Floor area ratio.**

Floor area ratio shall be calculated by dividing the total floor area of all buildings on a lot by the lot area (see Figure 112-2).

**FIGURE 112-2. FLOOR AREA RATIO**

(Prior Code, § 112.020; Ord. No. 31-13)

### **Sec. 112.025. Fractions.**

Unless otherwise provided under the UDC, where a regulation is expressed in terms of a minimum numerical requirement, any computation that yields a fraction of less than 0.5 shall be rounded down to the nearest whole number and any computation that yields a fraction of 0.5 or greater shall be rounded up to the next nearest whole number.

(Prior Code, § 112.025; Ord. No. 31-13)

### **Sec. 112.030. Ground floor windows.**

Unless otherwise provided under the UDC, where a minimum percentage of windows are required on the ground floor of a building, the percentage of windows shall be calculated by:

- (a) Dividing the total area of windows on the ground floor of the building by the area of the ground floor of the building; or
- (b) Dividing the total width of windows along the ground floor of the building by the length of the ground floor of the building. This method of calculation may be used only if the windows have a vertical dimension that equals six feet or more in height.

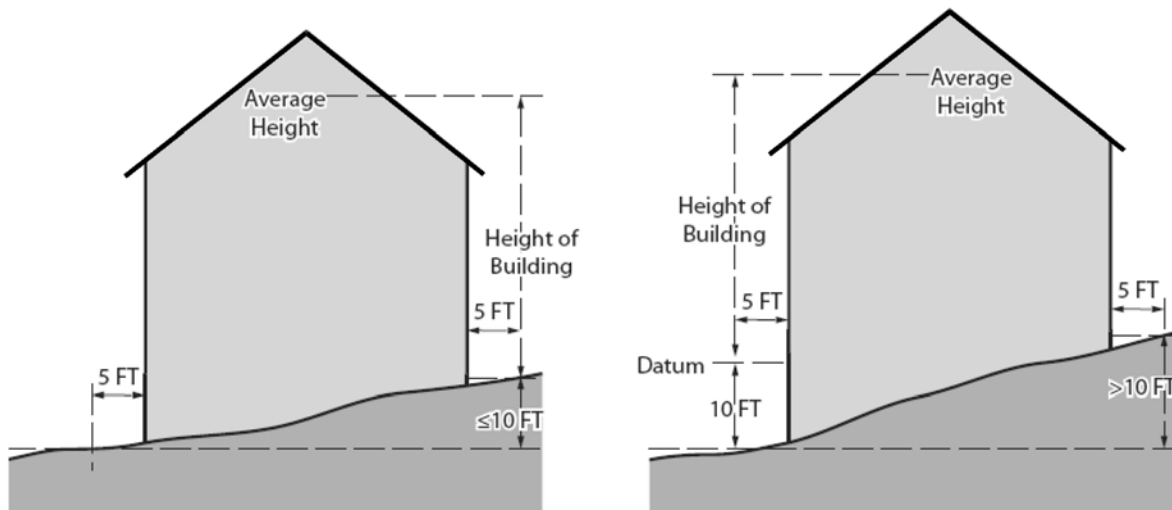
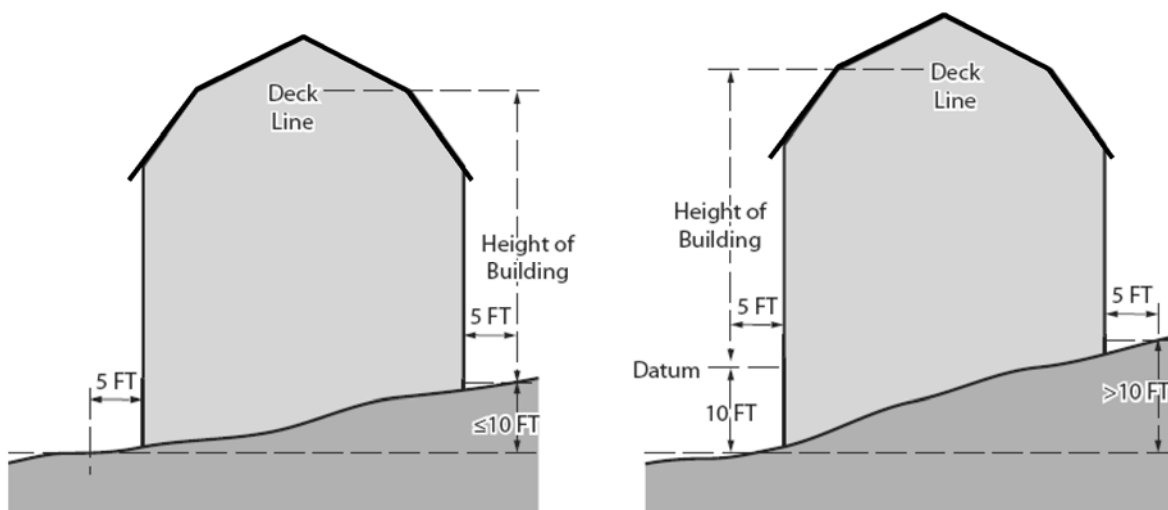
(Prior Code, § 112.030; Ord. No. 31-13)

### **Sec. 112.035. Height.**

- (a) *Calculation.* Height is calculated by measuring the vertical distance between two points, a base point and





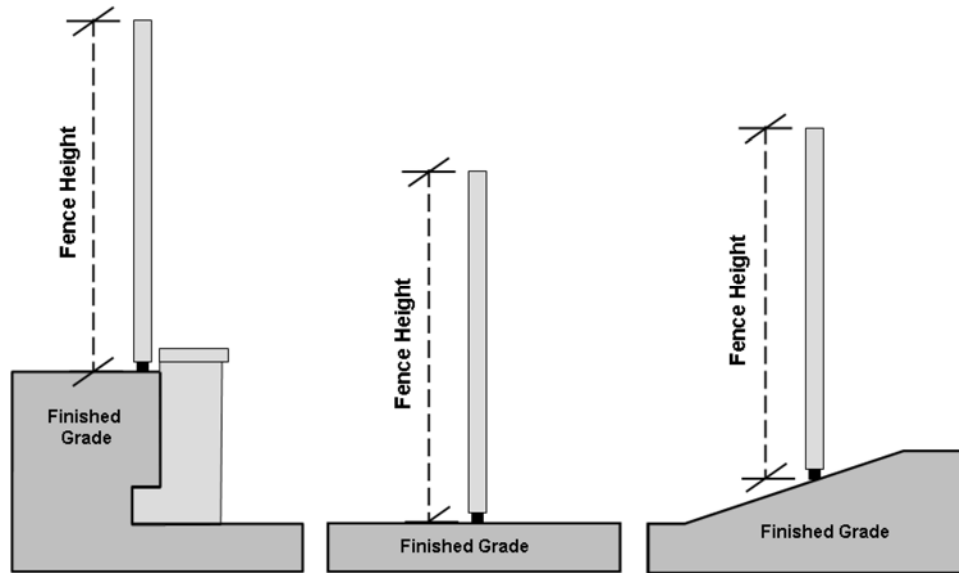
**FIGURE 112-3B. BUILDING HEIGHT – PITCHED OR HIPPED ROOF****FIGURE 112-3C. BUILDING HEIGHT – CURB, GAMBREL, AND MANSARD ROOF**

(d) *Height of fences.*

- (1) Except as provided in paragraph-subsection (d)(2) of this subsection, fence height shall be measured from the finished grade upon which the fence is constructed to the top of the fence (see Figure 112-4).
- (2) The height of fences along public rights-of-way shall be measured from the sidewalk to the top of the

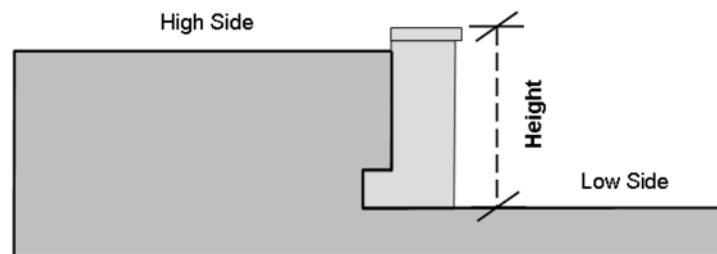
fence. If no sidewalk exists, the height of the fence shall be measured from the curb to the top of the fence. If no curb exists, the height of the fence shall be measured from the finished shoulder grade of the right-of-way to the top of the fence.

**FIGURE 112-4. MEASUREMENT OF FENCE HEIGHT**



(e) *Height of retaining walls.* Retaining walls shall be measured from the finished grade on the lower side of the retaining wall to the top of the retaining wall (see Figure 112-5).

**FIGURE 112-5. MEASUREMENT OF RETAINING WALL HEIGHT**



(f) *Height of porches, decks, and patios.* Porch, deck, and patio height shall be measured from the finished grade directly beneath the outside edge of the porch, deck, or patio to the top of the floor of the porch, deck, or patio.

(g) *Measurement of height within Airport Overlay Zone.* Notwithstanding any other provision in this section, height within the Airport Overlay Zone shall be measured from mean sea level elevation to the highest point of the building, structure, object, or vegetative growth.

(Prior Code, § 112.035; Ord. No. 31-13)

**Sec. 112.040. Lot coverage.**

Lot coverage is the percentage of a lot covered by structures. Unless otherwise provided under the UDC, lot coverage shall be calculated by dividing the total area of the lot covered by structures by the total area of the lot; provided, however, the following structures, or portions thereof, shall not be included in calculating lot coverage:

- (a) Any unroofed portion of a structure.
- (b) Any structure that is less than five feet in height and that has less than 20 square feet of gross floor area, including, but not limited to, pet shelters and play houses.

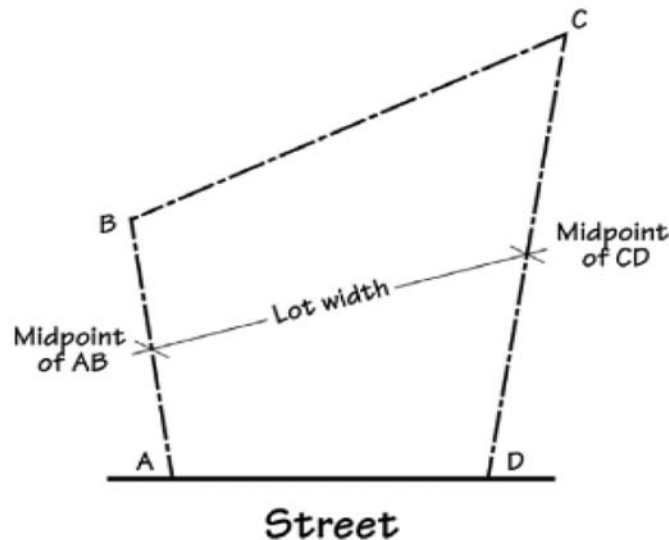
(Prior Code, § 112.040; Ord. No. 31-13)

**Sec. 112.045. Lot dimensions.**

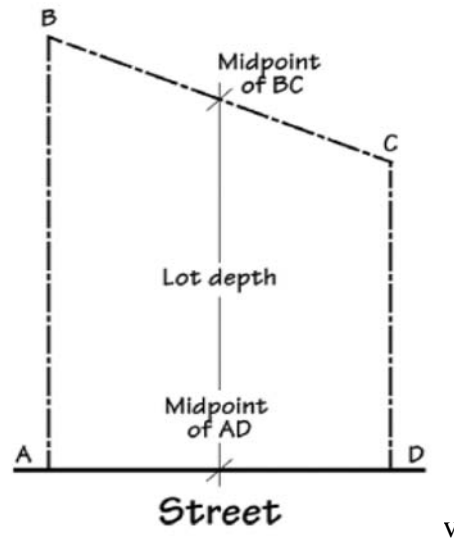
(a) *Lot area.* Lot area is the total horizontal area in square feet or acres contained within a lot. Lot area shall be measured exclusive of any flag lot accessway.

(b) *Lot width.* Lot width is the horizontal distance between the side lot lines. Lot width shall be measured at a point halfway between the front and rear lot lines (see Figure 112-6). Lot width shall be measured exclusive of any flag lot accessway.

**FIGURE 112-6. MEASUREMENT OF LOT WIDTH**



(c) *Lot depth.* Lot depth is the horizontal distance between the front and rear lot lines. Lot depth shall be measured at a point halfway between the side lot lines (see Figure 112-7). Lot depth shall be measured exclusive of any flag lot accessway.

**FIGURE 112-7. MEASUREMENT OF LOT DEPTH**

(d) *Street frontage.* Street frontage shall be measured exclusive of any flag lot accessway.

(Prior Code, § 112.045; Ord. No. 31-13)

**Sec. 112.050. Setbacks.**

(a) *Generally.* Setbacks are measured along a line that is perpendicular to the property line and extended from the property line inward toward the center of the lot. If the property line is curved, the setback shall be measured along a line that is a radius to the curve and extended from the lot line inward to the center of the lot.

(b) *Garage or carport vehicle entrance setback abutting street or flag lot accessway.* The setback for the vehicle entrance of a garage or carport facing a street or flag lot accessway shall be measured from one of the following lines, whichever is closest to the proposed vehicle entrance of the garage or carport:

- (1) The street right-of-way line, most interior access easement line, or property line abutting a flag lot accessway;
- (2) The outside curbline; or
- (3) The edge of the sidewalk furthest from the street.

(c) *Setbacks abutting flag lot accessway.* Setbacks abutting a flag lot accessway shall be measured from one of the following lines, whichever is most interior to the lot or parcel:

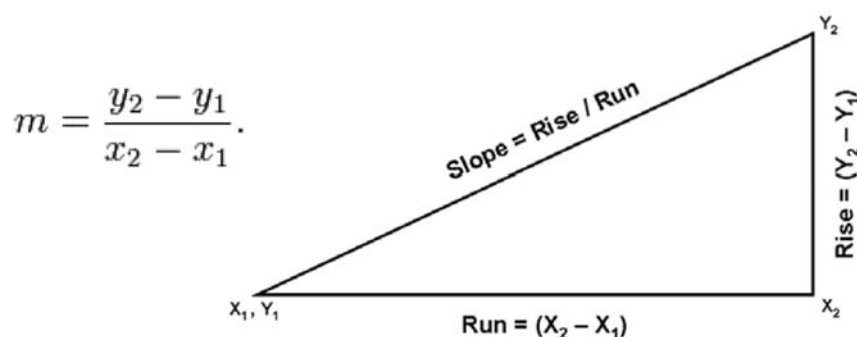
- (1) The property line; or
- (2) The most interior access easement line, if an access easement exists.

(Prior Code, § 112.050; Ord. No. 31-13)

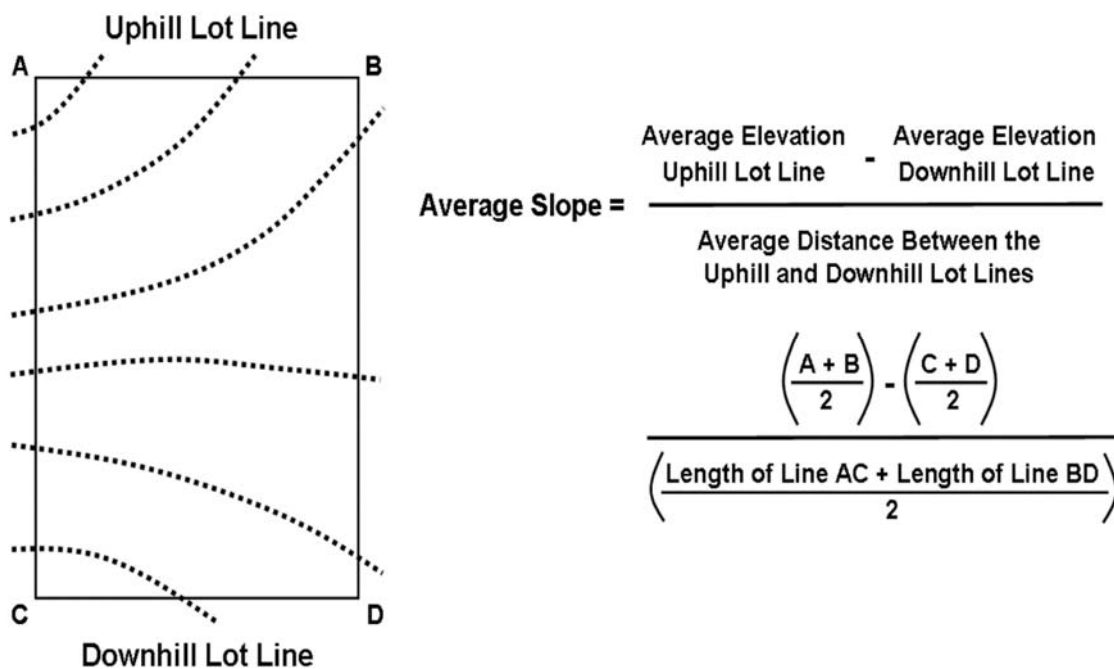
**Sec. 112.055. Slope.**

Slope is the ratio of the "rise" divided by the "run" between two points.

- (a) *Calculating slope.* Slope is calculated as the ratio of the altitude change ("rise") to the horizontal distance ("run") between two points on a line. Given two points (x1,y1) and (x2,y2) on a line, the slope (m) of the line is calculated as shown in Figure 112-8.

**FIGURE 112-8. SLOPE**

- (b) *Calculating average cross slope.* Average cross slope is calculated by dividing the average change in elevation between the uphill lot line and the downhill lot line by the average distance between the uphill lot line and the downhill lot line (see Figure 112-9).

**FIGURE 112-9. AVERAGE CROSS SLOPE**

(Prior Code, § 112.055; Ord. No. 31-13)

**Sec. 112.060. Yards.**

- (a) *Front yard.* The front yard is the area located between the main building and the front lot line, and extending across the full width of the lot (see Figure 112-10). Unless otherwise provided under the UDC, front yard

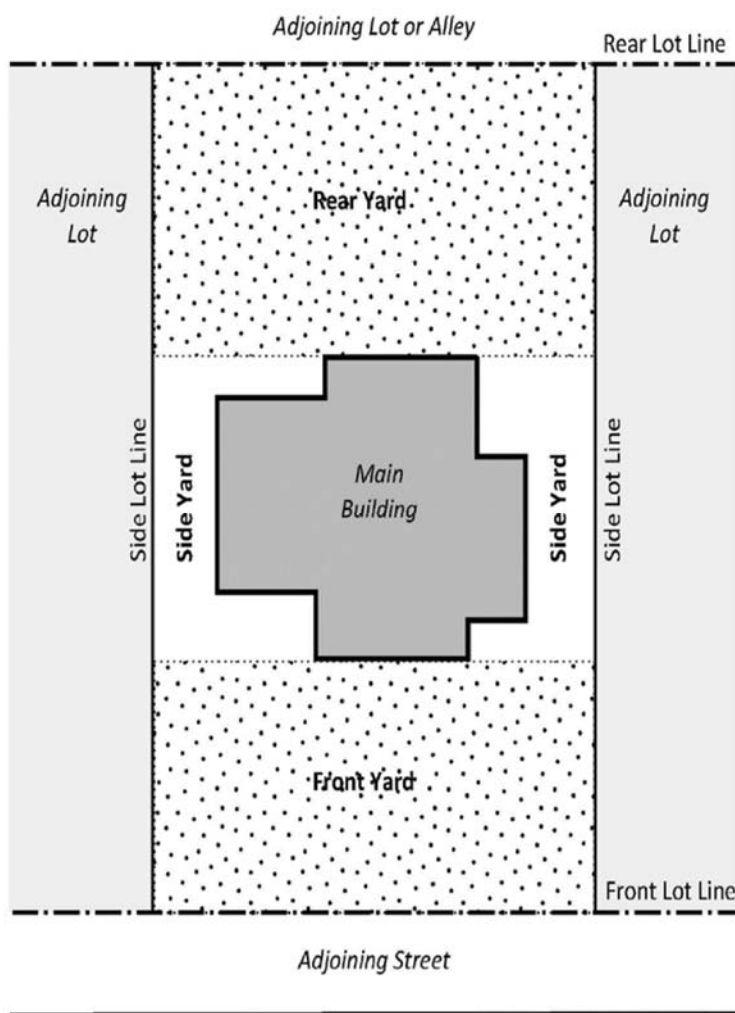
depth is the horizontal distance between the front lot line and the point on the foundation of the main building that is nearest to the front lot line.

(b) *Side yard.* A side yard is the area located between the main building and a side lot line, and extending between the front yard and rear yard (see Figure 112-10).

(c) *Rear yard.* The rear yard is the area located between the main building and the rear lot line, and extending across the full width of the lot (see Figure 112-10). Unless otherwise provided under the UDC, rear yard depth is the horizontal distance between the rear lot line and the point on the foundation of the main building that is nearest to the rear lot line.

(Prior Code, § 112.060; Ord. No. 31-13)

**FIGURE 112-10. YARDS**



**CHAPTERS 113--199. RESERVED**

## **CHAPTER 124. HOME OCCUPATIONS**

### **Sec. 124.010. Reserved.**

### **Sec. 124.020. Standards for home occupations.**

Each home occupation shall be conducted in full compliance with each of the following conditions:

- (a) ~~The premises upon which the home occupation is conducted shall be the residence of a person conducting the home occupation.~~
- (b) ~~Not more than one volunteer and/or nonresident employee, partner, or other person engaging in the conduct of the home occupation for pay or profit shall work on the subject property.~~
- (c) ~~The home occupation shall be continuously conducted in such a manner as not to create any nuisance, public or private, known at law or equity; including, but not limited to, noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.~~
- (d) ~~The home occupation shall not be used for the assembly of nonresident employees or volunteers.~~
- (e) ~~No sign shall be displayed on the premises except such signs as are permitted by or exempt from the Salem Sign Code for the district in which the home occupation is located.~~
- (f) ~~No accessory building used for or in connection with a home occupation shall cover more than five percent of the total lot area.~~
- (g) ~~The total floor area of buildings on the premises, including accessory buildings, devoted to the home occupation shall not exceed 25 percent of the habitable space of the dwelling prior to establishment of the home occupation.~~
- (h) ~~No structural alterations shall be made to the dwelling which would be inconsistent with future use of the building exclusively as a dwelling.~~
- (i) ~~No alteration to or use of the premises shall be made such as to reduce the number of on-site parking spaces required for dwellings in SRC chapter 133.~~
- (j) ~~Parking of customer's or client's vehicles shall create no hazard or unusual congestion. If the home occupation requires any parking for an employee, then parking shall be provided as required under SRC 133.100.~~
- (k) ~~Delivery and pick-up of materials or commodities in conjunction with the home occupation to and from the premises shall be made by commercial vehicles not exceeding two axles in size.~~
- (l) ~~There shall be no outside storage or display of materials, equipment, or merchandise used in or produced in connection with the home occupation.~~
- (m) ~~The home occupation shall not involve the sale of commodities and shall be limited to occupations providing services including, but not limited to, dressmaking, lawyer, public accountant, artist, caterer, writer, teacher, musician, home office of a physician, dentist, or other practitioner of any of the healing arts, or practices of any art or craft.~~

(Prior Code, § 124.020; Ord. No. 1 91; Ord. No. 25 93)



**~~CHAPTERS 124–199. RESERVED~~**

## CHAPTER 200. URBAN GROWTH MANAGEMENT

### **Sec. 200.001. Purpose.**

The purpose of this chapter is to implement the urban growth policies of the Salem Area Comprehensive Plan in order to control and accommodate the growth within the urban growth boundary.

(Prior Code, § 200.001; Ord. No. 31-13)

### **Sec. 200.005. Definitions.**

~~Unless the context otherwise specifically requires, as used in this chapter the following mean:~~ The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~(a)~~ *Adequate facilities:* means major and minor facilities that are in place and meet the master plan requirement for service.

~~(b)~~ *Area facility plan:* means a public facility plan establishing minor facilities for a defined geographic area that was not fully planned in the applicable master plan.

~~(c)~~ *Complex:* means a group of structures, or a single structure containing multiple businesses that is functionally or conceptually integrated, regardless of the ownership of the development or underlying land.

~~(d)~~ *Developer contributions:* means voluntary and non-reimbursable funding by a private developer of all or a portion of the costs of construction of a major or minor facility, intended to reduce the public costs of a potential new urban service area expansion area.

~~(e)~~ *Development* means:

~~(1)-(a)~~ The subdivision of land;

~~(2)-(b)~~ The construction of a planned unit development;

~~(3)-(c)~~ The establishment of a mobile home park;

~~(4)-(d)~~ The construction or structural alteration of a building or structure which will result in increased usage of a public facility; provided, however, that any such construction or structural alteration undertaken in connection with one of the following shall not be considered development for purposes of this chapter:

~~(A)-(1)~~ Construction or alteration of any building or structure in the following land use classifications under SRC chapter 400:

~~(i)-(A)~~ Single family;

~~(ii)-(B)~~ Two family;

~~(iii)-(C)~~ Basic utilities;

~~(iv)-(C)~~ Wireless communication facilities.

~~(B)-(2)~~ Any use established and conducted by the City.

~~(D)-(3)~~ Construction or structural alteration of a building or structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions.

~~(E)-(4)~~ Construction or structural alteration undertaken for purposes of adaptive reuse under SRC chapter 230, provided that such construction or structural alteration is for the purposes of adaptive reuse only.

~~(F)-(5)~~ Construction or structural alteration of any building or structure in a complex, provided there is no cumulative increase in total floor area of all buildings and structures within the complex that

exceeds 60 percent of the total floor area within any period of three consecutive years. Example: Construction or alteration would not be exempt from this chapter if the total floor area of existing buildings and structures in the complex = 100,000 square feet and cumulative new floor area = 61,000 square feet in the years 2010, 2011, and 2012. For the purposes of this ~~subparagraph~~ subsection, the percent increase shall be based on the building square footage before the construction or structural alteration is started, or if the building or structure has been damaged and is being restored, before the damage occurred.

~~(f)~~ *Fair market value*: means the appraised value, as of the date of the Urban Growth Preliminary Declaration, of land reserved for conveyance to the City for public park use. The appraisal shall be procured by the City at the developer's expense, and will be an allowable cost for reimbursement to the developer.

~~(g)~~ *Fully committed*: means all major and minor facilities required to adequately serve a defined geographic area are provided for in one or more of the following:

- ~~(1)~~ (a) The City's capital construction budget or Capital Improvement Program, but including any major and minor facilities that will be funded by a general obligation bond or other mechanism that requires a vote of the electors of the City;
- ~~(2)~~ (b) An improvement agreement secured by performance guarantees executed prior to approval of construction plans or the expenditure of any matching public funds, if any, by the City;
- ~~(3)~~ (c) A project in an urban renewal plan;
- ~~(4)~~ (c) Commitment to fund and build the major or minor facility within five years of the date of the development will commence has been made by some entity other than the City, including, but not limited to, the State of Oregon.

~~(h)~~ *Improvement agreement*: means an agreement between a developer and the City that implements the conditions of a land use approval.

~~(i)~~ *In place*: means that a required facility has been constructed and is in service.

~~(k)~~ *Major facility*: means one or more of the following public facilities: an arterial or collector street as shown in the Salem Transportation System Plan; a sewer collection line or sewer pump station shown in the Salem Area Wastewater Management Master Plan; water distribution line, water pump station, or a water reservoir shown in the Water System Master Plan; a storm drainage facility shown in the Stormwater Master Plan; or a park shown in the Comprehensive Park System Master Plan.

~~(j)~~ *Master plans*: means, collectively, the following:

- ~~(1)~~ (a) Comprehensive Park System Master Plan, adopted May 13, 2013.
- ~~(2)~~ (b) Salem Area Wastewater Management Master Plan, adopted December 16, 1996, and amended September 23, 2002; February 7, 2005; and April 9, 2007.
- ~~(3)~~ (c) Salem Transportation System Plan, adopted June 28, 1998, and amended February 14, 2000; May 14, 2001; January 24, 2005; March 28, 2005; April 23, 2007; ~~and~~ April 26, 2010; and December 10, 2012
- ~~(4)~~ (d) Stormwater Master Plan, adopted September 25, 2000.
- ~~(5)~~ (e) Water System Master Plan, adopted April 25, 1994, and amended September 23, 1996; October 25, 1999; February 7, 2005; and July 9, 2007.

~~(l)~~ *Minor facility*: means a public facility other than a major facility.

~~(m)~~ *Planned*: means the nature, capacity and location of the major or minor facility have been specifically designated in a master plan.

~~(n)~~ *Public facility*: means infrastructure to provide transportation, water, wastewater, stormwater or parks for the benefit of the general public.

~~(o)~~ *Required facilities*: means all major and minor facilities necessary to provide adequate water, sewer, storm drainage, transportation and parks for a development for which a Urban Growth Area Preliminary

Declaration must be obtained, and including any major facility which falls within 260 feet of the boundaries of the development, measured at right angles to the length of the boundary of the development site.

~~(p)~~———*Secondary benefit value*: means the dollar value of a public facility that will provide a new or improved service to already developed areas either in or out of the existing urban service area.

~~(q)~~———*Urban growth area*: means that territory of the City lying between the urban service area and the urban growth boundary.

~~(r)~~*Urban service area*: means that territory of the City where all required facilities are in place or fully committed, and designated as such pursuant to SRC 200.010.

(Prior Code, § 200.005; Ord. No. 31-13)

**Sec. 200.010. Urban service area establishment; effect.**

(a) Following adoption of a capital improvement plan and upon consideration of the extent to which the five required facility types defined in SRC 200.005 are in place or fully committed, the ~~City~~ Council may, by ordinance, designate an urban service area (USA).

(b) Within the USA, public facilities will be constructed by the City consistent with the scheduling and funding of such facilities in the capital improvement plan. Development may occur anywhere in the USA upon annexation if all required facilities adequate to serve the development are in place or constructed and accepted by the City.

(c) Development proposed outside the USA, or inside the USA, if development precedes city construction of required facilities, shall require an urban growth area development permit and must conform to the requirements of this chapter.

(Prior Code, § 200.010; Ord. No. 31-13)

**Sec. 200.015. Urban service area amendments; procedure; evaluation criteria.**

(a) The USA is intended to be flexible and may be amended to reflect changes in the existence and commitment to fund required facilities. Amendments to the USA may be initiated by the City or a private applicant, and shall only be considered if the property proposed to be included is contiguous to the existing USA, and applications will only be acted upon once a year following adoption of the capital improvement plan.

(b) Proposals to add property to the USA may be initiated by the City, or by a private applicant on forms prescribed by the Planning Administrator, together with such fees as the Council may set by resolution. Applications shall include, at a minimum, the information referenced in SRC ~~66-060-200.025(c)~~; identification of the proposed facilities and any proposed funding, including the CIP. The applicant shall attend a staff review conference with the Planning Administrator. Applications may be filed at any time, but only those applications deemed complete by the Planning Administrator on or before July 1 of each year may be considered in the following year's CIP cycle. Those complete applications addressing the requirements of this section shall be prioritized according to subsection (c) of this section, and forwarded to ~~City~~ Council with staff recommendation for consideration during the capital improvement planning process and thereafter acted upon when amendments to the USA are considered. If the ~~City~~ Council, in its discretion, determines as part of the capital improvement planning process that the area encompassing a private application should be considered for amendment to the USA, the proposed amendment shall be processed pursuant to SRC chapter 300; provided, however, that notice by posting shall not be required.

(c) Prioritization. Proposed additions to the USA will be prioritized by staff based on a "least public cost per developable acreage" basis, calculated utilizing adopted master plans and cost estimating tables adopted by the ~~Director of Public Works~~. Public cost is calculated as follows: public cost = total required facility costs, minus proposed developer contributions, minus secondary benefit value.

(d) Areas proposed for addition to the USA must have required facilities in place or fully committed.

(e) Evaluation criteria. Land areas to be potentially added to the USA shall be evaluated for public benefit or detriment under the following criteria:

(1) Geographic distribution of new development;

- (2) Provision of affordable housing opportunities;
- (3) Qualitative improvement in public facility services to developed areas;
- (4) Sufficiency of existing or proposed school capacity;
- (5) Acceptable response times for emergency City services;
- (6) Area susceptibility to landslide, flood or geologic hazards;
- (7) Existence of significant wetlands or fish and wildlife habitat areas.

(f) Should private funding and construction of any required facilities be proposed, such construction and funding shall be incorporated into an enforceable improvement agreement, secured by performance guarantees acceptable to the City prior to expenditure of any matching public funds.

(g) Upon evaluation of the criteria set forth under subsection (e) of this section and satisfaction of conditions set forth under subsections (d) and (f) of this section, the Council may adopt amendments to the USA. The USA and adopted amendments shall be shown on the official maps.

(Prior Code, § 200.015; Ord. No. 96-98; Ord. No. 57-2000; Ord. No. 2-2003; Ord. No. 1-10; Ord. No. 31-13)

**Sec. 200.020. Urban Growth Preliminary Declaration required; term and fee.**

(a) Prior to subdivision plat approval for a residential or commercial subdivision, or application for a building permit for any development where no subdivision is contemplated, a developer shall first obtain an Urban Growth Preliminary Declaration if the development is within the urban growth area (UGA), or is within the urban service area (USA), but precedes city construction of required facilities that are shown in the adopted capital improvement plan, public facilities plan or comparable plan for the area of the development.

(b) Prior to issuance of a building permit for a single family residence or duplex in a subdivision subject to subsection (a) of this section, and prior to issuing a certificate of occupancy for any other development subject to subsection (a) of this section, the Building Official shall ascertain that all conditions of the Urban Growth Preliminary Declaration have been complied with.

(c) It shall be unlawful for any person to construct or commence construction of any single family residence or duplex in a subdivision subject to subsection (a) of this section, or to occupy (except under a temporary occupancy certificate issued pursuant to UBC section 306(d) and subsection (d) of this section) any other development subject to subsection (a) of this section without first obtaining an Urban Growth Preliminary Declaration.

(d) Notwithstanding the provisions of subsection (b) of this section, the Building Official may issue a temporary occupancy certificate as provided in UBC section 306(d) if the holder has substantially complied with the conditions of an Urban Growth Preliminary Declaration and agrees in writing to complete all remaining conditions by a date certain not more than 180 days from the issuance of the temporary certificate. Failure to comply with such a written agreement shall result in revocation of the temporary certificate without further notice.

(e) The fee for a Urban Growth Preliminary Declaration shall be as prescribed by resolution of the ~~City~~ Council.

(Prior Code, § 200.020; Ord. No. 31-13)

**Sec. 200.025. Urban Growth Preliminary Declaration.**

(a) *Applicability.* This section applies to development within the urban growth area, or within the urban service area prior to construction of required facilities by the City. An Urban Growth Preliminary Declaration may be obtained prior to, or concurrent with, an application for development.

(b) *Procedure type.* Applications for Urban Growth Preliminary Declarations are processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for an Urban Growth Preliminary Declaration shall contain the following:

- (1) The legal description of the total contiguous ownership on which the development is to occur;
- (2) A vicinity map showing the outline of the proposed development and its relation to all existing designated

arterial and collector streets within a one mile radius;

- (3) The proposed or anticipated use;
- (4) If property is to be subdivided for residential purposes, the proposed dwelling unit density of the subdivision; and
- (5) Such other information as the Director deems necessary to evaluate the application.

(d) *Determination.* The Director shall review a completed application for an Urban Growth Preliminary Declaration in light of the applicable provisions of the master plans and the area facility plans and determine:

- (1) The required facilities necessary to fully serve the development;
- (2) The extent to which the required facilities are in place or fully committed.

(e) *Contents.* The Urban Growth Preliminary Declaration shall list all required facilities necessary to fully serve the development and their timing and phasing which the developer must construct as conditions of any subsequent land use approval for the development.

(f) *Nature and effect.*

- (1) An Urban Growth Preliminary Declaration is not an approval to develop land, and does not confer any right or authority to undertake any development for which the Urban Growth Preliminary Declaration is obtained.
- (2) Issuance of an Urban Growth Preliminary Declaration does not relieve the applicant of the obligation to obtain other permits required by the Salem Revised Code, or to proceed through any other land use process required by the UDC.
- (3) If a required facility is included in two or more Urban Growth Area Preliminary Declarations, the obligation to provide the required facilities shall be a condition of each land use approval.

(g) *Duration.* Notwithstanding SRC 300.850, the Preliminary Declaration shall be valid as follows:

- (1) If the Preliminary Declaration is issued in connection with a subdivision, phased subdivision, planned unit development, manufactured dwelling park, or site plan review approval, the Preliminary Declaration shall be valid so long as the subdivision, phased subdivision, planned unit development, manufactured dwelling park, or site plan review approval remains valid; provided, however, that once a development has received tentative plan approval, in the case of a subdivision, or been granted a building permit in all other cases, the developer and his or her successors in interests shall be bound to complete all terms and conditions of the permit.
- (2) If the Preliminary Declaration is issued in connection with any land use approval other than a subdivision, phased subdivision, planned unit development, manufactured dwelling park, or site plan review approval, the Preliminary Declaration shall remain valid for a period of four years following the effective date of the decision; provided, however, that once a development has been granted a building permit, the developer and his or her successors in interests shall be bound to complete all terms and conditions of the permit.
- (3) If the Preliminary Declaration is issued independent of any other land use approval, the Preliminary Declaration shall remain valid for a period of four years following the effective date of the decision.

(Prior Code, § 200.025; Ord. No. 31-13)

### **Sec. 200.030. Amendment to Urban Growth Preliminary Declaration.**

(a) *Applicability.* A change to the list of required projects, timing, or phasing of an Urban Growth Preliminary Declaration shall be made in the manner provided by this section.

(b) *Procedure type.* An amendment to an Urban Growth Preliminary Declaration is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements specified in SRC chapter 300, an application to amend an Urban Growth Preliminary Declaration shall include:

- (1) A copy of the Urban Growth Preliminary Declaration.
- (2) A statement of the circumstances giving rise to the reason for the change.
- (d) *Criteria.* An amendment to an Urban Growth Preliminary Declaration shall be granted if:
  - (1) A change in the circumstances has occurred which has the effect of making the list of required public facilities inappropriate or inadequate.
  - (2) The proposed amendment does not simply reduce the developer's costs by shifting construction to later phases or to another developer or the public, unless the benefits received by such other developer and the public are significantly increased.
- (3) The change does not result in a development that does not otherwise meet all requirements of this chapter.

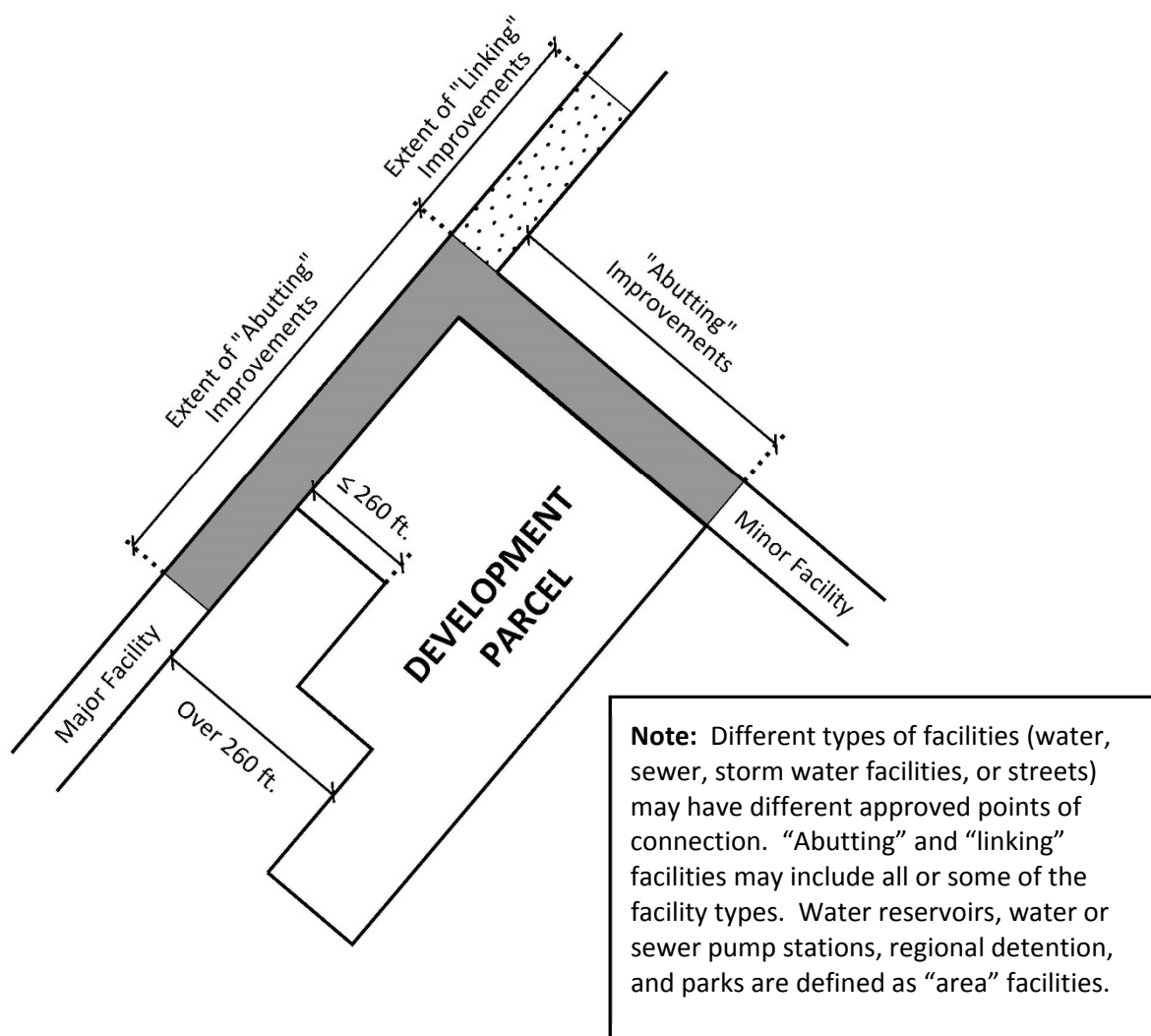
(Prior Code, § 200.030; Ord. No. 31-13)

**Sec. 200.035. Determination of extent of required improvement.**

(a) To the extent that they have not already been provided, a development shall provide the following facilities, located and constructed according to SRC 200.055 through 200.075:

- (1) All major linear and area facilities which serve the development.
- (2) All major linear and area linking facilities.
- (3) Minor facilities necessary to link the development to the major facilities specified in subsections (a)(1) and (2) of this section.
- (4) All major and minor facilities abutting or within the development parcel. This includes the construction of any major facility which falls within 260 feet of the boundaries of the development parcel, measured at right angles to the length of the facility (see Figure 200-1).

**FIGURE 200-1**



(5) Parks facilities as specified in SRC 200.075, to the extent those facilities have not been provided by the public.

(b) Water, storm drainage, streets and sewer facilities need not, in all cases, link to the same locations. Water, storm drainage, streets and sewer facilities shall be provided as necessary to link the development to a point where existing water, storm drainage, streets and sewer service facilities are adequate, along the shortest preplanned route.

(c) Water facilities shall conform with existing city service levels and shall be looped where necessary to provide adequate pressure during peak demand at every point within the system in the development to which the water facilities will be connected.

(d) Where two facilities must be built to their point of intersection, the entire intersection shall be built as well.

(e) All facilities constructed as required in this section shall be and become the property of the City on final acceptance of the work.

(Prior Code, § 200.035; Ord. No. 31-13)

**Sec. 200.040. Plan approval.**



(a) Upon issuance of a Urban Growth Preliminary Declaration the applicant shall cause a competent registered professional engineer to design the improvements required by the Urban Growth Preliminary Declaration. Such plans shall be drawn to the specifications of the Director of Public Works and submitted to the Director of Public Works for approval in accordance with the provisions and fees stated in SRC chapters 72, 73 and 77. Approval of the applicant's plans and execution of an improvement agreement shall be a condition of any land use approval for development on the property that is the subject of the Urban Growth Preliminary Declaration.

(b) Issuance of an Urban Growth Preliminary Declaration shall not relieve the applicant of the obligation to obtain other permits required by the Salem Revised Code, or of the obligation to proceed through the subdivision or partitioning review and approval process.

(Prior Code, § 200.040; Ord. No. 31-13)

**Sec. 200.045. Areas not fully master planned.**

(a) Notwithstanding SRC 200.025, upon receipt of a completed application for an Urban Growth Preliminary Declaration for property that lies within an area not fully planned in the master plans, the Director of Public Works shall determine whether an area facilities plan for major public facilities shall be prepared administratively to accommodate the development proposal or whether an amendment to the applicable master plan shall be required. The purpose of an area facilities plan is to establish the major facilities necessary to serve the proposal and the required linkage to existing adequate facilities. The decision shall be based upon:

- (1) The amount of time and staff costs required to complete an area facilities plan;
- (2) The impact of preparation of an area facilities plan on scheduled work programs in those city departments responsible for that preparation;
- (3) The impact of an area facilities plan for the development on overall facilities planning for the entire area;
- (4) Such other considerations as may be relevant to the implementation of the intent and purpose of this chapter.

(b) Should the Director of Public Works determine that an area facilities plan should be developed, upon completion of that plan, the review of the application for the Urban Growth Preliminary Declaration shall proceed as otherwise provided in this chapter.

(c) Should the Director of Public Works determine that an amendment to one or more master plans is warranted, the process shall proceed through the public hearing requirements specified in SRC chapter 64. After public hearing, the Council may either reject the application and refund the applicant's fee or direct the preparation of a Preliminary Declaration.

(Prior Code, § 200.045; Ord. No. 31-13)

**Sec. 200.050. Acquisition of property, easements and right-of-way.**

(a) The developer shall obtain all rights-of-way necessary for street improvements, easements for sewer, drainage and water lines, and fee title to property for parks, pumping stations and reservoirs needed to construct the required facilities identified in the Urban Growth Preliminary Declaration. If the developer is unable to acquire any necessary property, easements, or right-of-way after documented good faith attempts to negotiate and purchase the same, the developer shall prepare the legal descriptions thereof and transmit them to the City Attorney. The City Attorney shall refer the matter to the City Council which shall, after public hearing, proceed to determine whether the developer made good faith attempts to acquire the property, easement or right-of-way, and whether to acquire the property, easement, or right-of-way through exercise of eminent domain. The hearing shall be conducted in the manner provided for quasi-judicial hearings in matters other than quasi-judicial land use matters.

(b) The City Attorney and other city departments shall keep account of time and expenses incurred in acquiring the property, easements, and rights-of-way, including the amount of court costs and attorney fees awarded the other party by the court, and the developer shall pay all such expenses together with the amount of the judgment or settlement. In instances where the City and the developer have responsibility for acquiring abutting portions of right-of-way at the same time, the expenses delineated in this subsection shall be shared in proportion to the area acquired by each party.

(c) Any settlement of a condemnation action must be concurred in by the developer; provided, however, the developer shall be bound by a final judgment rendered in any eminent domain action unless, within ten days of the verdict being rendered, the developer notifies the City Attorney, in writing, of the developer's intention to abandon the development. If the developer, at any time, decides to abandon the development, the developer shall pay to the City all costs incurred in preparing for and prosecuting the action, including any costs and attorney fees awarded the defendant in the action.

(d) All property, easements, and rights-of-way acquired by the developer shall be acquired by the developer in the name of, and conveyed to, the City, free of all liens and encumbrances, no later than the time of recording of the final plat.

(Prior Code, § 200.050; Ord. No. 31-13)

**Sec. 200.055. Standards for street improvements.**

(a) The proposed development shall be linked by construction of and improvements to public streets which shall extend from the development to an adequate street or streets by the shortest preplanned routes available. Specific locations and classifications of such linking streets shall be based upon the street network adopted in the TSP, and as further specified in any Transportation Impact Analysis (TIA) prepared by public works staff during the adoption of the USA or its amendments. Development proposals for which the public works standards require preparation of an individual TIA may be required to provide more than one linking street or other improvements to accommodate traffic volumes generated by the proposal.

(b) For purposes of this section, an adequate street is defined as the nearest point on a collector or arterial street which has, at a minimum, a 34-foot wide turnpike improvement within a 60-foot wide right-of-way. The Director shall designate the location or locations where the linking street will connect to the existing street system, based on the definition of adequate street given herein, the results of the TIA studies, and the information in the TSP. A linking street is required to meet the same minimum standard of a 34-foot wide turnpike improvement within a 60-foot wide right-of-way if it is a collector or arterial street. A linking street is required to meet a minimum standard of a 30-foot wide turnpike improvement within a 60-foot wide right-of-way if it is a local street. Where physical or topographical constraints are present to a degree that the standard linking street pavement width cannot be reasonably constructed, the Director of Public Works may specify a lesser standard which meets the functional levels necessary to improve the existing conditions and meet the increased demands.

(c) Within the boundaries of the property on which development is to occur, all streets shall be fully improved. All streets abutting the property boundaries shall be designed and improved by the developer to the greater of the standards specified in SRC chapter 803 and the standards for linking streets in this section.

(d) Standards for geometric design, construction, and materials shall be as specified for the appropriate classification of street, arterial, collector, or local, as contained in the Public Works Design Standards.

(e) Exemption for industrial infill development.

(1) Industrial infill development may be partially exempted from the linking street requirements set forth in this section if the industrial development:

- (A) Is located on a lot where more than 60 percent of the lots of record between the lot and the point of linkage have already been developed;
- (B) Generates fewer than 100 peak hour trips onto an arterial or collector street, or fewer than 20 peak hour trips onto a local street;
- (C) Generates less than 100,000 new equivalent axle loads on the linking street; and
- (D) Is an industrial use as defined in SRC chapter 400.

(2) An industrial infill development that meets the criteria set forth in ~~paragraph~~ subsection (e)(1) of this ~~subsection~~ may have the linking street standards reduced to the lesser of:

- (A) A two-inch structural overlay onto the existing pavement base with no widening, if the base is suitable; or
- (B) If the pavement base has serious failures, a series of Class A patches followed by a chipseal overlay.

The reduced standard shall be determined by the ~~Public Works~~ Director and based on the needs of the street. The reduced standard shall be specified in the Urban Growth Preliminary Declaration.

(Prior Code, § 200.055; Ord. No. 31-13)

**Sec. 200.060. Standards for sewer improvements.**

(a) The proposed development shall be linked to existing adequate facilities, by the construction of sewer lines and pumping stations, which are necessary to connect to such existing sewer facilities. Specific location, size and capacity of such facilities will be determined with reference to any one or combination of the following:

- (1) Sewer master plan; or
- (2) Specific engineering capacity studies approved by the Director of ~~Public Works~~.

(b) With respect to facilities not shown in the master plan but necessary to link to adequate facilities, the location, size and capacity of such facilities to be constructed or linked to shall be determined by the Director of ~~Public Works~~. Temporary sewer facilities, including pumping stations, will be permitted only if the temporary facilities include all facilities necessary for transition to permanent facilities, and are approved by the Director of ~~Public Works~~. Design, construction, and material standards shall be as specified by the Public Works Design Standards for the construction of all such public sewer facilities in the City.

(Prior Code, § 200.060; Ord. No. 31-13)

**Sec. 200.065. Standards for storm drainage improvements.**

(a) The proposed development shall be linked to existing adequate facilities by the construction of storm drain lines, open channels, and detention facilities which are necessary to connect to such existing drainage facilities. Specific location, size, and capacity of such facilities will be determined with reference to any one or a combination of the following:

- (1) The stormwater management plan or, upon adoption, a superseding stormwater master plan; or
- (2) Specific engineering capacity studies approved by the Director of ~~Public Works~~.

(b) With respect to facilities not shown in the applicable management or master plan, but necessary to link to adequate facilities, the location, size, and capacity of such facilities to be constructed or linked to shall be determined by the Director of ~~Public Works~~. Temporary storm drainage facilities will be permitted only if the temporary facilities include all facilities necessary for transition to permanent facilities and are approved by the Director of ~~Public Works~~. Design, construction, and material standards shall be as specified by the Public Works Design Standards for the construction of all such public storm drainage facilities in the City.

(Prior Code, § 200.065; Ord. No. 31-13)

**Sec. 200.070. Standards for water improvements.**

(a) The proposed development shall be linked to existing adequate facilities by the construction of water distribution lines, reservoirs and pumping stations which connect to such existing water service facilities. Specific location, size and capacity of such facilities will be determined with reference to any one or combination of the following:

- (1) The water master plan; or
- (2) Specific engineering capacity studies approved by the Director of ~~Public Works~~.

(b) With respect to facilities not shown in the master plan but necessary to link to adequate facilities, the location, size and capacity of such facilities to be constructed or linked to shall be determined by the Director of ~~Public Works~~. Temporary water facilities, including pumping stations and reservoirs, will be permitted only if the temporary facilities include all facilities necessary for transition to permanent facilities, and are approved by the Director of ~~Public Works~~. Design, construction and material standards shall be as specified by the Public Works Design Standards for the construction of all such public water facilities in the City.

(Prior Code, § 200.070; Ord. No. 31-13)

**Sec. 200.075. Standards for park sites.**

(a) The applicant shall reserve for dedication prior to development approval that property within the development site that is necessary for an adequate neighborhood park, access to such park, and recreation routes, or similar uninterrupted linkages, based upon the Salem Comprehensive Park System Master Plan.

(b) For purposes of this section, an adequate neighborhood park site is one that meets the level of service (LOS) of 2.25 acres per 1,000 population, utilizing an average service radius of one-half mile.

(Prior Code, § 200.075; Ord. No. 31-13)

**Sec. 200.080. Temporary facilities.**

(a) *Temporary facilities access agreement.*

- (1) Where a development precedes construction of permanent facilities that are specified to ultimately serve development, the Urban Growth Preliminary Declaration may allow an alternative to use temporary facilities under conditions specified in a temporary facilities access agreement.
- (2) The terms and conditions of the temporary facilities access agreement shall specify the temporary facilities being constructed or used, the amount of the temporary facility access fee, the provisions for transitioning the use of temporary facilities to permanent facilities once the permanent facilities are constructed, and any other provisions pertinent to the use of temporary facilities.
- (3) The temporary facility access fee shall be calculated by the ~~Public Works~~ Director and shall be a reasonable contribution toward the construction of permanent facilities that will ultimately serve the development. The temporary facility access fee shall be held by the City in a dedicated fund and used to pay the costs of construction of the permanent facilities. The applicant shall not be entitled to receive, or have any claim to, any temporary facility access fees collected by the City.
- (4) The temporary facility access fee shall be due and payable by the person or persons seeking a building permit at the time of the granting of a building permit, and payment of the temporary facility access fee, in full, shall be a condition precedent for obtaining building permits within the property.

(b) *Temporary facilities expansion permit.*

- (1) Any person who has been granted the use of a temporary sewer facility under SRC 200.060, a temporary storm drainage facility under SRC 200.065, or a temporary water facility under SRC 200.070 may apply for a temporary facilities expansion permit under this section, which may allow modifications to, or expansion of, the temporary facility in order to better serve the development for which the Urban Growth Preliminary Declaration was issued. The applicant for a temporary facilities expansion permit shall make application therefor on forms promulgated by the ~~Director of Public Works~~. Fees for temporary facilities expansion permits shall be established by resolution of the ~~City Council~~.
- (2) The ~~Director of Public Works~~ may issue a temporary facilities expansion permit if the Director finds that expansion of the facility is not inconsistent with this chapter, the applicant's Urban Growth Preliminary Declaration, or with any master plan, public facilities plan, or other similar plan that is applicable to the development for which the Urban Growth Preliminary Declaration was issued. Any expansion of a temporary facility shall be at the applicant's sole cost and expense, and at the applicant's sole risk. The ~~Director of Public Works~~ may impose such conditions on a temporary facilities expansion permit as the Director deems are in the public interest.

(c) *Permit revocation.* The ~~Director of Public Works~~ may revoke a temporary facilities expansion permit upon a finding that the permittee is not maintaining the temporary facility in a manner that is consistent with the permit, the provisions of this chapter, or any other applicable federal, state or local law. Appeals of revocations of Temporary Facilities Access permits are contested cases under SRC chapter 20J. Unless a stay is granted in the case of an appeal, when a temporary facilities permit is revoked, use of the temporary facility shall immediately cease until such time as the violation has been cured, and a new temporary facilities expansion permit has been issued.

(Prior Code, § 200.080; Ord. No. 31-13)

**Secs. 200.090—200.200. Reserved.**

**DEVELOPMENT DISTRICTS**

**Sec. 200.205. Development districts authorized.**

A developer of surplus public property may request the formation of a development district if:

- (a) The developer is required to construct public improvements as a condition of the issuance of an urban growth area development permit for surplus public property; and
- (b) One or more of the public improvements in the urban growth area development permit were not included as projects in the applicable master plan for the specific type of public improvement, or all or a significant portion of one or more of the public improvements are ineligible to be built with systems development charges because the public improvement would correct an existing deficiency.

(Prior Code, § 200.205; Ord. No. 10-05; Ord. No. 31-13)

**Sec. 200.210. Application for formation of development district.**

The request for the formation of a development district may be made at any time after an application for an urban growth area development permit has been submitted by the developer, but prior to the issuance of the urban growth area development permit, by filing an application on forms promulgated by the Director. The application shall be submitted to the Director and be accompanied by an application fee, which shall be established by resolution of the ~~City~~-Council.

(Prior Code, § 200.210; Ord. No. 10-05; Ord. No. 31-13)

**Sec. 200.220. ~~Public Works~~ Director's report and recommendation; hearing.**

- (a) The Director shall prepare a written report, which shall contain, at a minimum, the following information:
  - (1) The boundaries and acreage of the proposed district;
  - (2) The estimated cost of each public improvement proposed to be built;
  - (3) The estimated amount of the infrastructure fee, and methodology whereby the cost was apportioned by EDU or other equivalent unit; and
  - (4) The amount necessary to adequately reimburse the City for an administration of the infrastructure agreement.
- (b) The Director's report shall also contain a recommendation whether it is in the public interest to establish the development district. Factors to be considered in evaluating the public interest include, but are not limited to:
  - (1) The likelihood that the public improvements would be built without the formation of the proposed district;
  - (2) The need for the public improvements to facilitate the development of property within the district;
  - (3) The availability of other funding sources to pay for the cost of the public improvements; and
  - (4) The extent to which the proposed development district will provide collateral benefits outside the boundaries of the district.
- (c) The Director shall forward the report to the ~~City~~-Council, which shall hold a public hearing on the proposal to establish a development district, at which time any person shall be given the opportunity to comment.
- (d) Not less than ten days prior to the public hearing, the developer and any person owning property within the proposed district shall be notified of the public hearing and the purpose thereof. Notification may be made by regular mail, certified mail or by personal service. Notice shall be deemed effective on the date that the notice is mailed or personal delivery is made. Failure of the developer or any person owning property within the proposed district to receive notice shall not invalidate or otherwise affect the proceedings for the establishment of the district.
- (e) The ~~City~~-Council has the sole discretion after the public hearing to decide whether to approve the formation of the proposed development district. Because formation of a development district does not result in an assessment against or lien upon real property, the establishment of a development district is not subject to mandatory termination because of remonstrances.

(Prior Code, § 200.220; Ord. No. 10-05; Ord. No. 70-05; Ord. No. 31-13)

**Sec. 200.230. Notice of adoption; recording.**

(a) The Director shall provide written notice to all persons presenting evidence or testimony at the public hearing on the formation of the development district that an order has been adopted, approving formation. The notice shall include a copy of the order approving formation.

(b) The Director shall cause notice to be provided to potential purchasers of property within the development district, by recording the order establishing the development district with the clerk of the county within which the development district is located. Recording shall not create a lien upon any property within the development district, and failure by the Director to record the order shall not affect the legality of the establishment of the development district or the obligation of any person to pay the infrastructure fee.

(Prior Code, § 200.230; Ord. No. 10-05; Ord. No. 31-13)

**Sec. 200.240. Obligation to pay infrastructure fee.**

(a) The infrastructure fee shall be owing for a period of 20 years after the date the developer accepts the order establishing the development district. The infrastructure fee shall be due and payable when an applicant receives approval from the City for any of the following:

- (1) A building permit for a new building located within the development district;
- (2) A building permit for any additions modifications, repairs or alterations to a building within the development district which exceeds 25 percent of the value of the building within any 12-month period, but excluding the value of repairs made necessary due to damage or destruction by fire or other natural disaster. The value of the building shall be the amount shown as the building's real market value, as shown on the most current records of the county assessor; or
- (3) A permit issued for connection of an existing building within the development district to a public improvement.

(b) No building permit shall be issued or any connection to the City's infrastructure shall be allowed until the infrastructure fee has been paid in full. If construction is commenced without first obtaining a building permit, then the infrastructure fee shall be deemed as having been due and payable upon the earliest date that any such permit was required.

(Prior Code, § 200.240; Ord. No. 10-05; Ord. No. 31-13)

**Sec. 200.245. Payment of infrastructure fee to developer.**

The developer shall receive all infrastructure fees collected by the City pursuant to the infrastructure agreement for as long as the infrastructure agreement is in effect. In no instance shall the City be liable for payment of an infrastructure fee, or any portion thereof, to the developer. Only those funds which the City has received from or on behalf of those persons owing the infrastructure fee shall be payable to the developer. Payment to the developer shall be made periodically, according to the terms set forth in the infrastructure agreement.

(Prior Code, § 200.245; Ord. No. 10-05; Ord. No. 31-13)

**Sec. 200.250. Reimbursement of costs.**

(a) The estimated total amount of reimbursement to the Developer shall be specified in the order approving formation of the development district and the infrastructure agreement.

(b) The actual total amount of reimbursement to the Developer shall not exceed the certified cost of the public improvements.

(c) The certified costs to be reimbursed to the Developer shall be limited to the clearly documented costs of design engineering, construction engineering, construction, and acquisition of off-site right-of-way. Costs of construction engineering shall include surveying and inspection costs and shall not exceed 7.5 percent of eligible construction costs. Costs for acquisition of off-site right-of-way shall be limited to the reasonable market value of land or easements purchased by the Developer from a third party in order to complete required off-site improvements.

(d) The Developer shall receive no reimbursement for any portion of the infrastructure fee charged to the

Developer as the result of the Developer's obtaining a building permit or connecting to a public improvement as part of development of the Developer's own property; or for any financing costs, land or easements dedicated by the Developer.

(Prior Code, § 200.250; Ord. No. 10-05; Ord. No. 2-12; Ord. No. 31-13)

**Sec. 200.255. When infrastructure fee not charged.**

No infrastructure fee shall be charged if an infrastructure fee has been previously paid pursuant to SRC ~~66.380~~ 200.240, unless such payment is the result of the construction of new buildings; additional modifications, repairs or alterations to a building within the development district which exceeds 25 percent of the value of the building within any additional 12-month period, but excluding the value of repairs made necessary due to damage or destruction by fire or other natural disaster; or new or additional connections to public improvements. No infrastructure fee shall be due where an urban growth development permit has been issued, but no building permit has yet been issued. A person who has paid a development fee may apply for a refund of the infrastructure fee if the building permit lapses because the construction authorized by the building permit has not commenced.

(Prior Code, § 200.255; Ord. No. 10-05; Ord. No. 31-13)

**Sec. 200.260. Non-payment.**

Whenever the person responsible for payment of the infrastructure fee refuses to pay the fee, the Director of ~~Public Works~~ shall notify the developer of such non-payment, in writing. The notice shall include the name of the person or persons owing the infrastructure fee, the street address or tax lot number of the person's property, the amount of the infrastructure fee, and the date upon which the infrastructure fee became due and payable. Upon receipt of such notice, the developer shall proceed forthwith, by private cause of action or otherwise, to cause the infrastructure fee to be paid, and shall indemnify and hold the City harmless from any failure to issue a building permit or allow connection to a public improvement due to such non-payment. Such notice may be either by certified mail or personal service.

(Prior Code, § 200.260; Ord. No. 10-05; Ord. No. 31-13)

**Sec. 200.265. Title to public improvements.**

Public improvements installed pursuant to an infrastructure agreement shall become, upon acceptance by the Director of ~~Public Works~~, the property of the City.

(Prior Code, § 200.265; Ord. No. 10-05; Ord. No. 31-13)

**Sec. 200.270. Contesting development districts or infrastructure fees.**

No legal action intended to contest the formation of the development district or the amount of infrastructure fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following the developer's acceptance of the order establishing a development district. Formation of the development district or the amount of the infrastructure fee shall only be by writ of review pursuant to ORS 34.010—ORS 34.102, and not otherwise.

(Prior Code, § 200.270; Ord. No. 10-05; Ord. No. 31-13)

**Secs. 200.280—200.300. Reserved.**

## **REIMBURSEMENT DISTRICTS**

**Sec. 200.310. Application to establish a reimbursement district.**

(a) A Developer may request the formation of a reimbursement district by submitting an application on forms provided by the Director, which shall contain:

- (1) A map showing the boundaries of the proposed reimbursement district and each tax lot within the proposed district;
- (2) The zoning designations for all property located within the proposed reimbursement district; the names and mailing addresses of each owner of property within the proposed district; the tax account number for the owner's property; the width of the frontage, if any and if necessary to determine the allocation of the

reimbursement fee; the area of the property in square feet; and any other similar information deemed necessary by the Director for calculating the fair apportionment of the cost; the property or properties owned by the Developer; and

(3) A description of the location, type, size and actual or estimated cost of each public improvement constructed or to be constructed within the proposed reimbursement district.

(4) Such other information deemed necessary to evaluate the request by the Director of Public Works.

(b) The application shall be accompanied by an application fee, which shall be established by resolution of the City Council.

(c) The application may be submitted to the Director prior to the construction of the public improvement but no later than 180 days after acceptance of the public improvement by the City.

(Prior Code, § 200.310; Ord. No. 52-05; Ord. No. 31-13)

#### **Sec. 200.315. Director's report.**

(a) Upon receipt of a complete application, the Director shall evaluate whether the proposed reimbursement district should be formed. The Director may require the submission of additional information by the Developer to assist in the evaluation.

(b) The Director shall prepare a written report based upon an evaluation, which shall make a recommendation on whether the reimbursement district should be formed, based on the following criteria:

(1) The extent to which the Developer will finance, or has financed some or all of the cost of the public improvement;

(2) The boundaries and acreage of the proposed reimbursement district;

(3) The actual or estimated cost of each public improvement built or proposed to be built within the proposed district and methodology for the apportionment of the cost of each public improvement among the properties within the proposed reimbursement district;

(4) The amount necessary to adequately reimburse the City for administration of the reimbursement district; and

(5) Whether it is in the public interest to establish the reimbursement district. Factors to be considered in evaluating the public interest include, but are not limited to:

(A) The need for the public improvement in order to facilitate the development of other property within the district;

(B) The availability of other funding sources to pay for the cost of the public improvements; and

(C) The extent to which the reimbursement district will provide incidental benefits outside the boundaries of the reimbursement district.

(Prior Code, § 200.315; Ord. No. 52-05; Ord. No. 31-13)

#### **Sec. 200.320. Public hearing.**

(a) The Director shall forward the report to the City Council, which shall hold a public hearing on the proposal to establish a reimbursement district, at which time any person shall be given the opportunity to comment.

(b) Not less than ten days prior to the public hearing, the Developer and all persons owning property within the proposed district shall be notified of the public hearing and the purpose thereof. Notification shall be made by regular mail or certified mail or by personal service. Notice shall be deemed effective on the date that the notice is mailed. Failure of the Developer or any person owning property within the proposed district to receive notice shall not invalidate or otherwise affect the proceedings for the establishment of the reimbursement district.

(c) Because formation of the proposed reimbursement district does not result in an assessment against or lien upon property, the public hearing is for informational purposes only and establishment of the reimbursement district is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be



established.

(Prior Code, § 200.320; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.330. Notice of adoption of resolution.**

The City shall notify the developer and all property owners within the reimbursement district of adoption of the resolution establishing the reimbursement district. The notice shall include a copy of the resolution; the date of adoption; and a short explanation of the process for formation of the reimbursement district, setting forth the amount of the reimbursement fee and stating that a property owner will be legally obligated to pay the fee upon development of the owner's property; and explanation of the circumstances under which the property owner paying the reimbursement fee may obtain systems development charge credits.

(Prior Code, § 200.330; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.335. Recording the resolution.**

The City Recorder shall record the resolution establishing the reimbursement district with the clerk of the county within which the reimbursement district is located, to provide notice to potential purchasers of property within the reimbursement district. Recording of the resolution does not create a lien upon any property within the reimbursement district. Failure by the City Recorder to record the resolution shall not affect the legality of the establishment of the reimbursement district or the obligation to pay the infrastructure fee at the time development occurs.

(Prior Code, § 200.335; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.340. Contesting reimbursement districts or reimbursement fees.**

No legal action intended to contest the formation of the reimbursement district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following the adoption of a resolution establishing or modifying a reimbursement district or establishing or modifying the reimbursement fee. Formation of the reimbursement district or the reimbursement fee shall only be writ of review pursuant to ORS 34.010—ORS 34.102, and not otherwise.

(Prior Code, § 200.340; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.345. Systems development charge credits.**

Systems development charges collected from within a development shall be payable as pass-through credits, as defined by SRC 41.100, to any person who has paid the reimbursement fee charged for the public improvement providing service to the person's property.

(Prior Code, § 200.345; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.350. Reimbursement fee amount.**

(a) The reimbursement fee shall be based on the cost of each public improvement. The developer shall not be entitled to a reimbursement for any portion of the reimbursement fee that reflects the proportional share of the cost of the public improvement benefitting the developer's own property, unless the developer qualifies for systems development charge credits under SRC 41.160.

(b) The costs to be reimbursed to the developer shall be limited to the cost of design engineering, construction engineering, construction, and off-site dedication of right-of-way. Construction engineering shall include surveying and inspection costs and shall not exceed 7.5 percent of eligible public improvement construction costs. Costs to be reimbursed for right-of-way shall be limited to the reasonable market value of land or easements purchased by the developer from a third party in order to accommodate off-site improvements.

(c) No reimbursement shall be allowed for financing costs, land or easements dedicated by the developer, the portion of costs which are eligible for systems development charge credits or any costs which cannot be clearly documented.

(Prior Code, § 200.350; Ord. No. 52-05; Ord. No. 2-12; Ord. No. 31-13)

**Sec. 200.355. Obligation to pay reimbursement fee.**

(a) The applicant for a development permit for property within a reimbursement district shall pay the City, in addition to any other applicable fees and charges, the reimbursement fee as determined by the Council, if, within 20 years after the date of adoption of the resolution forming the reimbursement district, the person applies for and receives approval from the City for any of the following activities:

- (1) A building permit for a new building;
- (2) Building permits for any additions modifications, repairs or alterations of a building, which exceed 25 percent of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the county assessor for the building's real market value, but shall not include repairs made necessary due to damage or destruction by fire or other natural disaster;
- (3) Any other development approval;
- (4) A permit issued for connection to the public improvement constructed by the developer.

(b) The City's determination of who shall pay the reimbursement fee and when the reimbursement fee is due is final.

(c) In no instance shall the City be liable for payment of the reimbursement fee, or any portion thereof. Only those payments which the City has received from or on behalf of those owners of properties within a reimbursement district shall be payable to the developer.

(d) The date for payment of the reimbursement fee shall be for 20 years from the date of the resolution establishing the reimbursement district.

(e) The reimbursement fee is immediately due and payable to the City by a person upon the occurrence of the earliest happening of one of the events specified in subsection (a) of this section. If connection is made or construction commenced without required City permits, then the reimbursement fee is deemed to have been immediately due and payable upon the earliest date that any such permit was required. Reimbursement fees shall not be eligible for Bancrofting.

(Prior Code, § 200.355; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.360. Reserved.**

**Sec. 200.370. Hardship.**

(a) Persons subject to a reimbursement fee may seek a reduction in the fee, where part or all of a property's development potential is eliminated due to conditions that were unknown or could not reasonably have been anticipated at the time the reimbursement district was formed, including, but not limited to, restrictions from regulations adopted after the district is formed that limit development because of geologic hazards, wetlands, or archeological resources. In such cases, persons may apply for a reduction in the reimbursement fee, by filing an application with the Director, establishing the nature and extent of the conditions that eliminate part or all of the property's development potential and the reduction in the value of the property of the entire parcel as a result of the conditions, and setting forth the amount of the reduction in the reimbursement fee the person is seeking. The Director may require that the applicant submit such other information deemed necessary by the Director to evaluate the application. The Director may grant up to a 50 percent reduction of the reimbursement fee, based on the undevelopable area. The Director shall impose such conditions upon the reduction as necessary to assure that the development potential of the property is maximized. Under no circumstances shall the total reductions within the district exceed ten percent of the total anticipated reimbursement district revenue.

(b) Upon receipt of a completed application, the Director shall provide notice of the application to the Developer and all persons who are subject to the reimbursement fee, based on the most recent property tax assessment roll. The notice shall provide a 14-day period for submitting written comments prior to the decision, and shall set forth the factual basis for the request in the reduction in the reimbursement fee.

(c) The Director shall provide notice of the decision to any person who submits comments pursuant to subsection (b) of this section. The notice shall briefly summarize the Director's decision, and shall include an explanation of appeal rights. Appeal of the Director's decision shall be to the Hearings Officer, whose decision shall be final.

(Prior Code, § 200.370; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.375. Non-payment.**

Whenever the full reimbursement fee has not been paid for any reason after it is due, the City Manager shall file a report with the City Council, indicating the amount of the uncollected reimbursement fee, the legal description of the property upon which development giving rise to the duty to pay the fee has occurred, the date upon which the reimbursement fee was due and the name or names of the person owing the fee. The City Council shall authorize the setting of a public hearing before the hearings officer, and direct the City Manager to give notice of that hearing to each of the person or persons owing the fee, together with a copy of the City Manager's report concerning the unpaid reimbursement fee. Such notice may be either by certified mail or personal service. If the hearings officer determines the reimbursement fee is due but has not been paid, the hearings office may issue a stop work order or revoke any permits which have been issued, and the developer shall have a private cause of action against the person or persons owing the reimbursement fee.

(Prior Code, § 200.375; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.380. Title to public improvements.**

Public improvements constructed within a reimbursement district shall become, upon acceptance by the City, the City's sole property.

(Prior Code, § 200.380; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.385. Collection and payment; other fees and charges.**

(a) The Developer shall receive all reimbursement fees collected by the City for reimbursement district public improvements constructed by the developer for as long as the reimbursement district is in existence. Payment of reimbursement fees to the developer shall be made quarterly.

(b) The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the City.

(Prior Code, § 200.385; Ord. No. 52-05; Ord. No. 31-13)

**Sec. 200.390. Reserved.**

**Sec. 200.400. Definitions.**

~~Unless the context otherwise specifically requires, as used in SRC 200.400 through 200.420, the following terms mean:~~ The following words, terms and phrases, when used in SRC 200.400 through 200.420, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~(a)City:~~ means the City of Salem, Oregon.

~~(b)~~ Construction: means the construction, reconstruction, major rehabilitation, enhancement or upgrade of a public improvement undertaken pursuant to a development approval.

~~(c)Developer:~~ means any person who undertakes, as a condition of development approval, the construction of a public improvement that is available to provide services to properties, in addition to the property owned by the person, or that person's assignee or successor-in-interest.

~~(d)~~ Development: means "development" as defined in SRC 200.005.

~~(e)Development approval:~~ means any final land use decision, limited land use decision, expedited land division decision, urban growth area permit, master plan approval, building permit, construction permit, or other similar authorization needed in order to develop land.

~~(f)Director:~~ means the Public Works Director of the City of Salem, or the Director's designee.

~~(g)~~ Person: means a natural person, partnership, corporation, limited liability company, association, governmental entity other than the City, or any other entity in law or fact.

~~(h)~~—*Public improvement*: means a capital facility or asset used for water supply, treatment and distribution; wastewater collection, transmission, treatment and disposal; transportation; or stormwater drainage or flood control.

(Prior Code, § 200.400)

**Sec. 200.405. Fee-in-lieu of construction authorized.**

(a) The Director may allow a Developer to enter into an agreement with the City for the payment of a fee-in-lieu of making a public improvement, required as a condition of a development approval, when the following conditions are met:

- (1) The development approval only requires the construction of a portion of the public improvement, and additional portions are required to be constructed in order to have an operational, fully functioning public improvement;
- (2) Construction of the additional portions of the public improvement will not or cannot occur simultaneously with the construction of the portion required as the condition of development approval because funding for other portions is unavailable at the time the developer would construct the developer's portion of the public improvement; and
- (3) Construction of only a portion of the public improvement would impede the construction of the additional portions or otherwise affect the physical integrity of the public improvement at a future date.

(b) Notwithstanding any provision of SRC 200.400 through 200.420 construction of the public improvement shall be preferred over the payment of a fee-in-lieu.

(c) No building permits for any structures within the development subject to the condition of development approval will be issued until the fee-in-lieu of construction is paid.

(d) The ~~Director of Finance~~ Finance Officer shall deposit the fee-in-lieu into a trust and agency account, and the fee-in-lieu shall only be used to fund construction of the public improvement for which the fee was paid.

(e) An agreement to pay a fee-in-lieu of construction shall be in a form approved by the City Attorney and recorded in the deed records of the appropriate county. The agreement to pay a fee-in-lieu of construction shall not result in an assessment upon or lien against real property, and the fee-in-lieu collected by the City from a developer are not taxes subject to the property tax limitations of article XI, section 11(b) of the Oregon Constitution.

(Prior Code, § 200.405)

**Sec. 200.410. Fee-in-lieu amount.**

The fee-in-lieu of construction shall be based on the estimated cost of construction of the public improvement; shall reflect the proportional share of the cost of the public improvement benefitting the development; and shall be an amount equal to the estimated construction cost of the developer's portion of the public improvement, calculated for the year when the developer commences construction of the project, minus any systems development charge credits for which the developer would be eligible if the public improvement had been constructed.

(Prior Code, § 200.410; Ord. No. 110-07; Ord. No. 31-13)

**Sec. 200.415. Payment of fee-in-lieu of construction as substantial compliance.**

Payment of an approved fee-in-lieu of construction as provided in SRC 200.400 through 200.420 shall be considered substantial compliance with the condition of land use approval requiring the construction of the public improvement.

(Prior Code, § 200.415)

**Sec. 200.420. No limitation on authority.**

(a) A fee-in-lieu of construction is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the City.

(b) Nothing in SRC 200.400 through 200.420 is intended to modify or limit the authority of the City:

- ~~(a)~~(1) To provide or require access management;

~~(b)~~(2) To enforce other development conditions contained in the land use approval; or

~~(c)~~(3) To require, in the future, the construction of the public improvement as a condition of development approval against other properties.

(Prior Code, § 200.415)

**CHAPTERS 201—204. RESERVED**

## **CHAPTER 205. LAND DIVISION AND RECONFIGURATION\***

**\*State law reference**—Planning and development, ORS 227.010 et seq.; subdivision of land and partitions, ORS, ch. 92.

### **Sec. 205.001. Purpose.**

The purpose of this chapter is to provide regulations governing the division and reconfiguration of land.

(Prior Code, § 205.001; Ord. No. 31-13)

### **Sec. 205.005. Partition tentative plan.**

(a) *Applicability.* Except as provided in ORS 92.010(9), no land shall be divided into three or fewer parcels within a calendar year without receiving tentative partition plan approval as set forth in this section.

(b) *Procedure type.* A tentative partition plan is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for tentative partition plan shall include the information required in SRC 205.030.

(d) *Criteria.* A tentative partition plan shall be approved if all of the following criteria are met:

- (1) The tentative partition plan complies with the standards of this chapter and with all applicable provisions of the UDC, including, but not limited to the following:
  - (A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines;
  - (B) City infrastructure standards; and
  - (C) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.
- (2) The tentative partition plan does not impede the future use or development of the property or adjacent land.
- (3) Development within the tentative partition plan can be adequately served by city infrastructure.
- (4) The street system in and adjacent to the tentative partition plan conforms to the Salem Transportation System Plan.
- (5) The street system in and adjacent to the tentative partition plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition.
- (6) The tentative partition plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.
- (7) The layout, size, and dimensions of the parcels within the tentative partition plan take into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will occur from the reasonable development of the parcels.
- (8) When the tentative partition plan is for property located more than 300 feet from an available sewer main, and the property will not connect to City water and sewer:
  - (A) The property is zoned residential;
  - (B) The property has received a favorable site evaluation from the county sanitarian for the installation of an on-site sewage disposal system; and
  - (C) The proposed parcels are at least five acres in size and, except for flag lots, have no dimension that is less than 100 feet.

(e) *Conditions of approval for partitions in areas unserved by City sewer.* In addition to any conditions imposed pursuant to SRC 300.820, when the tentative partition plan is for property located more than 300 feet from an available sewer main, and the property will not connect to City water and sewer, the following conditions shall

be imposed:

- (1) The parcels shall only be used for residential purposes;
- (2) All buildings and structures shall meet required setbacks from future street rights-of-way; and
- (3) A non-remonstrance agreement shall be signed and recorded against the property agreeing to connect to the City's sewer and water systems when they become available, and waiving the right to object to any future City sewer and water project benefiting the property.

(f) *Expiration.* Tentative partition plan approval shall expire as provided in SRC 300.850, unless an application for final plat is submitted within the time limits set forth in SRC 300.850, or an extension is granted pursuant to SRC 300.850(b).

(Prior Code, § 205.005; Ord. No. 31-13)

**Sec. 205.010. Subdivision tentative plan.**

(a) *Applicability.* No land shall be divided into four or more lots within a calendar without receiving tentative subdivision plan approval as set forth in this section.

(b) *Procedure type.* A tentative subdivision plan is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for tentative subdivision plan shall include the information required in SRC 205.030.

(d) *Criteria.* A tentative subdivision plan shall be approved if all of the following criteria are met:

- (1) The tentative subdivision plan complies with the standards of this chapter and with all applicable provisions of the UDC, including, but not limited to, the following:
  - (A) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage and designation of front and rear lot lines.
  - (B) City infrastructure standards.
  - (C) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.
- (2) The tentative subdivision plan does not impede the future use or development of the property or adjacent land.
- (3) Development within the tentative subdivision plan can be adequately served by city infrastructure.
- (4) The street system in and adjacent to the tentative subdivision plan conforms to the Salem Transportation System Plan.
- (5) The street system in and adjacent to the tentative subdivision plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.
- (6) The tentative subdivision plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. For purposes of this criterion, neighborhood activity centers include, but are not limited to, existing or planned schools, parks, shopping areas, transit stops, or employment centers.
- (7) The tentative subdivision plan mitigates impacts to the transportation system consistent with the approved traffic impact analysis, where applicable.
- (8) The tentative subdivision plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.
- (9) The tentative subdivision plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.
- (10) When the tentative subdivision plan requires an Urban Growth Preliminary Declaration under SRC



chapter 200, the tentative subdivision plan is designed in a manner that ensures that the conditions requiring the construction of on-site infrastructure in the Urban Growth Preliminary Declaration will occur, and, if off-site improvements are required in the Urban Growth Preliminary Declaration, construction of any off-site improvements is assured.

(e) *Expiration.* Tentative subdivision plan approval shall expire as provided in SRC 300.850, unless an application for final plat is submitted within the time limits set forth in SRC 300.850, or an extension is granted pursuant to SRC 300.850(b).

(Prior Code, § 205.010; Ord. No. 31-13)

**Sec. 205.015. Phased subdivision tentative plan.**

(a) *Applicability.* The subdivision of land may be phased. No land shall be divided as a phased subdivision without receiving tentative phased subdivision plan approval as set forth in this section. When the subdivision of land is phased, one tentative plan is approved for the entire phased subdivision, and each individual phase receives separate final plat approval.

(b) *Procedure type.* A tentative phased subdivision plan is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for tentative phased subdivision plan shall include:

- (1) The information required in SRC 205.030; and
- (2) A phasing plan that indicates the tentative boundaries of each phase, the sequencing of the phases, the tentative configuration of lots in each phase, and a plan for the construction of all required city infrastructure in each phase.

(d) *Approval criteria.* A tentative phased subdivision plan shall be approved if all of the following criteria are met:

- (1) The tentative phased subdivision plan meets all of the criteria for tentative subdivision plan approval set forth in SRC 205.010(d).
- (2) Connectivity for streets and City utilities between each phase ensures the orderly and efficient construction of required public improvements among all phases.
- (3) Each phase is substantially and functionally self-contained and self-sustaining with regard to required public improvements.
- (4) Each phase is designed in such a manner that all phases support the infrastructure requirements for the phased subdivision as a whole.

(e) *Modification pursuant to final plat approval.* If the approval of a final plat for a phase of a phased subdivision requires the change of a boundary of a subsequent phase, or a change to the conditions of approval, the tentative phased subdivision plan shall be modified prior to approval of the final plat.

(f) *Expiration.* Tentative phased subdivision plan approval shall expire as provided in SRC 300.850, unless an application for final plat is submitted for each phase within the time limits set forth in SRC 300.850, or an extension is granted pursuant to SRC 300.850(b).

(Prior Code, § 205.015; Ord. No. 31-13)

**Sec. 205.020. Manufactured dwelling park subdivision tentative plan.**

(a) *Applicability.* No manufactured dwelling park or mobile home park existing as of July 2, 2001, shall be subdivided without receiving tentative manufactured dwelling park subdivision plan approval as set forth in this section.

(b) *Procedure type.* A tentative manufactured dwelling park subdivision plan is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC

chapter 300, an application for tentative manufactured dwelling park subdivision plan shall include the information required in SRC 205.030.

(d) *Criteria.* A tentative manufactured dwelling park subdivision plan shall be approved if all of the following criteria are met:

- (1) The manufactured dwelling park proposed to be subdivided is in compliance with the development standards for manufactured dwelling parks or a mobile home parks applicable at the time the park was approved, or the park is a nonconforming use. For purposes of this subsection, a park is in compliance if the City did not issue a written notice of noncompliance prior to July 2, 2001.
- (2) The tentative manufactured dwelling parking subdivision plan does not increase or decrease the number of lots, as defined in ORS 446.003, approved for the park, change the external boundary lines or setback requirements, or make other development changes; provided, however, the tentative manufactured dwelling park subdivision plan may provide for a reduction in the number of lots if the reduction involves only lots that have never been used for the placement of manufactured dwellings.
- (3) The tentative manufactured dwelling park subdivision plan restricts the use of lots in the subdivision to the installation of manufactured dwellings, and restricts any other property in the subdivision to use as common property, as defined in ORS 94.550, or for public purposes.
- (4) The applicant has recorded with the county the waiver of right to remonstrance required under ORS 92.835.
- (5) The tentative manufactured dwelling park subdivision plan is in compliance with the applicable requirements of ORS 92.010 to 92.179.

(e) *Conditions of approval.* Notwithstanding SRC 300.820, the Review Authority may only impose conditions on the approval of a tentative manufactured dwelling park subdivision plan that:

- (1) Were conditions of the original manufactured dwelling park approval; and
- (2) Are required by ORS 92.830 to 92.845.

(f) *Expiration.* Tentative manufactured dwelling park subdivision plan approval shall expire as provided in SRC 300.850, unless an application for final plat is submitted within the time limits set forth in SRC 300.850, or an extension is granted pursuant to SRC 300.850(b).

(Prior Code, § 205.020; Ord. No. 31-13)

#### **Sec. 205.025. Replat.**

(a) *Applicability.* A replat is required to reconfigure lots or parcels and public easements in a recorded partition or subdivision plat, to increase or decrease the number of lots in a subdivision, or where multiple property line adjustments require a replat. No replat shall occur without receiving tentative replat approval as set forth in this section.

(b) *Procedure type.* A tentative replat is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for tentative replat shall include the information required in SRC 205.030. If the replat will vacate any easement, the tentative replat plan shall show the easement proposed to be vacated.

(d) *Criteria.* A tentative replat shall be approved if all of the following criteria are met:

- (1) The tentative replat does not propose to vacate any public street or road, or any recorded covenants or restrictions.
- (2) The tentative replat will not create nonconforming units of land or non-conforming development, or increase the degree of nonconformity in existing units of land or development.
- (3) The tentative replat complies with the standards of this chapter and with all applicable provisions of the UDC.
- (4) The tentative replat complies with all applicable provisions of ORS ch. 92.

- (5) The tentative replat is not prohibited by any existing City land use approval or previous condition of approval, affecting one or both of the units of land.
- (6) The tentative replat does not adversely affect the availability of, or access to, city infrastructure or public or private utilities or streets.

(e) *Notice to utilities.* When a utility easement is proposed to be realigned, reduced in width, or eliminated by a replat, notice of the tentative replat application shall be mailed as provided in SRC 300.520(b)(1) to all affected utility companies or public agencies. Any utility company that desires to maintain an easement that would be realigned, reduced in width, or eliminated by a proposed replat must notify the Director in writing within 14 days of the mailing date of the notice. If an objection to the realignment, reduction in width, or elimination of an easement is received within the 14-day period, the utility easement shall not be realigned, reduced in width, or eliminated.

(f) *Expiration.* Tentative replat approval shall expire as provided in SRC 300.850, unless an application for final plat is submitted within the time limits set forth in SRC 300.850, or an extension is granted pursuant to SRC 300.850(b).

(Prior Code, § 205.025; Ord. No. 31-13)

**Sec. 205.030. Additional submittal requirements.**

Applications to subdivide, partition, or replat land shall include, in addition to the submittal requirements under SRC chapter 300, the following:

- (a) A tentative plan map, of a size and form and in the number of copies meeting the standards established by the Director, containing the following information:
  - (1) A title block on each sheet indicating the proposed subdivision or phased subdivision name, or, if available, the partition number; the names and addresses of the landowner; the names and addresses of the professional engineers or surveyors responsible for preparing the plan; date; and township, range and section of the subject property;
  - (2) Scale and north arrow;
  - (3) The location of all property lines within 50 feet of the perimeter of the subject property;
  - (4) The boundaries, dimensions, and area of each proposed lot or parcel;
  - (5) The location, width, and names of all existing streets, flag lot accessways, and public accessways abutting the perimeter of the subject property;
  - (6) The location, width, curve radius, grade, and names of all proposed streets, flag lot accessway, and public accessways;
  - (7) The location of all existing and proposed easements;
  - (8) The location, dimensions, and use of all existing and proposed public areas, including, but not limited to, stormwater management facilities and detention facilities;
  - (9) The location, dimensions, and use of any existing buildings and structures on the subject property, indicating which will remain and which will be removed;
  - (10) The location of any canals, ditches, waterways, detention facilities, sewage disposal systems, and wells on the subject property, indicating which will remain and which will be removed or decommissioned;
  - (11) The location of any natural topographic features on the subject property, including, but not limited to, creeks, drainage ways as shown on the most recent USGS maps, wetlands as shown on the Local Wetland Inventory, and floodplains; and
  - (12) For subdivisions and phased subdivisions, site topography shown at five-foot contour intervals, or two-foot contour intervals for areas within a floodplain;
- (b) A current title report for the property;
- (c) A completed tree inventory on a form as provided by the Director and, if required under SRC chapter

808 a tree conservation plan;

- (d) A geological assessment or geo-technical report, if required by SRC chapter 810;
- (e) A description of the proposed stormwater management system, including pre and post construction conditions, prepared in accordance with the Public Works Design Standards;
- (f) A schematic plan showing the location of existing and proposed city infrastructure;
- (g) For residually zoned property, where the partition or subdivision will result in a lot or parcel that is one-half acre or larger, a plan for the lot or parcel showing the location of lot or parcel lines and other details of layout, and demonstrating that future further division of the lot or parcel may readily be made without violating the development standards of the UDC and without interfering with the orderly extension and connection of adjacent streets.
- (h) For partitions of property located more than 300 feet from an available sewer main, and the property will not connect to City water and sewer, a plan showing:
  - (1) The location of lot lines and other details of layout demonstrating that the further division and full development of the property to the urban densities allowed by the comprehensive plan may readily be made in conformance with the development standards of the UDC, and without interfering with the orderly extension and connection of adjacent streets.
  - (2) The approximate location of city infrastructure following full development to the urban densities allowed by the comprehensive plan.
- (i) For subdivisions and phased subdivisions:
  - (1) A completed trip generation estimate on forms provided by the City;
  - (2) A traffic impact analysis, if required under SRC chapter 803; and
  - (3) A statement from the County Surveyor approving the name of the subdivision or phased subdivision.

(Prior Code, § 205.030; Ord. No. 31-13)

**Sec. 205.035. Final plat.**

- (a) *Applicability.* No final plat of a partition, subdivision, phased subdivision, manufactured dwelling park subdivision, or replat shall be recorded without receiving final plat approval as set forth in this section.
- (b) *Procedure.* Final plats are exempt from the procedures of SRC chapter 300, and shall instead follow the procedures set forth in this section. Final plats shall be reviewed by the City prior to recording with county. Applications for final plat shall be submitted prior to expiration of tentative plan approval.
- (c) *Criteria.* A final plat shall be approved if all of the following criteria are met:
  - (1) The final plat is in substantial conformance with the approved tentative plan or tentative replat.
  - (2) For phased subdivisions in commercial and industrial zones, unless the divergence from the tentative plan would require a modification of any condition of approval, the final plat for each phase may diverge from the tentative plan and still be in substantial conformance with the approved tentative plan for that phase if there is:
    - (A) A decrease or increase in the number of lots within the particular phase;
    - (B) A change in the location or width of public rights-of-way within the specific phase; provided, however, the change does not materially affect connectivity, does not increase or decrease the number of connections to streets set forth in the tentative plan, does not change the point of connection with existing or planned streets, and does not change the street designation from one classification to another;
    - (C) A change in the location or width of a public utility easement, so long as the change does not adversely affect connectivity with constructed or planned utilities;

- (D) A decrease in the number of phases; or
  - (E) An increase or decrease in the area of a specific phase.
  - (F) If the approval of a final plat for a specific phase requires the change of a boundary of a subsequent phase, or a change to the conditions of approval, the tentative plan shall be modified to reflect the changes.
- (3) The final plat complies with all applicable provisions of ORS ch. 92.
  - (4) Conditions of approval imposed on the tentative plan or tentative replat have been met;
  - (5) The final plat dedicates, free and clear of all liens and encumbrances and without any reservation or restriction other than reversionary rights upon vacation, all city infrastructure, if such dedication is required by the UDC or as a condition of approval;
  - (6) The City Engineer has certified that:
    - (A) All required City infrastructure and private improvements are completed and approved, and, if applicable, the owner of the property subject to the final plat has entered into a fee-in-lieu of construction agreement pursuant to SRC 200.400 through 200.420; or
    - (B) The owner of the property subject to the final plat has executed and filed with the City an improvement agreement, requiring all city infrastructure and private improvements to be completed within 18 months of the final plat approval, and, if applicable, the owner of the property has entered into a fee-in-lieu of construction agreement pursuant to SRC 200.400 through 200.420. The improvement agreement shall be accompanied by a performance guarantee as provided in SRC 110.100. Upon request, the improvement agreement shall be extended for an additional 18-month period if the performance guarantees are modified, if necessary, to reflect any change in cost of construction. The improvement agreement shall state that, should all improvements not be completed within the term of the improvement agreement or its extension, the City may pursue any and all remedies available to it, including, but not limited to, those set forth in SRC 110.100.
  - (7) If applicable, the owner has entered into a fee-in-lieu of construction agreement pursuant to SRC 200.400 through 200.420.
- (d) *Approval or rejection of final plat.*
    - (1) If the Director finds that the final plat does not meet the approval criteria set forth in subsection (c) of this section, the Director shall notify the applicant of the deficiencies and afford the applicant opportunity to comply. Rejection of a final plat does not affect tentative plan or tentative replat approval.
    - (2) If the Director finds that the final plat meets the approval criteria set forth in subsection (c) of this section, the Director shall endorse approval on the final plat, and the applicant may process and record the final plat.
  - (e) *Recording of final plat.* The approved final plat shall be recorded within ten years of the effective date of the tentative plan or tentative replat approval. No building permits for development of lots or parcels shall be issued until the final plat is recorded.
  - (f) *Operation and maintenance of facilities and common property.* Where facilities and common property, including, but not limited to, private streets, parking areas, privately owned pedestrian walkways and bikeways, and landscape strips, are included within the development, the recorded covenants, conditions, and restrictions for the development shall include a provision that such facilities and common property be perpetually operated and maintained by a property owners' association. Each property owner shall be a member of the property owners' association. The association shall have the power to levy and assess against privately owned property in the development all necessary costs for operation and maintenance of such facilities and common property. The documents creating such association shall be approved by the Director.
  - (g) *Operation and maintenance of flag lot accessways.* Where a flag lot accessway serving more than one lot or parcel is included within a development, reciprocal and irrevocable access rights for all lots or parcels served by the flag lot accessway shall be included on the final plat and in the deeds for the individual lots or parcels.

Maintenance of the flag lot accessway shall be shared between the owners of the properties served by the flag lot accessway and an agreement requiring maintenance of the flag lot accessway shall be recorded in the deeds for the individual lots or parcels.

(Prior Code, § 205.035; Ord. No. 31-13)

**Sec. 205.040. Partitions which can be further divided.**

For partitions of residentially zoned property, when the area of a proposed partition is such that it can be further divided resulting in four or more lots or parcels, the development standards applicable to subdivisions set forth in SRC chapter 803 shall apply. Any improvements resulting from the application of such standards to the proposed partition shall be constructed, or the applicant shall enter into a deferral agreement which shall be attached to all property within the partition.

(Prior Code, § 205.040; Ord. No. 31-13)

**Sec. 205.045. Special platting standards for conservation lots or parcels.**

Conservation lots or parcels are lots or parcels that are created as part of a partition, subdivision, phased subdivision, manufactured dwelling park subdivision, or replat for the purpose of preservation and management of significant natural resources through the sale or transfer to a public agency or a nonprofit entity. As used in this section, significant natural resources include, but are not limited to, areas of wildlife habitat, riparian areas, areas of sensitive ecological areas, or areas that contain rare or endangered species. Conservation lots or parcels proposed as part of a partition, subdivision, phased subdivision, manufactured dwelling park subdivision, or replat shall be approved subject to the following:

- (a) A conservation lot or parcel shall be primarily undeveloped and in a natural state.
- (b) A conservation lot or parcel shall have no minimum standards for lot area, width, depth, or frontage.
- (c) A conservation lot or parcel shall be designated as such on the tentative plan and the final plat.
- (d) The deed conveying the conservation lot or parcel shall contain a covenant that requires long-term preservation and management of the lot or parcel as a significant natural resource.

(Prior Code, § 205.045; Ord. No. 31-13)

**Sec. 205.050. Expedited land division.**

An expedited land division, as defined by ORS 197.360(1), provides an alternative to the standard review procedures for land divisions set forth in SRC chapter 300. When an applicant requests an expedited land division, the application shall be processed as provided in ORS 197.360 through ORS 197.380, in lieu of the procedures set forth in SRC chapter 300.

(Prior Code, § 205.050; Ord. No. 31-13)

**Sec. 205.055. Property line adjustments.**

(a) *Applicability.* A property line adjustment is required to relocate or eliminate all or a portion of a common property line between two abutting units of land that were lawfully established, as defined by ORS 92.010(3)(a). Property line adjustments shall not be used to create an additional unit of land, or to create units of land that are non-conforming. No property line shall be relocated or eliminated without property line adjustment approval as set forth in this section.

(b) *Procedure type.* A property line adjustment is processed as a Type I procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a property line adjustment shall include:

- (1) A copy of recorded deeds for the existing units of land;
- (2) A site plan, drawn to scale, indicating:
  - (A) The dimensions and areas of the units of land before and after the proposed property line adjustment;

- (B) Setbacks, building separations, lot coverage, vehicular access, and public and private utilities;
- (3) A copy of the proposed property line adjustment deed containing:
  - (A) The names of the owners;
  - (B) Legal description of the adjusted lines;
  - (C) References to original recorded deeds; and
  - (D) Place for the signatures of all parties, along with proper acknowledgment.
- (d) *Criteria.* A property line adjustment shall be approved if all of the following criteria are met:
  - (1) The property line adjustment will not create an additional unit of land;
  - (2) The property line adjustment will not create nonconforming units of land or nonconforming development, or increase the degree of nonconformity in existing units of land or existing development;
  - (3) The property line adjustment involves only units of land that were lawfully established, where the instruments creating the units of land have been properly recorded;
  - (4) The property line adjustment is not prohibited by any existing City land use approval, or previous condition of approval, affecting one or both of the units of land;
  - (5) The property line adjustment does not involve the relocation or elimination of any public easement or right-of-way; and
  - (6) The property line adjustment does not adversely affect the availability or access to public and private utilities or streets.
- (e) *Multiple property line adjustments.* If more than three property line adjustment applications affecting the same unit of land are proposed within a six-month period, the property line adjustments shall be processed as follows:
  - (1) When the units of land are within a recorded plat, the property line adjustments affecting the units of land shall be by replat; and
  - (2) When the units of land are not within a recorded plat, the property line adjustments affecting the units of land shall be by partition.
- (f) *Monumentation.* Property line adjustments shall be surveyed and monumented as required by state law. For property line adjustments involving units of land each greater than ten acres in size, the City Surveyor may waive the survey and monumentation requirement for good cause shown by the property owners, including, but not limited to, an intention by one of the property owners to further divide the property within the two years after the date of approval, or a demonstration that there are other recently established monuments nearby to which the adjusted property boundaries are tied.
- (g) *Expiration; recording.*
  - (1) Property line adjustment approval shall expire as provided in SRC 300.850, unless a property line adjustment deed is recorded in the deed records of the county.
  - (2) Multiple property line adjustments processed according to ~~SRC 205.055-subsection (e) of this section~~ shall expire as provided in SRC 300.850 according to the expiration period specified for the required application.
  - (3) Evidence demonstrating that the property line adjustment deed has been recorded with the county shall be provided to the Director.

(Prior Code, § 205.055; Ord. No. 31-13)

#### **Sec. 205.060. Validation of unit of land.**

(a) *Applicability.* The purpose of this section is to provide a process whereby a unit of land unlawfully created may be lawfully established. This section shall only be used to validate units of land created before January 1, 2007. For purposes of this section:

- (1) A unit of land is unlawfully created if the unit of land was created through a sale that did not comply with the criteria applicable to the creation of the unit of land at the time of sale; and
  - (2) A unit of land does not include a unit of land created solely to establish a separate tax account, a unit of land created by gift, or a unit of land created through any other method that is not considered a sale.
- (b) *Procedure type.* A validation of a unit of land is processed as a Type III procedure under SRC chapter 300.
- (c) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for the validation of a unit of land shall include the following information:
- (1) The recorded deed or land sales contract that created the unit of land;
  - (2) A copy of the land division and zoning regulations applicable to the property at the time in which the unit of land was created; and
  - (3) A plat prepared in accordance with SRC 205.035 and ORS 92.
- (d) *Criteria.* The validation of a unit of land shall be approved if the following criteria are met:
- (1) The unit of land is not a lawfully established unit of land;
  - (2) The unit of land was created through sale by deed or land sales contract executed and recorded before January 1, 2007;
  - (3) The unit of land could have complied with applicable criteria for the creation of the unit of land in effect when the unit of land was sold; and
  - (4) The plat complies with SRC 205.035 and ORS 92.
- (e) *Exception.* Notwithstanding subsection (d)(3) of this section, the Review Authority may approve an application to validate a unit of land that was unlawfully created prior to January 1, 2007, if approval was issued for a permit to allow the construction or placement of a dwelling or other building on the unit of land after the sale.
- (f) *Expiration; recording.*
- (1) The validation of a unit of land shall expire as provided under SRC 300.850 unless the plat of the validated unit of land is recorded with the applicable county.
  - (2) A copy of the recorded plat shall be provided to the Director within 30 days of the date of recording with the county.
- (g) *Effect of validation of unit of land.* Development or improvement of a unit of land validated pursuant to this section must comply with all applicable requirements of the UDC in effect at the time a complete application for development or improvement of the unit of land is submitted.

(Prior Code, § 205.060; Ord. No. 31-13)

**Sec. 205.065. Property boundary verification.**

- (a) *Applicability.* The purpose of this section is to provide a process whereby the outside boundary of two or more contiguous units of land held under the same ownership may be established as the property line for purposes of application of the Building Code.
- (b) *Procedure type.* A property boundary verification is processed as a Type I procedure under SRC chapter 300.
- (c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for property boundary verification shall include:
- (1) A copy of the recorded deeds for the existing units of land; and
  - (2) A copy of the proposed legal description defining the outside boundary of the units of land to be considered as a single lot for purposes of the Building Code.
- (d) *Criteria.* A property boundary verification shall be approved if the following criteria are met:



- (1) The proposed property boundary verification involves units of land that are under the same ownership; and
- (2) The proposed legal description accurately defines the outside boundary of the units of land to be considered as a single lot for purposes of the Building Code.

(e) *Recording.* The approved legal description defining the outside boundary of the units of land to be considered as a single lot for purposes of the Building Code shall be recorded with the county. Prior to issuance of a building permit, a copy of the recorded legal description shall be provided to the Director.

(Prior Code, § 205.065; Ord. No. 31-13)

**Sec. 205.070. Modification of approval.**

(a) *Applicability.* The approval of a tentative partition plan, tentative subdivision plan, tentative phased subdivision plan, tentative manufactured dwelling park subdivision plan, or tentative replat may be modified after its effective date if the proposed modification meets the criteria set forth in this section. Modifications that do not meet the criteria in this section require submittal of a new application for tentative partition plan, tentative subdivision plan, tentative phased subdivision plan, tentative manufactured dwelling park subdivision plan, or tentative replat.

(b) *Procedure type.* Modifications pursuant to this section are processed as a Type I procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements under SRC chapter 300, an application for a modification pursuant to this section shall include the following:

- (1) For modification of a tentative partition plan approval, the information required under SRC 205.005(c).
- (2) For modification of a tentative subdivision plan approval, the information required under SRC 205.010(c).
- (3) For modification of a tentative phased subdivision plan approval, the information required under SRC 205.015(c).
- (4) For modification of a tentative manufactured dwelling park subdivision plan approval, the information required under SRC 205.020(c).
- (5) For modification of a tentative replat approval, the information required under SRC 205.025(c).

(d) *Criteria.* An application for modification pursuant to this section shall be approved if all of the following criteria are met:

- (1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
- (2) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

(e) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

(Prior Code, § 205.070; Ord. No. 31-13)

**CHAPTERS 206—209. RESERVED**

## **CHAPTER 210. PLANNED UNIT DEVELOPMENT**

### **Sec. 210.001. Purpose.**

The purpose of this chapter is to provide a means to develop real property with greater latitude in site development standards, common areas, and open space than is allowed through traditional zoning; to establish standards necessary to assure well planned, harmonious development within planned unit developments; and to provide for increased amenities in the development of residential uses within certain zones.

(Prior Code, § 210.001; Ord. No. 31-13)

### **Sec. 210.005. Planned unit development allowed only in certain zones and overlay zones.**

Planned unit developments are allowed only within the following zones and overlay zones:

(a) *Zones.*

- (1) Residential Agricultural (RA);
- (2) Single Family Residential (RS);
- (3) Duplex Residential (RD);
- (4) Multiple Family Residential-I (RM-I);
- (5) Multiple Family Residential-II (RM-II); and
- (6) Multiple Family High-Rise Residential (RH).

(b) *Overlay zones.*

- (1) The General Commercial (CG) zoned portions of the Pine Street Mixed-Use Overlay Zone.

(Prior Code, § 210.005; Ord. No. 31-13)

### **Sec. 210.010. Uses.**

(a) Except as otherwise provided in this section, uses allowed in the zone or overlay zone are allowed within a PUD; provided, however, certain uses may be restricted in location to convenience service areas or retail service areas as set forth in this chapter.

~~(a)~~(b) Additional permitted uses. The uses set forth in Table 210-1 are additional permitted uses within a PUD regardless of the zone or overlay zone.

<b>TABLE 210-1. ADDITIONAL PERMITTED USES</b>		
<b>Use</b>	<b>Status</b>	<b>Limitations &amp; Qualifications</b>
<b>Household Living</b>		
Single family	P	
Two family	P	
Multiple family	P	

(Prior Code, § 210.010)

### **Sec. 210.015. Planned unit development with land division.**

(a) If individual lots or parcels are proposed to be created within a PUD, a subdivision or partition shall be required with the PUD tentative plan. The PUD tentative plan and the subdivision or partition shall be processed as a consolidated application under SRC 300.120(c).

(b) Notwithstanding any other provision of the UDC, the applicable approval criteria and development

standards for a PUD tentative plan with a subdivision or partition shall be the approval criteria and development standards set forth in this chapter.

(Prior Code, § 210.015; Ord. No. 31-13)

**Sec. 210.020. Planned unit development pre-application conference submittal requirements; notice.**

(a) *Submittal requirements.* In addition to the submittal requirements for a pre-application under SRC chapter 300, an application for PUD pre-application conference shall include:

- (1) Maps in general schematic form containing the following:
  - (A) The topography of the site, with either contour lines or elevations at key locations;
  - (B) Proposed land uses;
  - (C) The approximate location of existing buildings or structures on the site, noting any that are to be retained;
  - (D) The approximate location of existing buildings, structures, and land uses on properties abutting the site;
  - (E) The approximate location of proposed buildings or structures on the site, except for those areas of the site that will contain only lots for single family dwellings;
  - (F) The approximate number of proposed dwelling units in any residential building, other than a single family dwelling;
  - (G) The approximate location of all proposed streets, walkways, and parking facilities;
  - (H) Public uses on the site including schools, parks, playgrounds, open spaces and trails; and
  - (I) The general location of any existing significant natural or cultural features on the site.
- (2) A written statement providing an explanation of the character of the proposed planned unit development and the manner in which it has been designed to take advantage of the planned development concept;

(b) *Notification to neighborhood.* Within seven days after the pre-application conference, any City-recognized neighborhood association whose boundaries within which the proposed planned unit development is located shall be notified of the proposal and its location, size, and general development concept.

(Prior Code, § 210.020; Ord. No. 31-13)

**Sec. 210.025. Planned unit development tentative plan.**

(a) *Applicability.* No land shall be developed as a planned unit development without receiving PUD tentative plan approval as set forth in this section.

(b) *Procedure type.* A PUD tentative plan is processed as a Type III procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for PUD tentative plan shall include the following:

- (1) A PUD tentative plan map, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
  - (A) Site topography, in sufficient detail to determine the grades and character of the site as it relates to the proposed improvements and to the adjacent area;
  - (B) The proposed location, layout, and widths of all streets and sidewalks, and whether they will be public or private;
  - (C) The location, layout, surfacing, and landscaping of all off-street parking areas;
  - (D) Property boundary lines;
  - (E) Proposed lot or parcel lines, if lots or parcels will be created;
  - (F) The location of existing and proposed city infrastructure;

- (G) The location of all existing and proposed easements;
  - (H) If an outdoor storage area is proposed, a landscaping plan for the area that includes the location of existing trees and an indication whether they are to be retained or removed;
  - (I) If a convenience service area or retail service area is proposed, a landscaping plan for the area that includes the location of existing trees and an indication whether they are to be retained or removed;
  - (J) If common open space is proposed, the particular uses to which the common open space will be put;
  - (K) Areas proposed for parks, scenic ways, playgrounds, schools, public buildings, and other similar activities and whether such areas are to be public or private;
  - (L) If the planned unit development is to be constructed in phases, an indication of the area of each phase, the sequence of construction, and the area and location of any common open space that will be provided with each phase;
  - (M) Except for lots or parcels that will contain single family dwellings, for each existing or proposed building or structure on the site:
    - (i) The location and size of the building or structure;
    - (ii) The intended use of the building or structure, including, but not limited to, convenience service areas, retail service areas, and boat and recreational vehicle storage areas; and
    - (iii) The number of dwelling units in any residential building other than a single family dwelling.
  - (N) The location of all buildings on abutting properties.
- (2) Elevation drawings of all typical proposed buildings or structures, other than single family dwellings. The drawings should be accurate and to scale but need not be final working drawings.
  - (3) A completed Trip Generation Estimate for the proposed development, on forms provided by the City;
  - (4) A Traffic impact analysis, if required under SRC chapter 803;
  - (5) A completed tree inventory on forms provided by the Planning Administrator and, if required under SRC chapter 808, a tree conservation plan;
  - (6) A geological assessment or geotechnical report, if required under SRC chapter 810, or a certification from an engineer that landslide risk on the site is low and that there is no need for further landslide risk assessment; and
  - (7) If unique or innovative design concepts will be employed, a written description and conceptual drawings illustrating the concepts, along with an identification of the specific goals and policies in the Salem Area Comprehensive Plan that will be furthered through use of such concepts, and an explanation of how the goals and policies will be furthered.
- (d) *Criteria.* A PUD tentative plan shall be approved if the following criteria are met:
- (1) The PUD tentative plan conforms to the development standards of this chapter.
  - (2) The PUD tentative plan provides one or more of the following:
    - (A) Common open space that will be improved as a recreational amenity and that is appropriate to the scale and character of the PUD considering its size, density, and the number and types of dwellings proposed. Examples of recreational amenities include, but are not limited to, swimming pools, golf courses, ball courts, children's play areas, picnic and barbeque facilities, and community gardens;
    - (B) Common open space, which may be landscaped and/or left with natural tree cover, that is permanently set aside for the passive and/or active recreational use of the residents of the PUD and that is appropriate to the scale and character of the PUD considering its size, density, and the number and types of dwellings proposed. Examples of passive and/or active recreational use include, but are not limited to, community gardens, commons, and private parks;

- (C) Common open space that will preserve significant natural or cultural features; or
- (D) Unique or innovative design concepts that further specific identified goals and policies in the Salem Area Comprehensive Plan.

(3) If a retail service area or a convenience service area is proposed, the area is designed to:

- (A) Adequately provide for privacy and minimize excessive noise on adjacent uses;
- (B) Provide for adequate and safe ingress and egress; and
- (C) Minimize the impact of vehicular traffic on adjacent residential uses.

(e) *Expiration.* Planned unit development tentative plan approval shall expire as provided in SRC 300.850, unless an application for PUD final plan is submitted within the time limits set forth in SRC 300.850, or an extension is granted pursuant to SRC 300.850(b).

(Prior Code, § 210.025; Ord. No. 31-13)

**Sec. 210.030. Planned unit development final plan.**

(a) *Applicability.* No final plan of a PUD shall be recorded without receiving PUD final plan approval as set forth in this section. An application for PUD final plan approval must be submitted prior to expiration of PUD tentative plan approval.

(b) *Procedure type.* A PUD final plan is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for PUD final plan approval shall include the following:

- (1) A PUD final plan, in a form acceptable for recording in the county deed records, containing the information required under this ~~paragraph-subsection (c)~~. For PUD plans that include a land division, the PUD final plan shall include the information required under this ~~paragraph-subsection (c)(1)~~, and shall be in the form required for final plats under SRC chapter 205 and ORS ch. 92.
  - (A) The location, layout, and widths of all streets and sidewalks, and whether they are public or private;
  - (B) The location, layout, surfacing, and landscaping of all off-street parking areas;
  - (C) The location of all easements;
  - (D) If approved in the PUD tentative plan, the location of any convenience service area, retail service area, or outdoor storage area;
  - (E) The location of any common open space and the particular uses to which the common open space will be put;
  - (F) The location of areas proposed for parks, scenic ways, playgrounds, schools, public buildings, and other similar uses and whether such areas are public or private;
  - (G) For each existing or proposed building or structure on the site, other than single family dwellings:
    - (i) The location and size of the building or structure;
    - (ii) The intended use of the building or structure, including, but not limited to, convenience service areas, retail service areas, and boat and recreational vehicle storage areas; and
    - (iii) The number of dwelling units in any residential building other than a single family dwelling.
- (2) If the PUD tentative plan included unique or innovative design concepts, a written description and drawings illustrating the concepts.
- (3) A copy of the articles of the home owners' association.
- (4) Evidence that conditions of approval established as part of PUD tentative plan approval have been met.
- (d) *Criteria.* A PUD final plan shall be approved if the following criteria are met:
  - (1) Substantial conformance.

- (A) The PUD final plan is in substantial conformance with the PUD tentative plan. Substantial conformance for the following specific components of the PUD final plan exists when a comparison of the approved PUD tentative plan with the PUD final plan shows that:
- (i) The number of dwelling units is within ten percent of the number of dwelling units shown on the PUD tentative plan, but in no case shall the number of dwelling units exceed the limits set forth this chapter;
  - (ii) Setbacks, and distances between main buildings, are within ten percent of those shown on the PUD tentative plan, but in no case shall the setbacks and distances be reduced below the minimums set forth in this chapter;
  - (iii) Building sizes do not exceed the building sizes shown on the PUD tentative plan by more than ten percent.
  - (iv) Building locations do not depart by more than ten percent from the building locations shown on the tentative PUD plan;
  - (v) Common open space within the PUD final plan conforms to the following:
    - (aa) If the common open space is to be improved as a recreational amenity, the area designated as common open space has not been reduced by more than ten percent.
    - (bb) If the common open space is to be permanently set aside for passive and/or active recreational use, the area designated as common open space has not been reduced by more than ten percent.
    - (cc) If the common open space is to preserve significant natural feature, the area designated as common open space has not been reduced by more than five percent.
    - (dd) If the common open space is to preserve a significant cultural feature, the area designated as common open space is identical to that shown on the PUD tentative plan; and
  - (vi) If unique or innovative design concepts are employed, the final design conforms with the unique or innovative design concepts as approved in the PUD tentative plan.
- (B) Nothing in ~~subparagraph-subsection (d)(1)(A) of this paragraph-section~~ shall be deemed to prohibit a reduction in the number of dwelling units or an increase in the amount of common open space. If the PUD is constructed in phases, the number of dwelling units reduced in one phase shall not be used to increase the number of dwelling units in any subsequent phase; and an increase in common open space in one phase shall not be used to reduce the amount of common open space in any subsequent phase.
- (C) Notwithstanding the changes allowed under ~~subparagraph-subsection (d)(1)(A) of this paragraph-section~~, a PUD final plan is not in substantial conformance with the PUD tentative plan if the cumulative effect of the changes made pursuant to ~~subparagraph-subsection (d)(1)(A) of this paragraph-section~~ results in a significant modification to the approved PUD tentative plan.
- (2) Except as allowed under ~~paragraph-subsection (d)(1) of this subsection~~, the conditions of approval on the PUD tentative plan have been met.
- (3) The articles of the home owners' association satisfy the standards set forth in SRC 210.055(b).
- (4) For planned unit developments with a land division, SRC 205.035(c)(6) has been met. If the PUD does not include a land division, the City Engineer has determined that each building or structure on the PUD final plan can be adequately served by the following city infrastructure and private improvements:
- (A) A domestic water supply;
  - (B) A sanitary sewage disposal system;
  - (C) Streets improved to the extent that adequate paved access is provided to each building or structure;
  - (D) A stormwater discharge system; and

(E) Fire hydrants installed to fire code standards.

- (5) The owner has entered into an improvement agreement with the City providing that any improvements required to be constructed which are not complete at the time of submission of the PUD final plan will be completed within 18 months of PUD final plan approval, and the owner has furnished sufficient performance security, as provided in SRC 110.100, to ensure completion of the improvements. The time within which the improvements must be completed may be extended for one additional six-month period, subject to prior written approval from the Director.
- (6) If applicable, the applicant has executed a fee-in-lieu agreement pursuant to SRC ~~66.590-200.400~~ through SRC ~~66.610-200.420~~.

(e) *Approval or rejection of planned unit development final plan.* If the Planning Administrator finds that the PUD final plan does not satisfy the PUD final plan approval criteria, the Planning Administrator shall notify the applicant of the deficiencies and afford the applicant opportunity to modify the PUD final plan to eliminate the deficiencies. If the PUD final plan complies with the PUD final plan approval criteria, the Planning Administrator shall notify the applicant that the PUD final plan has been approved.

(f) *Recording of planned unit development final plan.* The approved PUD final plan shall be recorded within ten years of the effective date of the PUD tentative plan approval.

(Prior Code, § 210.030; Ord. No. 31-13)

#### **Sec. 210.035. Modification of approval.**

- (a) *Modification of planned unit development tentative approval.*
  - (1) *Applicability.* The approval of a PUD tentative plan, with or without a land division, may be modified after its effective date if the proposed modification meets the criteria set forth in this section. Modifications that do not meet the criteria in this section require submittal of a new application for PUD tentative plan.
  - (2) *Procedure type.* Modification of a PUD tentative plan approval is processed as a Type II procedure under SRC chapter 300.
  - (3) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for modification of a PUD tentative plan approval shall include the information required under SRC 210.025(c).
  - (4) *Criteria.* An application for modification of a PUD tentative plan approval shall be granted if the following criteria are met:
    - (A) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
    - (B) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.
  - (5) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.
- (b) *Modification of planned unit development final plan approval.*
  - (1) *Applicability.* The approval of a PUD final plan, with or without a land division, may be modified after its effective date if the proposed modification meets the criteria set forth in this section. Modifications that do not meet the criteria in this section require submittal of a new application for PUD final plan.
  - (2) *Procedure type.* Modification of a PUD final plan approval is processed as a Type II procedure under SRC chapter 300.
  - (3) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for modification of a PUD final plan approval shall include the information required under SRC 210.030(c).
  - (4) *Criteria.* An application for modification a PUD final plan approval shall be granted if the following



criteria are met.

- (A) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
  - (B) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.
- (5) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

(Prior Code, § 210.035; Ord. No. 31-13)

**Sec. 210.040. Modifications at time of building permit.**

(a) An applicant may request the following modifications at the time of building permit to development as approved in a PUD final plan:

- (1) *Lot coverage.* Lot coverage may be increased by not more than two percent, provided the total increase does not exceed 250 square feet per lot.
- (2) *Front setback and setbacks abutting a street.* Front setbacks and setbacks abutting a street may be decreased by not more than ten percent of the depth of the front setback or setback abutting a street.
- (3) *Side setbacks.* Side setbacks may be decreased by not more than one foot; provided, however, no decrease shall be allowed if the decrease would result in:
  - (A) A side setback depth of less than five feet for a one story building; or
  - (B) A side setback depth of less than six feet for a building having two or more stories.
- (4) *Rear setback.* Rear setbacks may be decreased by not more than four feet or, when additional yard area equal in area to the decrease is provided at another location on the lot, rear setbacks may be decreased by not more than ten feet.

(b) Modifications pursuant to this section shall be processed as a Type I procedure under SRC chapter 300. The Planning Administrator shall grant the modification; provided, however, in no case shall such modification result in nonconformance with the standards set forth in this chapter, or in the conditions of approval.

(Prior Code, § 210.040; Ord. No. 31-13)

**Sec. 210.045. Planned unit development standards.**

Planned unit developments must comply with the development standards set forth in this section.

- (a) *General development standards.* Planned unit developments shall conform to the general development standards set forth in Table 210-2.

TABLE 210-2. GENERAL DEVELOPMENT STANDARDS		
Requirement	Standard	Limitations & Qualifications
<b>Minimum Number of Dwelling Units within PUD</b>		
RA, RS, RD, and RH zones	No minimum	
RM-I and RM-II zones	Minimum number of dwelling units required in zone where PUD is located	
Pine Street Mixed-Use Overlay Zone	Min. 14 d.u./acre	

**TABLE 210-2. GENERAL DEVELOPMENT STANDARDS**

Requirement	Standard	Limitations & Qualifications
<b>Maximum Number of Dwelling Units within PUD</b>		
RA, RS, and RD zones	Maximum number of dwelling units allowed in zone where PUD is located	The maximum number of dwelling units allowed shall be calculated by dividing the net area of the lot by the minimum lot size for single family dwellings in the zone where the PUD is located.  For purposes of this standard, “net area” is the total area of the site minus the total area used for streets and flag lot accessways.
RM-I and RM-II zones	Maximum number of dwelling units allowed in zone where PUD is located	
RH zone; and Pine Street Mixed-Use Overlay Zone	No maximum	
<b>Maximum Number of Dwellings Units within a Building</b>		
RA, RS, RD, RM-I, RM-II, and RH zones; and Pine Street Mixed-Use Overlay Zone	No maximum	The number of dwelling units within an individual building shall not exceed the overall maximum number of dwelling units allowed for the entire PUD.

- (b) *Setbacks.* Unless otherwise provide in this chapter, setbacks within a PUD shall be provided as set forth in Table 210-3.

**TABLE 210-3. SETBACKS**

Requirement	Standard	Limitations & Qualifications
<b>PUD Perimeter Setbacks—Abutting Street</b>		
Buildings		
All uses	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable on collector or arterial streets.
	None	Applicable along private streets. When a driveway approach is present, buildings shall be setback to maintain adequate vision clearance as required under SRC chapter 805.
Accessory Structures		
Accessory to all uses	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable on collector or arterial streets.
	None	Applicable along private streets. When a driveway approach is present,

**TABLE 210-3. SETBACKS**

<b>Requirement</b>	<b>Standard</b>	<b>Limitations &amp; Qualifications</b>
		accessory structures shall be setback to maintain adequate vision clearance as required under SRC chapter 805.
<b>PUD Perimeter Setbacks—Not Abutting Street</b>		
Interior Side		
Buildings		
All uses	Min. 5 ft., plus 1 ft. for each 1 ft. of height over 35 ft., but need not exceed 20 ft. in depth.	
Accessory Structures		
Accessory to all uses	None	Applicable to accessory structures having at least 1 wall which is an integral part of a fence.
	Min. 5 ft.	Applicable to all other accessory structures.
Interior Rear		
Buildings		
All uses	Min. 14 ft.	Applicable to any portion of a building not more than 1 story in height, when the interior rear yard abuts the interior rear yard of an RA or RS zoned lot located outside the PUD.
	Min. 20 ft.	Applicable to any portion of a building greater than 1 story in height, when the interior rear yard abuts the interior rear yard of an RA or RS zoned lot located outside the PUD.
	Min. 5 ft., plus 1 ft. for each 1 ft. of height over 35 ft., but need not exceed 20 ft. in depth.	Applicable when the interior rear yard does not abut the interior rear yard of an RA or RS zoned lot located outside the PUD.
Accessory Structures		
All uses	None	Applicable to accessory structures not more than 9 ft. in height.
	Min. 1 ft. for each 1 ft. of height over 9 ft.	Applicable to accessory structures greater than 9 ft. in height.
	Min. 1 ft.	Applicable to accessory structures adjacent to an alley, unless a greater setback is required based on the height of the accessory structure.
<b>PUD Interior Setbacks—Abutting Street</b>		

<b>TABLE 210-3. SETBACKS</b>		
<b>Requirement</b>	<b>Standard</b>	<b>Limitations &amp; Qualifications</b>
<b>Buildings</b>		
All uses	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable along collector or arterial streets.
	None	Applicable along private streets. When a driveway approach is present, buildings shall be setback to maintain adequate vision clearance as required under SRC chapter 805.
<b>Accessory Structures</b>		
Accessory to all uses	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable along collector or arterial streets.
	None	Applicable along private streets. When a driveway approach is present, buildings shall be setback to maintain adequate vision clearance as required under SRC chapter 805.
<b>PUD Interior Setbacks—Not Abutting Street</b>		
<b>Interior Front</b>		
<b>Buildings</b>		
All uses	None	
<b>Accessory Structures</b>		
Accessory to all uses	None	
<b>Interior Side</b>		
<b>Buildings</b>		
All uses	None	
<b>Accessory Structures</b>		
Accessory to all uses	None	
<b>Interior Rear</b>		
<b>Buildings</b>		
All uses	None	
<b>Accessory Structures</b>		
Accessory to all uses	None	

- (c) *Height.* Buildings and accessory structures within a PUD shall conform to the height standards set forth in Table 210-4.

<b>TABLE 210-4. HEIGHT</b>		
Requirement	Standard	Limitations & Qualifications
<b>Height</b>		
Buildings		
All uses	Max. 35 ft.	Applicable within the RA, RS, RD, RM-I, and RM-II zones
	No Maximum	Applicable within the RH zone
	Max. 70 ft.	Applicable within the Pine Street Mixed-Use Overlay Zone
Accessory Structures		
Accessory to all uses	Max. 15 ft.	

- (d) *Parking.* Except as provided in this subsection, parking within a PUD shall be developed in conformance with the standards set forth in SRC chapter 806.
- (1) *Minimum required parking.* Unless otherwise provided in this chapter, parking within a PUD shall be provided in amounts not less than those set forth in Table 210-5.

<b>TABLE 210-5. PARKING</b>		
Zone/Overlay Zone	Minimum Number of Spaces Required	Limitations & Qualifications
RA and RS zones	2 per dwelling unit	1 of the required spaces must be located within a garage or carport; provided, however, an uncovered parking area meeting the standards set forth in SRC 210.045(d)(2)(D) may be permitted in lieu of a garage or carport.
RD, RM-I, RM-II, and RH zones	2.5 per dwelling unit	Applicable to the first 10 dwelling units.
	2 per dwelling unit	Applicable to each additional dwelling unit over 10 dwelling units.
Pine Street Mixed Use Overlay Zone	1 per dwelling unit	There shall be no limit on the maximum number of parking spaces provided.

- (2) *Off-street parking development standards.* Parking within a PUD shall conform to the following standards:
- (A) *Location.* Required parking spaces shall be located within the planned unit development, and may be either on-street, off-street, or a combination thereof.
- (B) *Garage or carport vehicle entrance setback abutting street or flag lot accessway.* The vehicle entrance of a garage or carport facing a street or flag lot accessway shall be set back a minimum of 20 feet from one of the following lines, whichever is closest to the proposed vehicle entrance of the garage or carport:

- (i) The street right-of-way line, most interior access easement line, or property line abutting a flag lot accessway;
  - (ii) The outside curbline; or
  - (iii) The edge of the sidewalk furthest from the street.
- (C) *Dimensions.* On-street parallel parking spaces shall be at least seven feet in width and 22 feet in length.
- (D) *Landscaping and screening.* All off-street parking areas, other than those within a garage or carport, or on a driveway leading to a garage or carport, shall be effectively landscaped, designed to minimize the effect of a large number of cars in one area, and screened with ornamental evergreens or architectural features such as fences and walls.

(e) *Side lot lines.* As far as is practicable, side lot lines shall run at right angles to the street upon which the lot faces, except that on curved streets they shall be radial to the curve.

(f) *Limits on common open space.* Streets, parking areas, traffic circles, and other similar transportation related improvements shall not be considered, or considered to be a part of, common open space.

(g) *Utilities.* Except for stormwater management facilities, all utility services shall be undergrounded.

(Prior Code, § 210.045; Ord. No. 31-13)

**Sec. 210.050. Design standards for multiple family buildings.**

(a) When one or more multiple family buildings are proposed within a PUD, the buildings shall conform to the following standards:

- (1) Buildings shall not present excessive visual mass or bulk.
- (2) Buildings shall not have long, monotonous exterior walls.
- (3) Buildings shall be sited with sensitivity to topography and natural landform.
- (4) Buildings shall be designed to provide an appropriate transition to abutting properties.
- (5) Buildings shall utilize architectural elements and facade materials to provide visual interest and continuity with other buildings in the PUD.
- (6) Individual private open space shall be provided for each dwelling unit.
- (7) When abutting property zoned Residential Agriculture (RA) or Single Family Residential (RS), an appropriate combination of landscaping and screening shall be provided to buffer between the multiple family building and the adjacent RA or RS zoned property.

(b) For the purposes of this section, the term “multiple family building” means a building that contains three or more dwelling units.

(Prior Code, § 210.050)

**Sec. 210.055. Home owners’ association required.**

(a) ~~Formation; articles; contents.~~ The perpetual maintenance and operation of common open space within a planned unit development shall be provided by a home owners’ association.

(b) Articles. The articles of the home owners’ association shall include the following provisions:

- (1) Property owners within the planned unit development shall automatically be members of the home owners’ association with the purchase of a dwelling unit or other property within the planned unit development.
- (2) The home owners’ association's principal source of funds shall be an assessment levied against each dwelling unit or other property, which assessment shall be enforceable as a lien against the dwelling unit or property.
- (3) An identification of the permitted use of the common open space and, if unique or innovative design

concepts are used, requirements that the property be maintained in such a way as to preserve the concepts in perpetuity.

- (4) A prohibition against any changes to the articles which would eliminate the provisions required under ~~paragraphs (1)-(4)~~ subsection (b)(1) through (b)(4) of this subsection.

(c) *Planned unit development under one owner.* If the entire planned unit development is to remain under one ownership, the PUD final plan shall include a covenant that requires the formation of a home owners' association in compliance with this section if any part of the planned unit development is sold.

(Prior Code, § 210.055; Ord. No. 31-13)

**Sec. 210.060. Outdoor storage area development standards.**

If provided within a PUD, outdoor storage areas shall meet the following standards:

- (a) *Operation.* Outdoor storage areas shall be operated by the PUD home owners' association.
- (b) *Limit on use.* Use of outdoor storage areas shall be limited exclusively to on-premises storage of home owners' association members' boats, recreational vehicles, trailers, or utility trailers, and shall not be used in connection with any commercial activity.
- (c) *Setbacks.* All outdoor storage space and other outdoor vehicle parking, loading and maneuvering areas in the outdoor storage area shall be set back a minimum of five feet from all lot lines.
- (d) *Landscaping and screening.*
  - (1) All unpaved areas within outdoor storage areas not occupied by buildings or structures, and all required setbacks, shall be landscaped and screened. Landscaping shall be provided in the minimum amount of one plant unit, as set forth in SRC chapter 807, for each 20 square feet of landscaped area.
  - (2) Outdoor storage areas shall be screened from all adjacent properties and from all but one abutting street by a minimum six-foot-high sight-obscuring fence, wall, or hedge.
- (e) *Surfacing.* All driveways, outdoor storage space, and other outdoor vehicle parking, loading, and maneuvering areas within outdoor storage areas shall be paved with a hard surface material meeting Public Works Design Standards.
- (f) *Lighting.* Outdoor lighting for outdoor storage areas shall not shine or reflect onto adjacent residentially zoned property, or property used for uses or activities falling under household living, or cast glare onto the street.

(Prior Code, § 210.060; Ord. No. 31-13)

**Sec. 210.065. Convenience service area and retail service area development standards.**

If provided within a PUD, convenience service areas and retail services areas shall meet the following standards:

- (a) *Convenience service area.* A convenience service area may be located within a PUD containing less than 150 dwelling units. A convenience service area that conforms to the requirements of this section may be located within a planned unit development without a zone change.
  - (1) *Permitted activities.* The following activities are permitted within a convenience service area:
    - (A) Newsstands;
    - (B) Barbershop and beauty parlors;
    - (C) Delicatessens, coffee shops, and tea rooms; and
    - (D) Activity rooms and meeting rooms.
  - (2) *Drive-through prohibited.* Otherwise permitted activities within a convenience service area shall not be developed with a drive-through.
- (b) *Retail service area.* A retail service area may be located within a PUD containing 150 or more dwelling

units. A retail service area that conforms to the requirements of this section may be located within a planned unit development without a zone change.

- (1) *Permitted activities.* In addition to the activities permitted within a convenience service area, the following activities are permitted within a retail service area:
  - (A) Banks;
  - (B) Craft and hobby shops;
  - (C) Drugstores;
  - (D) Grocery stores;
  - (E) Laundry and dry cleaning pick-up services;
  - (F) Coin operated dry cleaning establishments;
  - (G) Post office;
  - (H) Restaurants;
  - (I) Variety stores; and
  - (J) Other similar uses, if approved with the PUD tentative plan and identified in the PUD final plan approval.
- (2) *Drive-through prohibited.* Restaurants, delicatessens, coffee shops, and tea rooms otherwise permitted within a retail service area shall not be developed with a drive-through.
- (c) *Maximum square footage.*
  - (1) The gross square footage of building area within a convenience service area or retail service area shall be limited to a maximum of 40 square feet per dwelling unit within the planned unit development.
  - (2) No single establishment within a convenience service area or retail service area shall occupy more than 50 percent of the gross square footage permitted within the convenience service area or retail service area at the time of the completion of the planned unit development.
- (d) *Parking.* Off-street parking within a convenience service area or retail service area shall be provided in the minimum amount of one space per 250 square feet of gross floor area.
- (e) *Construction of retail service area.*
  - (1) Construction of a retail service area shall not commence until at least 150 dwelling units have been completed.
  - (2) The gross floor area to be constructed at any time shall not exceed the gross floor area allowed under subsection (c) of this section, based on the number of dwelling units that have been constructed at the time the retail service area is constructed.
  - (3) When 50 percent or more of the dwelling units within the planned unit development have been constructed, the Planning Administrator may authorize construction of the remainder of the retail service area, provided that satisfactory evidence is presented to the Planning Administrator that all of the remaining dwelling units will be constructed.
- ~~(e)-(f)~~ (f) *Activities enclosed.* Unless otherwise approved within the PUD tentative plan, all commercial activity within a convenience service area or retail service area shall be conducted entirely within an enclosed building.
- ~~(f)-(g)~~ (g) *Landscaping and screening.*
  - (1) Convenience service areas and retail service areas shall be surrounded by a landscaped area a minimum 20 feet in depth, excluding driveways. The landscaped area shall be planted with a minimum of one plant unit, as set forth in SRC chapter 807, per 20 square feet of landscaped area.
  - (2) Convenience service areas and retail service areas shall be screened from adjacent residential uses



by a minimum six-foot-high sight-obscuring fence or wall.

- ~~(g)~~**(h)** *Storage of garbage and refuse.* All solid waste generated by a convenience service area or retail service area shall be stored entirely within the building until the time of disposal.

(Prior Code, § 210.065; Ord. No. 31-13)

**Sec. 210.070. Development agreements.**

(a) *Applicability.* The applicant for PUD approval may request a development agreement as authorized in ORS ch. 94.

(b) *Procedure type.* A development agreement is processed as a Type IV procedure under SRC chapter 300.

(c) *Criteria.* A development agreement shall be approved if the following criteria are met:

- (1) The development agreement is consistent with UDC.
- (2) There will be a public benefit which would not otherwise accrue to the City absent the development agreement.

(d) *Submittal requirements.* In addition to the submittal requirements for a Type IV application under SRC chapter 300, an application for a development agreement shall include the information required in ORS 94.504(2) and the following:

- (1) A master plan containing the general layout of major infrastructure and public utilities, including, but not limited to, major streets and major utility lines;
- (2) A description of the type and density of development by area;
- (3) The general location of any convenience service areas or retail service areas; and
- (4) Such other additional information the Planning Administrator may require.

(e) *Effect of approval of development agreement.* Each phase in a PUD that has an accompanying development agreement shall comply with the approved PUD final plan and the development agreement. Fees and charges applicable to use or development under the development agreement shall be as provided at the time of such use or development.

(Prior Code, § 210.070; Ord. No. 31-13)

**Sec. 210.075. Other provisions.**

In addition to the standards set forth in this chapter, development within a PUD must comply with all other applicable development standards of the UDC, including, but not limited to, the following chapters:

- (a) Trees and Shrubs: SRC chapter 86.
- (b) General Development Standards: SRC chapter 800.
- (c) Public Improvements: SRC chapter 802.
- (d) Streets and Right-of-Way Improvements: SRC chapter 803.
- (e) Driveway Approaches: SRC chapter 804.
- (f) Vision Clearance : SRC chapter 805.
- (g) Off-Street Parking, Loading and Driveways: SRC chapter 806.
- (h) Landscaping and Screening: SRC chapter 807.
- (i) Preservation of Trees and Vegetation: SRC chapter 808.
- (j) Wetlands: SRC chapter 809.
- (k) Landslide Hazards: SRC chapter 810.
- (l) Sign Code: SRC chapter 900.

(Prior Code, § 210.075; Ord. No. 31-13)



**CHAPTERS 211—214. RESERVED**

## CHAPTER 215. NEIGHBORHOOD CENTER MASTER PLAN

### **Sec. 215.001. Purpose.**

The purpose of this chapter is to encourage innovative planning in the Neighborhood Center Mixed Use zone through the use of a neighborhood center master plan that benefits the community through:

- (a) Innovative planning and design;
- (b) Appropriately scaled, pedestrian-friendly neighborhood center developments;
- (c) Compatible mixed-use development;
- (d) A core area of neighborhood-scaled retail sales and service, office, civic, or recreational uses conveniently located for neighborhood access;
- (e) Useable open space, landscaped areas, and/or protected natural areas;
- (f) Reduced reliance on vehicular travel by creating strong connections to available transit, encouraging pedestrian movement through better design, and allowing for housing in close proximity to employment and shopping; and
- (g) Consistent application of the standards in phased and subarea development to ensure that development is designed to function as an integral part of coherent vision for an entire district.

(Prior Code, § 215.001; Ord. No. 20-11)

### **Sec. 215.005. Definitions.**

~~Unless the context otherwise specifically requires, as used in this chapter, the following mean:~~ The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~(a)~~ *Common open space*: means open space designated in the NCMP, permanently set aside for the common use of the public, and includes walkways and bicycle paths within common open space.

~~(b)~~ *Concept plan*: means the component of an NCMP that is comprised of a non-binding plan illustrating possible suitable development in a district.

~~(c)~~ *Design guidebook*: means the component of an NCMP that is comprised of a set of illustrative building elevations and other design elements establishing a pattern of architectural treatment for buildings and structures, other than single family detached dwellings, which ensures community character, visual interest, and pedestrian scale within a district.

~~(d)~~ *Detailed plan*: means the component of an NCMP that is comprised of plans and elevations for buildings and structures, providing detailed information about proposed development, other than single family detached dwellings, in a district.

~~(e)~~ *Development plan*: means the component of an NCMP that illustrates features that will be part of the development, including, but not limited to, the natural features proposed to be retained, topography, the location of the Core Area, and collector streets within the district.

~~(f)~~ *District*: means an entire contiguous area zoned NCMU.

~~(g)~~ *Ground floor area*: means the floor area of a building or structure devoted to a particular use, measured within the exterior walls that are at the grade plane of the building or structure.

~~(h)~~ *Major intersection*: means the intersection of two streets, one of which is designated in the Salem Transportation System Plan as a major arterial or minor arterial, and the other which is designated as a major arterial, minor arterial, or collector.

~~(i)~~ *NCMU*: means the Neighborhood Center Mixed Use zone.

~~(i)~~ *Neighborhood Center Master Plan* or *NCMP*: means collectively the development plan, detailed plan, design guidebook, phasing plan, and concept plan, as required for the Class of Neighborhood Center Master Plan.

~~(k)~~ *Open space*: means open areas that are landscaped or left with a natural vegetative cover. Open space does not include sidewalks in public right-of-way, bicycle paths within the public right-of-way, parking areas, driveways, streets, or required parking lot landscaping or screening.

~~(l)~~ *Pedestrian streets*: means those streets in the Core Area that are designated in the NCMP to provide direct access to key pedestrian attractions.

~~(m)~~ *Phasing plan*: means the component of a Class 2 NCMP that illustrates and establishes the sequence of proposed future development of a district over a specified period of time.

~~(n)~~ *Private open space*: means open space associated with individual residential dwellings.

~~(o)~~ *Subarea*: means the portion of a district designated in a Class 3 NCMP that is at least three contiguous acres in size, and for which a development plan and a detailed plan has been prepared.

~~(p)~~ *Total floor area*: means the floor area of a building or structure devoted to a particular use, measured within the exterior walls of all stories of the building or structure.

(Prior Code, § 215.005; Ord. No. 20-11; Ord. No. 31-13)

### **Sec. 215.010. Neighborhood center master plans.**

(a) *Applicability*. Unless otherwise provided in SRC chapter 532, an approved NCMP shall be required prior to development within a district for a Class 1 NCMP and Class 2 NCMP, and prior to development within each subarea for a Class 3 NCMP.

(b) *Classes*. There are three classes of neighborhood center master plans:

(1) *Class 1 NCMP*. A Class 1 NCMP is an NCMP for development of an entire district that will not be phased. A Class 1 NCMP is comprised of:

(A) A development plan for the entire district; and

(B) A detailed plan for the entire district.

(2) *Class 2 NCMP*. A Class 2 NCMP is an NCMP for development of an entire district that will be phased. NCMP approval is granted with the first phase. Development of subsequent phases requires detailed plan approval for each subsequent phase.

(A) A Class 2 NCMP is comprised of:

(i) A development plan for the entire district;

(ii) A phasing plan for the entire district;

(iii) A design guidebook for the entire district; and

(iv) A detailed plan for the first phase, and, as approved, a detailed plan for each subsequent phase.

(3) *Class 3 NCMP*. A Class 3 NCMP is an NCMP for development of an entire district that will occur through development of subareas. NCMP approval is granted with the first subarea. Development of subsequent subareas requires subarea approval for each subsequent subarea.

(A) A Class 3 NCMP is comprised of:

(i) A concept plan for the entire district;

(ii) A design guidebook for the entire district;

(iii) A development plan for the first subarea; and

(iv) A detailed plan for the first subarea.

(B) A Class 3 NCMP approval for each subsequent subarea is comprised of the approved design guidebook and:

- (i) An updated concept plan for the entire district;
- (ii) A development plan for the subsequent subarea; and
- (iii) A detailed plan for the subsequent subarea.

**TABLE 215-1. NEIGHBORHOOD CENTER MASTER PLAN COMPONENTS**

<b>Master Plan Class</b>	<b>Development Plan</b>	<b>Detailed Plan</b>	<b>Design Guidebook</b>	<b>Phasing Plan</b>	<b>Concept Plan</b>
Class 1	Yes	Yes	N/A	N/A	N/A
Class 2 (Phased)	Yes (entire district)	Yes (each phase)	Yes (entire district)	Yes	N/A
Class 3 (Subareas)	Yes (each subarea)	Yes (each subarea)	Yes (entire district)	N/A	Yes

(c) *Procedure type.* Class 1, Class 2, and Class 3 neighborhood center master plans are processed as a Type III procedure under SRC chapter 300.

(d) *Pre-application conference submittal requirements.* In addition to the submittal requirements for a pre-application conference under SRC chapter 300, an application for an NCMP pre-application conference shall include:

- (1) A map in general schematic form containing:
  - (A) Topography of the district showing either contour lines or elevations at key locations;
  - (B) Proposed land uses for the district;
  - (C) Approximate location of existing buildings to be retained and approximate location of proposed buildings to be constructed within the district;
  - (D) Land uses and approximate location of existing buildings, structures and uses on the properties adjacent to the district;
  - (E) The approximate location of all proposed streets, walkways, and parking facilities within the district;
  - (F) Public uses within the district, including, but not limited to, schools, parks, playgrounds, open spaces and trails; and
  - (G) Public and private utilities that will serve the district.
- (2) A preliminary written statement containing an explanation of:
  - (A) The character of the proposed development and the manner in which it will take advantage of the master planned development concept;
  - (B) The names and addresses of all owners of land included within the district;
  - (C) The method proposed to maintain private common open areas, buildings, private streets or other facilities, including, but not limited to, common space maintenance agreements; and
  - (D) The proposed timing and schedule of development.

(e) *Notification to neighborhood.* Within five City business days after the pre-application conference, any City-recognized neighborhood association within whose boundary the proposed NCMP is located shall be notified of the proposal.

(f) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for Class 1, 2, or 3 NCMP shall include the following:

- (1) *Applications for Class 1, 2, and 3 neighborhood center master plans.* Applications of Class 1, 2, and 3 NCMPs shall include:
  - (A) An existing conditions plan for the entire district, including, at a minimum, the following:
    - (i) Total area, dimensions and its orientation relative to north;
    - (ii) Topography showing either contour lines or elevations at key locations;
    - (iii) Natural features of the site, including, but not limited to, drainage patterns, riparian areas, water bodies, wetlands, steep slopes and ravines;
    - (iv) The location of existing structures and other improvements, including accessory structures, fences, walls and driveways, noting their distance from property lines;
    - (v) The location of the 100-year floodplain, if applicable;
    - (vi) Driveway and driveway approach locations, public and private streets, including bike paths, transit stops, sidewalks and other bike and pedestrian pathways, curbs, and easements on all properties abutting the district;
  - (B) A geological assessment or geotechnical report, if required under SRC chapter 810 or a certification from an engineer that landslide risk is low, and that there is no need for further landslide risk assessment;
  - (C) A traffic impact analysis, if required under SRC chapter 803;
  - (D) A riparian area corridor plan, if applicable, including:
    - (i) A designation of the riparian corridor boundary for each waterway, as defined in SRC 808.005;
    - (ii) Delineation of the riparian corridor as a separate tract; and
    - (iii) A restoration plan for the riparian corridor that includes a tree and vegetation planting and replanting plan consistent with SRC 808.035(c)(2).
  - (E) A draft copy of the articles of the home owners' association; and
  - (F) A written statement explaining how the standards of this chapter and the applicable chapters of the UDC will be met by the proposed NCMP.
- (2) *Class specific requirements.*
  - (A) *Class 1 submittal requirements.* In addition to the submittal requirements set forth under ~~paragraph subsection (f)(1) of this subsection~~, an application for a Class 1 NCMP shall include:
    - (i) A development plan containing the following:
      - (aa) The total area of the district, dimensions, and orientation relative to north;
      - (bb) Site topography shown at two-foot contour intervals, with specific identification of slopes in excess of 15 percent;
      - (cc) Natural features of the district, including, but not limited to, drainage patterns, riparian areas, water bodies, wetlands, steep slopes and ravines, and significant stands of trees, proposed to be retained;
      - (dd) A designation of the size and location of the Core Area;
      - (ee) A traffic circulation plan for pedestrian, bicycle, and vehicular movement within and through the district. The circulation plan shall include the location of collector streets within the district;
      - (ff) A preliminary infrastructure plan showing capacity needs for municipal water and sewer

service and schematic location of connection points to existing municipal water and sewer services; and

- (gg) The proposed lot pattern, lot standards, and lot coverage requirements.
- (ii) A detailed plan containing the following:
  - (aa) Elevation drawings showing architectural features and proposed colors and materials for all proposed buildings and structures, other than detached single family dwellings. The drawings shall be accurate and to scale but need not be the final working drawings;
  - (bb) The size and location of solid waste and recyclables storage and collection areas, and amount of overhead clearance above such enclosures;
  - (cc) The location of easements for water lines, fire hydrants, sewer lines, stormwater facilities, and the location of the electric, gas, and telephone lines, television cable, and the lighting plans;
  - (dd) A landscaping and tree planting plan, including the location of street trees, with a notation indicating existing trees, and an indication of square footage and percentage of district area covered by the plan;
  - (ee) A tree conservation plan that complies with SRC 808.035;
  - (ff) The location and intended use of all proposed primary and accessory structures and other improvements, including, but not limited to, driveway and driveway approach locations, indicating distance to such structures from all property lines and adjacent on-site structures, and the number of dwelling units in each residential building and gross floor area for each nonresidential building;
  - (gg) The location, intended use, and proposed method of maintenance for all common open space;
  - (hh) The location, intended use, and proposed method of maintenance for all common improvements, including, but not limited to, buildings, structures, and private streets;
  - (ii) The location of areas proposed to be conveyed, dedicated, or reserved for parks, scenic ways, playgrounds, schools, public buildings, and similar public and semipublic activities, and whether such areas are to be public or private;
  - (jj) The location, layout, and surfacing of all vehicle, pedestrian, and bicycle parking and loading areas, including identification of circulation areas, handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps; and
  - (kk) A summary table that includes total district area, nonresidential gross floor area by use, lot sizes, total number of dwelling units, gross residential density per acre, proposed acreage of undeveloped natural area, and the number of parking spaces provided, building height, and lot coverage proposed, including areas to be paved for parking and sidewalks.
- (B) *Class 2 submittal requirements.* In addition to the submittal requirements set forth under ~~paragraph subsection (f)(1) of this subsection~~, an application for a Class 2 NCMP shall include:
  - (i) A development plan that complies with ~~paragraph subsection (f)(2)(A)(i) of this subsection~~;
  - (ii) A design guidebook, to be used in all subsequent phases, containing the following for all buildings and structures, other than single family detached dwellings:
    - (aa) Color palettes;
    - (bb) Acceptable materials;
    - (cc) Typical elevations for all building types, showing building forms and massing; building height; rooflines and parapet features; architectural features, such as cornices, bases; fenestration, window orientation, size and detailing; fluted masonry, bays, recesses,



arcades, towers, canopies, unique entry areas or other architectural treatments for visual interest; artwork and any other special building features. Elevations shall be accurate and to scale but need not be final working drawings.

- (iii) A development phasing plan that includes:
  - (aa) The area and intended use of each phase;
  - (bb) A demonstration of how a mix of uses will be provided through phasing, including the approximate locations, the amount in square footage of nonresidential uses, and the number of residential dwelling units;
  - (cc) The general lot pattern and approximate building envelopes wherein future buildings will be located for each phase and/or identify the building setback standards that will be applied to future buildings;
  - (dd) Building orientation and relationship to the boundaries of each phase;
  - (ee) The general block pattern and location of streets, including designated pedestrian streets and walkways, their approximate widths and the nature of their improvement and whether they will be public or private;
  - (ff) A general description of how circulation, parking, landscaping and tree planting, lighting, and other improvements will be designed to function after the completion of each phase and following complete build out of the district;
  - (gg) The timeframe, order, and method that proposed public utilities, public facilities and other improvements and amenities necessary to support the development will be constructed, dedicated, or reserved; and
  - (hh) A development time schedule indicating the approximate date when construction of each phase will begin and will be completed.
- (iv) A detailed plan for each proposed phase that complies with ~~paragraph-subsection (f)(2)(A)(ii)~~ of this ~~subsection~~; provided, however, if a density bonus is proposed for the district pursuant to SRC 215.050(a)(2)(A)(ii), the following shall be provided for the entire district:
  - (aa) A tree conservation plan;
  - (bb) The use and location of common open space;
  - (cc) Parks, scenic ways, playgrounds, schools, public buildings, and similar public and semipublic uses.
- (C) *Class 3 submittal requirements.* In addition to the submittal requirements set forth under ~~paragraph-subsection (f)(1)~~ of this ~~subsection~~, an application for a Class 3 NCMP shall include:
  - (i) A development plan for the first subarea that complies with ~~paragraph-subsection (f)(2)(A)(i)~~ of this ~~subsection~~;
  - (ii) A detailed plan for the first subarea that complies with ~~paragraph-subsection (f)(2)(A)(ii)~~ of this ~~subsection~~; provided, however, if a density bonus is proposed for the district pursuant to SRC 215.050(a)(2)(A)(ii), the following shall be provided for the entire district:
    - (aa) A tree conservation plan;
    - (bb) The use and location of common open space; and
    - (cc) Parks, scenic ways, playgrounds, schools, public buildings, and similar public and semipublic uses.
  - (iii) A design guidebook for the entire district that complies with ~~paragraph-subsection (f)(2)(B)(ii)~~ of this ~~subsection~~, that shall be binding on each subsequent subarea; and
  - (iv) A concept plan showing general circulation patterns, location of land uses by general categories, the general location of the Core Area, the general location and amount of open

space, the anticipated intensity of uses in each use category, and approximate acreage for uses in each use category. Categories of land uses may be identified by any descriptive system or method generally acceptable by professionals engaged in the production of master plans.

- (D) Additional information. The Planning Administrator may require the submittal of additional information needed to review the proposed development plan, detailed plan, design guidebook, phasing plan, and concept plan for conformance to the applicable criteria.
- (E) Submittals. Submittals shall be of a size and form and in the number of copies meeting standards established by the Planning Administrator.
- (g) *Criteria.* An NCMP shall be approved if the NCMP:
  - (1) Represents innovative urban design;
  - (2) Ensures logical and harmonious development of the district;
  - (3) Provides for efficient use of land and energy;
  - (4) Has development patterns that are at a human scale and meet the needs of pedestrians through the effective arrangement of buildings, circulation systems, land uses, and utilities;
  - (5) Has a Core Area that is compact, pedestrian friendly, and composed of neighborhood-scaled retail sales and service, office, civic or recreational uses that are conveniently located for access from residential areas;
  - (6) Locates housing in close proximity to employment and shopping;
  - (7) Has a transportation system that provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and that adequately mitigates negative impacts from the transportation system on the surrounding area;
  - (8) Has a pedestrian street design that encourages interaction among residents of the development and adjoining neighborhoods;
  - (9) Enhances pedestrian access and transit accessibility to and through the district through a street pattern with connectivity to and through the district and with adjacent areas;
  - (10) Emphasizes pedestrian mobility and accessibility and provides an effective and convenient system of pedestrian facilities leading into, and within the district;
  - (11) Creates strong connections to available transit;
  - (12) Has parking areas and driveways that are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians;
  - (13) Protects and enhances natural features, such as riparian areas and wetlands;
  - (14) Is compatible with existing and reasonably anticipated future land uses;
  - (15) Will be adequately served with city infrastructure;
  - (16) Meets all applicable standards of this chapter and the UDC;
  - (17) Has a detailed plan and/or design guidebook for buildings and structures, other than single family dwellings, that:
    - (A) Ensures the design of buildings and structures is compatible with the neighboring buildings and structures in the district;
    - (B) Ensures the design of buildings and structures will create community character and promote pedestrian scale;
    - (C) Contains architectural treatments that create visual interest and community character and promote a sense of pedestrian scale; and
    - (D) For Class 2 and Class 3 NCMPs, the detailed plan for each phase or subarea is consistent with the design guidebook.

- (18) If the proposal is for a Class 2 NCMP, the NCMP has a phasing plan that ensures that subsequent phases of development will be built in conformity with the NCMP;
- (19) If the proposal is for a Class 3 NCMP, the NCMP ensures that as development occurs within each subarea, the development is designed to function as an integral part of a coherent vision for the entire district and provides a benefit to the community through compatible mixed use development, improved protection of open spaces, and transportation options; and
- (20) For any proposed alternative to a guideline, the proposed alternative to the guideline better meets the intent and purpose of this chapter than the minimum established in the guideline.

(h) *Expiration.* An NCMP shall expire within 2 years after the date of NCMP approval, unless a building permit has been issued in which case the NCMP approval shall remain valid for 2 years or until the date the building permit expires, whichever occurs later.

(i) *Recording.*

- (1) Upon approval of Class 1 NCMP, the applicant shall record the NCMP in the county land records.
- (2) Upon approval of a Class 2 NCMP, the applicant shall record the NCMP in the county land records. Upon approval of a detailed plan for a subsequent phase, the applicant shall record the detailed plan in the county land records.
- (3) Upon approval of the NCMP for a subarea in a Class 3 NCMP, the applicant shall record the NCMP for that subarea in the county land records.

(Prior Code, § 215.010; Ord. No. 20-11; Ord. No. 31-13)

**Sec. 215.015. Class 2 Neighborhood center master plan detailed plan approval for subsequent phases.**

(a) *Applicability.* No development within a subsequent phase of a Class 2 NCMP shall occur without receiving detailed plan approval for that phase, as provided in this section.

(b) *Procedure type.* A detailed plan for a subsequent phase of a Class 2 NCMP is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC 300, a detailed plan for a subsequent phase of a Class 2 NCMP shall include:

- (1) A detailed plan for the proposed phase that complies with SRC 215.010(f)(2)(A)(ii); provided, however, that if a density bonus is proposed for the district pursuant to SRC 215.050(a)(2)(A)(ii), the following shall be provided for the entire district:
  - (A) A tree conservation plan;
  - (B) The use and location of common open space; and
  - (C) Parks, scenic ways, playgrounds, schools, public buildings, and similar public and semipublic uses.
- (2) Evidence that any applicable conditions included as part of the earlier approved components of the NCMP have been met.

(d) *Criteria.* A detailed plan for a subsequent phase of a Class 2 NCMP shall be approved if the detailed plan:

- (1) Conforms to the development standards in this chapter; and
- (2) Conforms to the approved NCMP, including any applicable conditions included as part of the earlier approved components of the NCMP.

(Prior Code, § 215.015; Ord. No. 20-11; Ord. No. 31-13)

**Sec. 215.020. Class 3 Neighborhood center master plan subsequent subarea approval.**

(a) *Applicability.* No development within a subsequent subarea of a Class 3 NCMP shall occur without receiving subsequent subarea approval for that subarea, as provided in this section.

(b) *Procedure type.* A subsequent subarea of a Class 3 NCMP is processed as a Type III procedure under

SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, a subsequent subarea of a Class 3 NCMP shall include:

- (1) The general application submittal requirements under SRC 215.010(f)(1);
- (2) An updated concept plan for the entire district that complies with SRC 215.010(f)(2)(C)(iv);
- (3) A development plan for the proposed subarea that complies with SRC 215.010(f)(2)(A)(i); and
- (4) A detailed plan for the proposed subarea that complies with SRC 215.010(f)(2)(A)(ii).

(d) *Criteria.* A development plan and detailed plan for the subsequent subarea of a Class 3 NCMP shall be approved if the development plan and detailed plan for the subsequent subarea:

- (1) Comply with the criteria for NCMP approval under SRC 215.010(g); and
- (2) Comply with the design guidebook.

(Prior Code, § 215.020; Ord. No. 20-11)

**Sec. 215.025. Neighborhood center master plan with land division.**

If the NCMP proposes to create individual lots or parcels in the district, a subdivision or partition is required. The subdivision or partition may be:

- (a) Consolidated with the NCMP application;
- (b) Processed concurrently with the NCMP application; or
- (c) Processed subsequent to the NCMP application.

(Prior Code, § 215.025; Ord. No. 20-11; Ord. No. 31-13)

**Sec. 215.030. Site plan review under an approved neighborhood center master plan.**

(a) *Applicability.* No building permit shall be issued for development within an approved NCMP without receiving Class 2 site plan review approval as provided under SRC chapter 220 and this section.

(b) *Additional criteria for approval for Class 2 site plan review.* An application for Class 2 site plan review for development within an approved NCMP shall be approved if the application meets the approval criteria in SRC 220.005(f) and conforms to the approved NCMP.

(Prior Code, § 215.030; Ord. No. 20-11; Ord. No. 12-12)

**Sec. 215.035. Amendments to neighborhood center master plans.**

(a) *Applicability.* No amendment to an NCMP shall be made without receiving approval as set forth in this section.

(b) *Classes.*

- (1) *Minor amendment.* A minor amendment is any amendment to an NCMP that does not substantially deviate from the approved NCMP.
- (2) *Major amendment.* A major amendment is any amendment, other than a minor amendment, including, but not limited to, the following:
  - (A) A change in the overall appearance and character of the development;
  - (B) A change that would result in a change in the amount of parking by 20 percent or more;
  - (C) An increase in density by more than 20 percent, provided the resulting density does not exceed that allowed in the NCMU zone or development standards;
  - (D) A change in setbacks or lot coverage by more than 20 percent;
  - (E) A change in the location of accessways affecting traffic outside of the district;
  - (F) An increase in the floor area proposed for nonresidential use by more than 15 percent;

- (G) A relocation of the Core Area or a change in the area by more than ten percent;
- (H) A reduction of the area reserved for common open space by more than ten percent; or
- (I) A change to a condition of approval, or a change similar to any other provision in this ~~paragraph~~ subsection that will have a detrimental impact on adjoining properties. The Planning Administrator shall have discretion in determining detrimental impacts warranting a major amendment.

(c) *Procedure type.*

- (1) *Minor amendment.* A minor amendment to an NCMP is processed as a Type II procedure under SRC chapter 300.
- (2) *Major amendment.* A major amendment to an NCMP is processed as a Type III procedure under SRC chapter 300.

(d) *Additional submittal requirements.* In addition to the submittal requirements for Type II or Type III applications under SRC chapter 300, an application for a minor or major amendment to an NCMP shall include:

- (1) A narrative statement describing how the proposed amendment meets the applicable criteria;
- (2) An amended NCMP using the same format as the original approval; and
- (3) Any other relevant information the Planning Administrator requires, as necessary, to evaluate the request.

(e) *Criteria.*

- (1) *Minor amendment.* A minor amendment to an NCMP shall be approved if all of the following are met:
    - (A) The number of dwelling units is within ten percent of those shown on the approved NCMP. In no case shall any change in the number of residential units exceed the maximum density limits established by this chapter. Amendment of a phase of a Class 2 NCMP, or a subarea of a Class 3 NCMP, shall not limit a reduction in the number of dwelling units, provided that if a reduction is approved for one phase or subarea, the number of dwelling units shall not be transferred to another phase or subarea;
    - (B) The setbacks and distances between buildings are within ten percent of those shown on the approved NCMP;
    - (C) The amount of open space is equal to or greater than the amount approved in the NCMP. Amendment of a phase of a Class 2 NCMP, or a subarea of a Class 3 NCMP, shall not limit an increase in the amount of open space, provided that if an increase is approved for one phase or subarea, the amount of open space shall not be reduced below that permitted in the NCMP for another phase or subarea;
    - (D) The total square footage of building does not vary by more than ten percent from the square footage shown on the approved NCMP, but in no case shall any change exceed the maximum square footage allowed by this chapter;
    - (E) There have been no material alternations to the transportation system;
    - (F) The proposed amendment is not substantially inconsistent with the NCMP and the conditions of the original approval; and
    - (G) The proposed amendment will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.
  - (2) *Major amendment.* A major amendment to an NCMP shall be approved if the amendment meets the approval criteria set forth in SRC 215.010(g).
- (f) *Recording.* An amended NCMP shall be recorded in the same manner as the original NCMP.

(Prior Code, § 215.035; Ord. No. 20-11; Ord. No. 31-13)

**Sec. 215.040. Development standards, generally.**

- (a) There are three types of development standards applicable to an NCMP:

- (1) Standards;
- (2) Guidelines; and
- (3) Applicant determined standards.

Not every development standard will have all three, in which case the NCMP must comply with the development standard or standards set forth in the particular subsection, or with the development standard established by the applicant.

(b) Standards are mandatory requirements for an NCMP, but may, unless specifically noted in the standard, be varied or adjusted.

(c) Guidelines establish a development standard that is mandatory, unless the applicant proposes and receives approval for an alternative development standard. Guidelines are not subject to variances or adjustments because the applicant may propose and receive approval of an alternative development standard by the Planning Commission as part of NCMP approval. The Planning Commission shall approve an alternative development standard, if the development standard better meets the purpose stated in SRC 215.001.

(d) Applicant determined standards are mandatory requirements, but are applicant-proposed and approved as part of the NCMP. Applicant determined standards are not subject to variances or adjustments because the applicant established the development standard.

(Prior Code, § 215.040; Ord. No. 20-11; Ord. No. 31-13)

#### **Sec. 215.045. Development plan standards.**

A development plan shall comply with the following standards:

- (a) *District.* The following development standards apply throughout the entire district:
  - (1) *Mixed use.* A district must include a residential component and a Core Area with commercial uses.
    - (A) *Standards.* A Core Area shall be provided in the district that is designed to provide services at a neighborhood scale within a compact, pedestrian-friendly environment. The total size of the Core Area shall not be less than one acre and not more than five acres. The total size of the Core Area is not variable or adjustable. The size of the Core Area shall equal the sum of the contiguous area within the district occupied by buildings housing retail sales and service, office, or institutional uses, and the required parking areas for those uses. Other uses are allowed in the Core Area (e.g., parks and open space, or public utilities); however, the area occupied by these uses shall not be included when calculating the total size of the Core Area.
    - (B) *Guidelines.* The total amount of land used for residential uses within the district shall not be less than one acre. In calculating the total amount of land used for residential uses, the sum shall include the residential building footprints, and the yard areas and parking areas required to be provided for the residential uses.
    - (C) *Applicant determined standards.* None allowed.
  - (2) *Natural resource protection and common open space.* A district must include common open space, landscaped areas, and/or protected natural areas.
    - (A) *Standards.* None.
    - (B) *Guidelines.* At a minimum, 20 percent of the district shall be provided as common open space, landscaped areas, and/or protected natural areas. As used in this guideline, common open space, landscaped areas, and/or protected natural areas do not include private open space.
    - (C) *Applicant determined standards.* None allowed.
  - (3) *Transportation and circulation.* A district must include a transportation system that emphasizes pedestrian mobility and accessibility, and demonstrates an effective and convenient system of pedestrian pathways leading into, and throughout the district.
    - (A) *Standards.*

- (i) The transportation system shall be designed to connect to existing and planned facilities in the Salem Transportation System Plan.
  - (ii) Street and accessway connections shall be provided to existing or planned streets and undeveloped properties adjacent to the district at no greater than 600-foot intervals, unless one of the following conditions exist:
    - (aa) Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include, but are not limited to, freeways, railroads, steep slopes, and wetlands or other bodies of water where a connection cannot be reasonably provided; or
    - (bb) Existing development on adjacent property that physically precludes a connection now or in the future, taking into consideration the adjacent property's potential for redevelopment.
  - (iii) Except where precluded by existing development, natural features, or topography, block lengths shall not exceed 330 feet between public or private streets, and pedestrian pathways, as measured along the nearside curbline of the public or private street or the centerline of the pedestrian pathway.
  - (iv) Pedestrian mobility and accessibility shall be emphasized through an effective and convenient system of pedestrian facilities leading into and throughout the district.
  - (v) Pedestrian connections shall be provided to existing and planned public transit routes and stops. If transit service to or through the district is planned, provisions for the future improvement of such facilities and improvements to facilitate public transit shall be made.
- (B) *Guidelines.* None.
- (C) *Applicant determined standard.* None.
- (4) *Lot standards.*
- (A) *Standards.* None.
  - (B) *Guidelines.* None
  - (C) *Applicant determined standards.* The NCMP shall establish minimum lot size, lot dimension, and lot coverage requirements for the district.
- (b) *Outside the core area.* None.
- (c) *Inside the core area.* None.

(Prior Code, § 215.045; Ord. No. 20-11; Ord. No. 31-13)

**Sec. 215.050. Detailed plan standards.**

A detailed plan shall comply with the following standards:

- (a) *District.* The following development standards apply throughout the entire district:
  - (1) *Transportation and circulation.*
    - (A) *Standards.*
      - (i) Pedestrian scale street lighting shall be provided along all streets.
      - (ii) Except as otherwise provided in this subsection, all streets shall be designed and constructed in conformance with the Public Works Design Standards.
    - (B) *Guidelines.* Pedestrian scale street lights shall be no taller than 20 feet.
    - (C) *Applicant determined standards.* None allowed.
  - (2) *Residential density.*

(A) *Standards.*

- (i) *Maximum density.* Maximum residential density for the district, including the Core Area, shall be six dwelling units per acre, unless a density bonus is granted pursuant to ~~subparagraph subsection (a)(2)(A)(ii) of this paragraph-section~~, in which case the maximum residential density shall be eight dwelling units per acre. The maximum residential density may not be varied or adjusted.
- (ii) *Residential density bonus.* The maximum residential density may be increased to eight dwelling units per acre for the district, including the Core Area, if either increased riparian area protection and additional tree conservation is provided within the district detailed plan that meets the standards set forth in ~~subclause subsection (a)(2)(A)(ii)(aa) and (bb) of this clause-section~~, or, where the district does not include any riparian areas suitable for protection, or trees suitable for conservation, the residential density bonus may be achieved by dedicating additional public open space, as provided in ~~subclause subsection (a)(2)(A)(ii)(cc) of this clause-section~~.
  - (aa) *Additional riparian area protection.* The riparian corridor boundary is increased from 50 feet to 75 feet horizontally from the top of the bank on each side of the waterway, as defined in SRC 808.005, is platted as a separate lot or parcel, and dedicated as a natural area in perpetuity.
  - (bb) *Additional tree conservation.* At least 50 percent of all trees, as defined in SRC chapter 808, on the property will be preserved, and the trees will receive continued protection through methods, including, but not limited to, covenants, conditions, and restrictions included in the deeds of lots and parcels that are sold.
  - (cc) *Additional common open space.* The additional common open space shall not be less than ten percent of the area of the district, including the Core. In calculating the ten percent, any area reserved for natural resource protection or common open space meeting the requirements of SRC 215.045(a)(2), or private open space meeting the requirements of subsection (a)(6) of this section, shall be excluded. The additional common open space shall be appropriate to the scale and character of the development proposed in the NCMP, considering its size, types of uses, and the number and types of dwellings being proposed, as well as appropriate for the neighborhood of the City surrounding the district.

(B) *Guidelines.* None.(C) *Applicant determined standards.* None allowed.(3) *Setbacks.*(A) *Standards.* None.(B) *Guidelines.* The minimum setback from abutting property zoned Residential Agriculture (RA) or Single Family Residential (RS) is 30 feet.(C) *Applicant determined standards.* The NCMP shall establish minimum front, side, and rear setbacks for development within the district.(4) *Building design.*(A) *Standards.*

- (i) *Height.* The height of buildings or structures, other than accessory structures, shall not exceed 35 feet. The height of accessory structures shall not exceed nine feet at the lot line; provided, however, such height may be increased one foot for each one foot of distance from the lot line, to a maximum height of 15 feet.
- (ii) *Architectural features.*
  - (aa) Buildings and structures in the district shall have design character that is



compatible with other buildings and structures in the district.

- (bb) All buildings and structures, other than detached single family dwellings, shall incorporate architectural features, including, but not limited to, cornices, bases, fenestration, fluted masonry, bays, recesses, arcades, display windows, unique entry areas, or other architectural treatments to create visual interest, community character, and a sense of pedestrian scale. Simple relief provided by window cutouts or sills on an otherwise flat facade, in and of itself, does not within the overall design of buildings or structures create visual interest, community character or sense of pedestrian scale.

(B) *Guidelines.* None

(C) *Applicant determined standards.* None allowed.

(5) *Parking and loading.*

(A) *Standards.*

- (i) Off-street parking and loading shall comply with SRC chapter 806.
- (ii) Each single family dwelling shall have, at the time of original construction, a garage that is constructed of like materials and color as the dwelling. The garage may be attached to, or detached from, the dwelling. Nothing in this clause shall prevent the subsequent removal or conversion of a garage, so long as the minimum number of required off-street parking spaces for the single family dwelling is maintained. Exception to this standard may be made if, at the time of the building permit review, the applicant can show that the construction of the single family dwelling is being provided by a not-for-profit organization to families at or below the City's 60 percent median income level, as defined by the U.S. Department of Housing and Urban Development; and provision is made for a minimum of 480 cubic feet of on-site storage in a portion of the single family dwelling or in a detached accessory structure. Such exemption shall only be made for those single family dwellings built on lots created through a subdivision.

(B) *Guidelines.* None.

(C) *Applicant determined standards.* None allowed.

(6) *Private open space.*

(A) *Standards.* Residential development shall contain private open space that meets the following:

- (i) For dwelling units located at or within five feet of finished grade, a minimum of 96 square feet of private open space per dwelling unit shall be provided, with no dimension that is less than six feet.
- (ii) For dwelling units located more than five feet above finished grade, a minimum of 48 square feet of private open space per dwelling unit shall be provided, with no dimension that is less than six feet.
- (iii) For each dwelling unit, a direct and accessible route to all private open space by a doorway on the same level as the private open space shall be provided.
- (iv) Private open space shall be visually separated from abutting common open space by landscaping or fencing.

(B) *Guidelines.* None.

(C) *Applicant determined standards.* None allowed.

(7) *Landscaping.*

(A) *Standards.* None

(B) *Guidelines.*

- (i) For every 2,000 square feet of gross district area, at least one tree shall be planted, or one existing tree retained.
- (ii) Trees shall be of a variety that will, within 15 years of planting, provide at least one-third canopy coverage of common open space, private open space, and setbacks.
- (iii) A minimum of two plant units, as defined in SRC chapter 807, shall be planted adjacent to the primary entryway of each dwelling unit.
- (iv) Provide new trees, or retain existing trees, at a minimum density of ten plant units per linear foot of each building's exterior wall. The trees shall be located not more than 25 feet from the exterior walls.
- (v) Plant shrubs at a minimum density of one plant unit per 15 linear feet of each building's exterior walls. The shrubs shall be located not more than 25 feet from the exterior walls.
- (vi) Plant at least one canopy tree every 50 feet along the perimeter of parking areas. The trunks shall be located within 15 feet of the edge of the parking area.

(C) *Applicant determined standards.* None allowed.

(8) *Street trees.*

(A) *Standards.*

- (i) Street trees shall be planted in planting strips in public street rights-of-way, unless the area is subject to one or more utility easements, in which case the street trees shall be placed outside utility easements, or in sidewalk tree wells on public streets without planting strips.
- (ii) The planting area for street trees shall contain not less than 16 square feet. Typical dimensions for a planting area are four feet by four feet.
- (iii) The minimum caliper size for street trees at the time of planting shall be two inches, measured four feet above grade.
- (iv) Spacing of street trees shall be based upon the type of trees selected and the canopy size at maturity. Generally, street trees should be spaced no more than 30 feet apart, unless the spacing would conflict with existing trees, retaining walls, utilities and similar features, in which case the trees should be spaced as close to 30 feet apart as practicable.

(B) *Guidelines.* Within the public street right-of-way, plant trees at one of the following ratios:

- (i) One canopy tree within each 50 feet of street frontage or fraction thereof; or
- (ii) One columnar tree within each 30 feet of street frontage or fraction thereof.

(C) *Applicant determined standards.* None allowed.

(9) *Subarea size.*

(A) *Standards.* Each subarea of a Class 3 NMCP shall be at least three contiguous acres. Subarea size is a non-variable standard.

(B) *Guidelines.* None.

(C) *Applicant determined standards.* None allowed.

(b) *Outside the core area.* The following development standards apply outside the Core Area:

(1) *Garages and carports.*

(A) *Standards.*

- (i) *Setbacks.* Garages for single family dwellings, or garages or carports for manufactured homes on individual lots, that have a vehicle entrance facing a street or accessway shall be set back at least 20 feet from the following line that is closest to the entrance of the garage or carport:

- (aa) The right-of-way line, property line abutting an accessway, or most interior access easement line;
    - (bb) The outside curbline; or
    - (cc) The edge of the sidewalk furthest from the street.
  - (ii) *Paving.* Between the line specified in ~~clause (i) of this subparagraph~~ subsection (b)(A)(i) of this section and the required garage or carport, there shall be a driveway serving the garage or carport with a minimum paved area of nine feet by 20 feet that is available for the parking of a vehicle.
  - (B) *Guidelines.* None.
  - (C) *Applicant determined standards.* None allowed.
- (c) *Inside the core area.* The following development standards apply inside the Core Area:
- (1) *Transportation and circulation.*
    - (A) *Standards.*
      - (i) Pedestrian streets shall be provided with direct access to key pedestrian attractions, including, but not limited to, nearby schools, retail areas, and transit centers.
      - (ii) Pedestrian streets shall be designed to encourage interaction among residents in the district and adjoining neighborhoods outside the district.
      - (iii) Pedestrian amenities shall be included as integral elements of the streetscape design.
      - (iv) One or more pedestrian-scale amenities shall be provided at every 100 feet in the sidewalk area. Pedestrian amenities include, but are not limited to, street furniture, plantings, distinctive paving, drinking fountains, public plazas, sitting areas, covered walkways, public art, and significant water features (i.e., creek and fountain).
      - (v) Pedestrian streets shall have minimum sidewalk widths of eight feet.
      - (vi) Pedestrian amenities shall be proportionately scaled to the surrounding walkways, landscaping, and buildings.
      - (vii) Except as otherwise provided in this subsection, streets shall be designed and constructed in conformance with the Public Works Design Standards.
    - (B) *Guidelines.* None.
    - (C) *Applicant determined standards.* None allowed.
  - (2) *Setbacks.*
    - (A) *Standards.* None.
    - (B) *Guidelines.* The minimum setback for the Core Area from adjacent property zoned Single Family Residential (RS) or Residential Agriculture (RA) is 50 feet.
    - (C) *Applicant determined standards.* None allowed.
  - (3) *Building orientation.*
    - (A) *Standards.*
      - (i) Buildings shall be located as close to the edge of pedestrian streets as practicable, given final topographic contours and the location and size of vehicular accessways, or shall have their entries oriented towards abutting public streets.
      - (ii) Primary building entrances shall be oriented to maximize pedestrian access and connectivity.
      - (iii) Direct and convenient pedestrian pathways shall be provided from parking areas to building entrances.

- (B) *Guidelines.* None.
- (C) *Applicant determined standards.* None allowed.
- (4) *Building design.*
  - (A) *Standards.*
    - (i) The height of buildings or structures, other than accessory structures, shall not exceed 35 feet. Height may be increased to a maximum of 40 feet, provided the visual impact of the additional height is mitigated by the location's unique physical attributes, including, but not limited to, changes in topography or significant stands of trees.
    - (ii) Along pedestrian streets, buildings shall be designed to provide protection from sun and rain through canopies, arcades, pergolas, or similar features.
  - (B) *Guidelines.*
    - (i) *Ground floor area.* The ground floor area of each individual building or structure shall be not greater than 30,000 square feet.
    - (ii) *Drive-through facilities.* Drive-through facilities, except those serving pharmacies, are prohibited.
  - (C) *Applicant determined standards.* None allowed.
- (5) *Hours of operation.*
  - (A) *Standards.* None.
  - (B) *Guidelines.* Hours of operation for nonresidential uses shall be limited to the time between 6:00 a.m. and 11:00 p.m., Sunday through Thursday, and between 6:00 a.m. and 1:00 a.m., Friday and Saturday.
  - (C) *Applicant determined standards.* None allowed.

(Prior Code, § 215.050; Ord. No. 20-11; Ord. No. 4-12; Ord. No. 31-13)

#### **Sec. 215.055. Other provisions.**

Additional standards may apply to development in the NCMU zone as a result of regulations found in other chapters of the UDC, including, but not limited to, the chapters identified in this section. In the event of a conflict between the standards contained in the NCMU zone and the standards contained within other chapters of the UDC, the standards contained in the NCMU zone shall govern.

- (a) Trees and Shrubs: SRC chapter 86.
- (b) Wireless Communications Facilities: SRC chapter 703.
- (c) General Development Standards: SRC chapter 800.
- (d) Public Improvements: SRC chapter 802.
- (e) Streets and Right-of-Way Improvements: SRC chapter 803.
- (f) Driveway Approaches: SRC chapter 804.
- (g) Vision Clearance: SRC chapter 805.
- (h) Off-Street Parking, Loading and Driveways: SRC chapter 806.
- (i) Landscaping and Screening: SRC chapter 807.
- (j) Preservation of Trees and Vegetation: SRC chapter 808.
- (k) Wetlands: SRC chapter 809.
- (l) Landslide Hazards: SRC chapter 810.
- (m) Sign Code: SRC chapter 900.

(Prior Code, § 215.055; Ord. No. 20-11; Ord. No. 4-12; Ord. No. 24-13; Ord. No. 31-13)

**CHAPTERS 216—219. RESERVED**

## CHAPTER 220. SITE PLAN REVIEW

### **Sec. 220.001. Purpose.**

The purpose of this chapter is to provide a unified, consistent and efficient means to conduct site plan review for development activity that requires a building permit, to ensure that such development meets all applicable standards of the UDC, including, but not limited to, standards related to access, pedestrian connectivity, setbacks, parking areas, external refuse storage areas, open areas, landscaping, and transportation and utility infrastructure.

(Prior Code, § 220.001; Ord. No. 12-12)

### **Sec. 220.005. Site plan review.**

- (a) *Applicability.*
  - (1) Except as provided in ~~paragraph~~ subsection (a)(2) of this subsection, any development that requires a building permit must receive site plan review approval prior to issuance of the building permit.
  - (2) Exemptions. The following development that requires a building permit is exempt from site plan review:
    - (A) The construction of single family or duplex dwellings on an individual lot, including the construction of accessory structures associated with such dwellings.
    - (B) Sign installation.
    - (C) Ordinary maintenance or repair of existing buildings, structures, utilities, landscaping, and impervious surfaces, and the installation or replacement of operational equipment or fixtures.
    - (D) The alteration to the facade of a building.
    - (E) Interior construction or tenant improvements that involve no change of use.
- (b) *Classes.* The three classes of site plan review are:
  - (1) *Class 1 site plan review.* Class 1 site plan review is site plan review for any development that requires a building permit, that does not involve a land use decision or limited land use decision, as those terms are defined in ORS 197.015, and that involves a change of use or change of occupancy where only construction or improvements to the interior of the building or structure are required.
  - (2) *Class 2 site plan review.* Class 2 site plan review is required for any development that requires a building permit, other than development subject to Class 1 site plan review, and that does not involve a land use decision or limited land use decision, as those terms are defined in ORS 197.015.
  - (3) *Class 3 site plan review.* Class 3 site plan review is required for any development that requires a building permit, and that involves a land use decision or limited land use decision, as those terms are defined in ORS 197.015. As used in this ~~paragraph~~ subsection, land use decisions and limited land use decisions include, but are not limited to, any development application that:
    - (A) Requires a Transportation Impact Analysis pursuant to SRC chapter 803;
    - (B) Requires a geotechnical report or geologic assessment under SRC chapter 810, except where a geotechnical report or geologic assessment has already been approved for the property subject to the development application;
    - (C) Requires deviation from clear and objective development standards of the UDC relating to streets, driveways or vision clearance areas;
    - (D) Proposes dedication of right-of-way which is less than the requirements of the Salem Transportation System Plan;
    - (E) Requires deviation from the clear and objective standards of the UDC and where the Review Authority is granted the authority to use limited discretion in deviating from the standard; or

(F) Requires a variance, adjustment, or conditional use permit.

(c) *Procedure type.*

- (1) Class 1 site plan review is processed as a Type I procedure under SRC chapter 300.
- (2) Class 2 site plan review is processed as a Type I procedure under SRC chapter 300.
- (3) Class 3 site plan review is processed as a Type II procedure under SRC chapter 300.
- (4) An application for site plan review may be processed concurrently with an application for a building permit; provided, however, the building permit shall not be issued until site plan review approval has been granted.

(d) *Submittal requirements for Class 1 site plan review.* In lieu of the application submittal requirements under SRC chapter 300, an application for a Class 1 site plan review shall include a completed application form that shall contain the following information:

- (1) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
- (2) The address or location of the subject property and its assessor's map and tax lot number;
- (3) The size of the subject property;
- (4) The comprehensive plan designation and zoning of the subject property;
- (5) The type of application(s);
- (6) A brief description of the proposal; and
- (7) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).

(e) *Submittal requirements for Class 2 and Class 3 site plan review.*

- (1) *Class 2 site plan review.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for Class 2 site plan review shall include the following:

(A) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

- (i) The total site area, dimensions, and orientation relative to north;
- (ii) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveways, indicating distance from the structures and improvements to all property lines and adjacent on-site structures;
- (iii) Loading areas, if included in the proposed development;
- (iv) The size and location of solid waste and recyclables storage and collection areas, and amount of overhead clearance above such enclosures, if included in the proposed development;
- (v) An indication of future phases of development on the site, if applicable;
- (vi) All proposed landscape areas on the site, with an indication of square footage and their percentage of the total site area;
- (vii) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;
- (viii) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808;
- (ix) The location of all street trees, if applicable, or proposed location of street trees required to be planted at time of development pursuant to SRC chapter 86; and
- (x) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.



- (B) An existing conditions plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
    - (i) The total site area, dimensions, and orientation relative to north;
    - (ii) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines; and
    - (iii) The location of the 100-year floodplain, if applicable.
  - (C) A completed trip generation estimate for the proposed development, on forms provided by the City.
- (2) *Class 3 site plan review.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for Class 3 site plan review shall include the following:
- (A) All submittal requirements for a Class 2 site plan review under subsection (e)(1) of this section;
  - (B) The zoning district, comprehensive plan designation, and land uses for all properties abutting the site;
  - (C) Driveway locations, public and private streets, bike paths, transit stops, sidewalks, and other bike and pedestrian pathways, curbs, and easements;
  - (D) The elevation of the site at two-foot contour intervals, with specific identification of slopes in excess of 15 percent;
  - (E) The location of drainage patterns and drainage courses, if applicable;
  - (F) A preliminary utility plan showing capacity needs for municipal water, stormwater facilities, and sewer service, and schematic location of connection points to existing municipal water and sewer services;
  - (G) Summary table which includes site zoning designation; total site area; gross floor area by use (e.g., manufacturing, office, retail, storage); building height; itemized number of full size compact and handicapped parking stalls, and the collective total number; total lot coverage proposed, including areas to be paved for parking and sidewalks;
  - (H) A geological assessment or geotechnical report, if required by SRC chapter 810, or a certification from an engineering geologist or a geotechnical engineer that landslide risk on the site is low, and that there is no need for further landslide risk assessment; and
  - (I) A Transportation Impact Analysis, if required by SRC chapter 803.
- (f) *Criteria.*
- (1) *Class 1 site plan review.* An application for a Class 1 site plan review shall be granted if:
    - (A) The application involves only a change of use or a change of occupancy, and there is no pending application for an associated land use decision or limited land use decision;
    - (B) Only construction or improvements to the interior of the building or structure will be made;
    - (C) The new use or occupancy will not require exterior improvements to the building or structure or alteration to existing parking, landscaping, or bufferyards;
    - (D) Only clear and objective standards which do not require the exercise of discretion or legal judgment are applicable to the site plan review application; and
    - (E) The application meets all applicable standards of the UDC.
  - (2) *Class 2 site plan review.* An application for a Class 2 site plan review shall be granted if:
    - (A) Only clear and objective standards which do not require the exercise of discretion or legal judgment are applicable to the application.
    - (B) The application meets all the applicable standards of the UDC.
  - (3) *Class 3 site plan review.* An application for Class 3 site plan review shall be granted if:

- (A) The application meets all applicable standards of the UDC;
- (B) The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately;
- (C) Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians; and
- (D) The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.

(Prior Code, § 220.005; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 220.010. Modification of site plan review approval.**

(a) *Applicability.* A site plan review approval may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for site plan review.

(b) *Procedure type.* Modification of a site plan review approval is processed as a Type I procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for modification of a site plan review approval shall include the following:

- (1) For modification of a Class 1 site plan review approval, the information required under SRC 220.005(d);
- (2) For modification of a Class 2 site plan review approval, the information required under SRC 220.005(e)(1); and
- (3) For modification of a Class 3 site plan review approval, the information required under SRC 220.005(e)(2).

(d) *Criteria.*

- (1) Modification of a Class 1 or Class 2 site plan review approval shall be granted if the proposed modification will not result in significant changes to the physical appearance of the development, use of the site, and the impacts on surrounding properties.
- (2) Modification of a Class 3 site plan review approval shall be granted if all of the following criteria are met:
  - (A) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
  - (B) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

(e) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

(Prior Code, § 220.010; Ord. No. 12-12; Ord. No. 31-13)

**CHAPTERS 221—224. RESERVED**

## CHAPTER 225. DESIGN REVIEW

### **Sec. 225.001. Purpose.**

The purpose of this chapter is to create a process to review development applications that are subject to design review guidelines and design review standards.

(Prior Code, § 225.001; Ord. No. 12-12)

### **Sec. 225.005. Design review.**

(a) *Applicability.* Design review approval is required for development applications that are subject to design review standards and guidelines.

(b) *Classes.*

- (1) Class 1 design review is design review that requires the application of design review standards only.
- (2) Class 2 design review is design review that requires the application of design review guidelines, for projects that are limited to building alterations that will be contained within the footprint of the existing building and utilize the same building materials and same window and facade designs.
- (3) Class 3 design review is design review that requires the application of design review guidelines.
- (4) If any portion of the proposed development does not meet all of the applicable design review standards, the entire development shall be subject to Class 3 design review.

(c) *Procedure type.*

- (1) Class 1 design review is processed as a Type I procedure under SRC chapter 300.
- (2) Class 2 design review is processed as a Type II procedure under SRC chapter 300.
- (3) Class 3 design review is processed as a Type III procedure under SRC chapter 300.

(d) *Submittal requirements.*

- (1) *Submittal requirements for pre-application conference.* In addition to the submittal requirements for a pre-application conference under SRC chapter 300, an application for a Class 1, Class 2, or Class 3 design review pre-application conference shall include the following:

(A) An existing conditions plan showing:

- (i) Existing site conditions;
- (ii) The use of all adjacent buildings;
- (iii) The zoning of the site and adjacent properties;
- (iv) Topography of the site; and
- (v) Location of all trees and prominent landscape features.

(B) Schematic plans for the proposed development.

- (2) *Submittal requirements for Class 1, Class 2, and Class 3 design review.* In addition to the submittal requirements set forth under SRC chapter 300, an application for Class 1, Class 2, or Class 3 design review shall include the following:

(A) A proposed site plan showing:

- (i) The complete dimensions and setbacks of the lot, and all existing and proposed buildings and structures, including the location, size, height, proposed use, design, and gross floor area of each building.
- (ii) All existing and proposed walls and fences, including the location, height, type of design, and

composition.

- (iii) The location and design of the existing and proposed on-site pedestrian and vehicle circulation system.
- (iv) Locations and dimensions of all existing and proposed outdoor storage areas, including, but not limited to, trash collection and recycling areas.
- (B) Architectural drawings, renderings, or sketches showing all elevations of proposed buildings as they will appear on completion.
- (C) A landscape plan showing the location of natural features, trees, and plant materials proposed to be removed, retained, or planted; the amount, height, type, and location of landscaped areas, planting beds, and plant materials and provisions for irrigation.
- (D) A topographic survey and grading plan showing two-foot contour intervals on hillside lots and five-foot contour intervals on all other lots.
- (E) An open space plan showing locations of common and private open space, including active and passive recreational areas. The open space plan shall show the total area of individual classifications of proposed open space and shall be drawn to scale.
- (F) A statement as to whether the application is intended to meet the standards or the guidelines.

(e) *Criteria.*

- (1) A Class 1 design review shall be approved if all of the applicable design review standards are met.
- (2) A Class 2 or Class 3 design review shall be approved if all of the applicable design review guidelines are met.

(f) *Conditions of approval.* Notwithstanding SRC 300.820, the Review Authority may not attach conditions to a Class 1 design review approval.

(Prior Code, § 225.005; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 225.010. Modification of design review approval.**

(a) *Applicability.* A design review approval may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for design review.

(b) *Procedure type.*

- (1) Modification of a Class 1 design review approval is processed as a Type I procedure under SRC chapter 300.
- (2) Modification of a Class 2 design review approval is processed as a Type II procedure under SRC chapter 300.
- (3) Modification of a Class 3 design review approval is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.*

- (1) Modification of a Class 1 design review approval shall include, in addition to the submittal requirements for a Type I application under SRC chapter 300, the information required under SRC 225.005(d)(2).
- (2) Modification of a Class 2 or Class 3 design review approval shall include, in addition to the submittal requirements for a Type II application under SRC chapter 300, the information required under SRC 225.005(d)(2).

(d) *Criteria.*

- (1) Modification of a Class 1 design review approval shall be granted if the proposed modification meets all of the applicable design review standards.
- (2) Modification of a Class 2 or Class 3 design review approval shall be granted if all of the following criteria

are met:

- (A) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
- (B) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

(e) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

(Prior Code, § 225.010; Ord. No. 12-12; Ord. No. 31-13)

**CHAPTERS 226—229. RESERVED**

## CHAPTER 230. HISTORIC PRESERVATION

### **Sec. 230.001. Purpose.**

The purpose of this chapter is to identify, designate, and preserve significant properties related to the community's prehistory and history; encourage the rehabilitation and ongoing viability of historic buildings and structures; strengthen public support for historic preservation efforts within the community; foster civic pride; encourage cultural heritage tourism; and promote the continued productive use of recognized resources, and to implement the policies contained in the Salem Area Comprehensive Plan for the preservation of historic resources.

(Prior Code, § 230.001; Ord. No. 34-10)

### **Sec. 230.005. Definitions; rules of decision; administrative resources.**

(a) *Definitions.* ~~Unless the context specifically indicates otherwise, as used in this chapter, the following mean:~~ The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(2) ~~——~~ *Addition:* means an expansion or physical modification of the exterior of a historic resource that includes the expansion of the building footprint. Additions do not include painting and color selection or ordinary maintenance or repair of the resource.

(1) ~~——~~ *Alteration:* means a physical modification of the exterior of a historic resource that does not include an expansion of the building footprint. Alterations do not include painting, color selection, or ordinary maintenance or repair of the resource.

(3) ~~——~~ *Building:* means a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. The term "building" may refer to a historically related complex such as a courthouse and jail or a house and barn.

(6) ~~——~~ *Historic contributing building:* means a building or structure in a historic district that existed during the period of significance, and has retained sufficient integrity to convey the history of the district and to contribute to its character.

(5) ~~——~~ *Historic district:* means a geographically definable area containing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united historically or aesthetically by plan or physical development, and listed as a historic district in the National Register of Historic Places. A historic district may also comprise individual elements separated geographically but linked by association or history. Historic districts are defined by a period of significance. National Register District nominations for historic district designation are processed by the Oregon State Historic Preservation Office (SHPO) and reviewed by the State Advisory Committee on Historic Preservation (SACHP). The final decision for listing on the National Register of Historic Places is made by the National Park Service. Property owners within the proposed National Register Districts are notified by SHPO and have the opportunity to object. 36 CFR 60.6 provides that if 51 percent of owners object to the proposed district, the nomination cannot proceed to review by SACHP and the National Park Service. The Historic Landmarks Commission and ~~City~~ Council have the opportunity to comment and make recommendations on the nomination prior to review by SACHP.

(7) ~~——~~ *Historic non-contributing building:* means a building or structure in a historic district that existed during the period of significance, but has been so altered that it no longer conveys the history of the district or contributes to its character.

(8) ~~——~~ *Historic preservation:* means preservation, restoration, or rehabilitation of a historic resource.

(9) ~~——~~ *Historic resource:* means a historic contributing building, individually listed resource, a site or an object that is an individually listed resource or designated as a historic-contributing site or an object in a historic district.

(10) ~~——~~ *Individually listed resource:* means a building, structure, site, or object listed individually on the National Register of Historic Places or designated as a local historic resource by the ~~City~~ Council.



(11)——*Local historic resource*: means a building, structure, site, or object designated as a local historic resource pursuant to this chapter.

(12)——*New construction*: means a building or structure, other than an accessory structure, constructed on property within a historic district, or on property that is designated as a local historic resource, that is not attached to, or included as a portion of, an existing building or structure.

(13)——*Non-contributing building*: means a historic non-contributing building or a non-historic non-contributing building.

(14)——*Non-historic non-contributing building*: means a building or structure in a historic district that did not exist during the period of significance.

(15)——*Object*: means a material thing of functional, aesthetic, cultural, historic or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(16)——*Original*: means the component was constructed on or added to the building during the period of significance.

(17)——*Period of significance*: means the dates stated in the official designation of a historic district by the National Parks Service that identifies the period or periods of time when geographic area attained the characteristics which qualify the area for designation as a historic district.

(4)——*Primary facade*: means that part of a historic resource where the main entry is located. On a corner lot each wall fronting the street shall be considered a primary facade.

(18)——*Property pending designation*: means a building, structure, site, or object for which a formal application for local historic designation has been initiated, or which has been recommended for nomination to the National Register of Historic Places by SACHP, or a building, structure, site, or object within a proposed historic district for which a formal application for historic designation has been submitted, but which have not yet been reviewed by the Keeper of the National Register, or has been reviewed by the Keeper and determined to be "eligible."

(19)——*Preservation*: means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic resource. Work, including preliminary measures to protect and stabilize the resource, generally focuses on the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not considered preservation; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(20)——*Public agency*: means the State of Oregon, and all the administrative subdivisions thereof, including, but not limited to, the Oregon Department of Administrative Services.

(21)——*Public historic resource*: means a historic resource that is owned by a public agency.

(24)——*Reconstruction*: means the act or process of depicting, by means of new construction, the form, features, or detailing of a non-surviving building, or structure for the purpose of replicating its appearance at a specific period of time and in its historic location.

(23)——*Rehabilitation*: means the process of making possible a compatible use for a historic-contributing resource or individually listed resource through repair, alterations, and additions, while preserving those portions or features which convey its historical, cultural, or architectural values.

(22)——*Restoration*: means the act or process of accurately depicting the form, features, and character of a historic-contributing resource or historic-non-contributing resource as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(25)——*SHPO*: means the Oregon State Historic Preservation Office.

~~(26)~~——*Site*: means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

~~(27)~~——*Structure*: means a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by humans, a structure is often an engineering project large in scale.

~~(28)~~——*Visible*: means the resource, or a portion of the resource, can be seen from the public right-of-way. For example, typically the primary facade of a historic resource can be seen from the public right-of-way.

(b) *Supplemental standards and guidelines for historic design review.* In the event the standards and guidelines contained in this chapter fail to provide regulations for a specific type of historic resource, the rules of the decision will be the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, published by the U.S. Department of the Interior, National Park Service.

(c) *Authority to promulgate guidelines.* The Director may, upon consultation with the Historic Landmarks Commission, promulgate illustrative guidelines to provide general guidance to interested persons on the application of the standards in this chapter.

(Prior Code, § 230.005; Ord. No. 34-10; Ord. No. 25-13; Ord. No. 32-13)

### **Sec. 230.010. Designation of local historic resources.**

(a) *Applicability.* Buildings, structures, sites, or objects may be designated as local historic resources as provided in this section.

(b) *Procedure type.* Designation of a local historic resource is processed as a Type IV procedure under SRC chapter 300.

(c) *Standing to request designation.*

(1) Local historic resource designation may be initiated by the following:

(A) The ~~City~~ Council;

(B) The Historic Landmarks Commission; or

(C) The owner of the proposed resource.

(2) Any person may file a request with the ~~City~~ Council or the Historic Landmarks Commission for initiation of the designation of a local historic resource, provided the proposed resource is not the subject of a pending application for alteration or demolition.

(d) *Additional submittal requirements.* In addition to the submittal requirements for a Type IV application under SRC chapter 300, an application for local historic resource designation shall include:

(1) Narrative description of the proposed resource including:

(A) Significant features of the site to be covered by the designation; and

(B) Significant people and events connected with the proposed resource.

(2) Site plan;

(3) Current photographs of all elevations of the building or structure and any significant feature;

(4) Copies of any historical photographs, plans, or maps; and

(5) Any other documentation demonstrating the significance of the proposed resource.

(e) *Criteria.* An application for the designation of a local historic resource shall be granted if the following criteria are met:

(1) *Age.* The proposed historic resource is at least 50 years old, or demonstrates exceptional significance if less than 50 years of age.

(2) *Significance.* The proposed historic resource demonstrates significance in at least one of the following areas:

- (A) *Cultural significance.* The proposed historic resource:
  - (i) Contributes to the character and historic identity of the neighborhood or City; or
  - (ii) Makes a contribution to the historic character of a historic resource, neighborhood, district, or the City as a whole.
- (B) *Human significance.* The proposed historic resource:
  - (i) Is associated historically with the life or activities of a person, group, organization or institution that has made a significant contribution to the local community; or
  - (ii) Is associated with events that have made a significant contribution to the broad patterns of local history; or
  - (iii) Has yielded, or may be likely to yield, important information concerning prehistory or history.
- (C) *Architectural significance.* The proposed historic resource:
  - (i) Is significant as an example of a particular architectural style, building type, structural type, or method of construction; or
  - (ii) Is the work of an acknowledged master or architect, or possesses high artistic values.
- (3) *Integrity.* The proposed historic resource retains sufficient original design characteristics, craft work, or material to serve as an example of an architectural period, significant building type or structural type, or recognized architectural style.

(f) *Owner consent.* A property owner may refuse to consent to local historic resource designation at any point during the designation process. A refusal to consent shall remove the property from consideration for local historic resource designation. No permit for the demolition or modification of property removed from consideration for local historic resource designation shall be issued for 120 days following the date of the property owner's refusal to consent to local historic resource designation.

(Prior Code, § 230.010; Ord. No. 34-10)

#### **Sec. 230.015. Removal of local historic resource designation.**

(a) *Applicability.* Buildings, structures, sites, or objects may have local historic resource designation removed, as provided in this section.

(b) *Classes.*

- (1) "Class 1" historic resource designation removal is the removal of a local historic resource designation applied prior to September 9, 1995.
- (2) "Class 2" historic resource designation removal is the removal of a local historic resource designation applied subsequent to September 9, 1995.

(c) *Procedure type.*

- (1) Class 1 historic resource designation removal is processed as a Type I procedure under SRC chapter 300.
- (2) Class 2 historic resource designation removal is processed as a Type IV procedure under SRC chapter 300.

(d) *Standing to initiate removal.*

- (1) Removal of local historic resource designation may be initiated by the following:

- (A) The ~~City~~ Council;
- (B) The Historic Landmarks Commission; or
- (C) The owner of the local historic resource.

(e) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for removal of local historic resource designation shall include:

- (1) Narrative description of the resource proposed for delisting including:
  - (A) Significant features of the site covered by the designation; and
  - (B) An evaluation of the current integrity of the resource including an assessment of the amount of remaining original design characteristics, craft work and material.
- (2) Site plan;
- (3) Current photographs of all elevations of the building or structure and any significant feature;
- (4) Documentation demonstrating that the owner objected to the original designation if applicable;
- (5) Any other documentation demonstrating that the resource proposed for delisting no longer meets the requirements of SRC 230.010(d).
- (f) *Criteria.* An application for removal of local historic resource designation shall be granted if the following criteria are met:
  - (1) For a Class 2 historic resource designation removal, the property no longer meets the criteria for local historic resource designation under SRC 230.010(d).
  - (2) For a Class 1 historic resource designation removal:
    - (A) The local historic resource designation that was imposed on the property by the City over the owner's objections; or
    - (B) The property no longer meets the criteria for local historic resource designation under SRC 230.010(d).

(Prior Code, § 230.015; Ord. No. 34-10)

#### **Sec. 230.017. Recording notice of historic district.**

The Director shall cause to be recorded in the docket of City liens created pursuant to SRC 21.060 a notice of historic district for each property where any portion of the property lies within the historic district. The recording of such notice shall not create, and shall not be deemed to create, a lien or other encumbrance on such property.

(Prior Code, § 230.017; Ord. No. 25-13)

#### **Sec. 230.018. Public historic design review jurisdiction.**

The City of Salem has jurisdiction over historic design review for all public historic resources. If the public agency is the State of Oregon, or any administrative subdivision of the State of Oregon, the public agency may enter into a program with SHPO for the conservation of the historic resource pursuant to ORS 358.653, in which case historic design review for that historic resource is exempted from this chapter; provided, however, that such program complies with Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, published by the U.S. Department of the Interior, National Parks Service, and the public agency provides the Director with notice of such election, no later than the date the contract for construction is advertised for bids.

(Prior Code, § 230.018; Ord. No. 25-13)

#### **Sec. 230.020. Historic design review.**

(a) *Applicability.* Unless undertaken by a public agency pursuant to a program established between the public agency and SHPO under ORS 358.653, no exterior portion of a historic resource, non-contributing building, or new construction in a historic district shall be erected, altered, restored, moved or demolished until historic review approval has been granted, as provided in this section.

- (1) *Historic design review required.* Historic design review is required for the following:
  - (A) Remodeling or repair that would change, in any manner, the exterior of a historic resource or a building or structure in a historic district, but excluding painting.
  - (B) Moving a historic resource, or moving a building or structure into or out of a historic district.
  - (C) Construction of a new building in a historic district.

- (D) Alteration of, or addition to, a historic resource, or to a non-contributing building in a historic district.
  - (E) Construction of new walks, fences, parking facilities, and other features on the site of a historic resource, when adjacent to or within view of public right-of-way.
  - (F) Demolition of a historic resource.
  - (G) Streetscape improvements in historic districts.
- (2) Historic design review not required. Historic design review is not required for the following:
- (A) Ordinary maintenance or repair of any exterior architectural feature of a historic resource or non-contributing building in a historic district to correct deterioration, decay, or damage, or to sustain the existing form. By way of illustration, but not of limitation, ordinary maintenance and repair includes replacement of cracked or broken window panes; surface treatment that is consistent with accepted historic preservation methods; replacement of broken hardware; repair of a portion of a window frame or sash, part of a roof or a small percentage of siding.
  - (B) Change in paint color of a historic resource or a non-contributing building in a historic district.
  - (C) Work conducted entirely within the interior of a historic resource or non-contributing building in a historic district which has no effect on exterior architectural features.
- (3) *Buildings partially within and partially without historic districts.* Where addition or alteration to the exterior of a historic contributing resource or non-contributing building in a historic district, or construction of a new building in a historic district, will occur partially inside and partially outside of the district boundaries, historic design review is required for that portion of the building that is within the district and, if the majority of the area of the building is inside the historic district, for that portion of the building that is not within the historic district.
- (4) *Relationship to other land use reviews.* Projects that require historic design review may also require other land use reviews. If other land use reviews are requirements for development, such reviews shall be held prior to or concurrently with historic design review.
- (b) *Objectives.* The standards in this chapter shall be construed to do the following:
- (1) *Historic contributing buildings and individually listed resources.* Historic contributing buildings and individually listed resources are valuable community resources that contribute immeasurably to the City's identity, history, unique sense of place, and quality of life. Preserving these buildings and resources involves careful planning, conscientious maintenance and repair, knowledgeable and informed restoration, and sensitive rehabilitation that accommodates modern business and residential lifestyles. The standards set forth in this chapter for historic contributing buildings and individually listed resources are intended to preserve and enhance the buildings, resources and districts generally, while allowing for adaptive reuse through sensitive rehabilitation of these buildings and resources.
  - (2) *Non-contributing buildings.* Some buildings and structures in a historic district are non-contributing. These buildings and structures typically do not contribute to the district's historic significance because they either date from outside the district's period of significance or their historic significance has been materially impaired by additions and alterations. The standards set forth in this chapter for non-contributing buildings and structures do not require restoration to their original appearance or require imitation of the appearance of a historic contributing building or structure; rather, the objectives are two-fold. First, the objective for historic non-contributing is to return, when feasible, these buildings to a historic contributing state. Second, the objective for all non-contributing buildings is to maintain the visual coherence of the historic district as a whole.
  - (3) *New construction.* New buildings and structures will be built in historic districts. These new buildings and structures should enhance, rather than detract, from the overall character of the district. It is crucial that the existing harmony of proportions and materials be enhanced when new construction occurs. Therefore, the objective of the standards set forth in this chapter for new construction is to ensure that the design and construction of new buildings and structures is consistent and compatible with the

architectural styles of historic contributing buildings that are found in the district.

(c) *Classes.* Historic design review is either “minor” or “major.” Table 230-1 and Table 230-2 set forth the activities that are minor and major historic design review. Notwithstanding Table 230-1 and 230-2, any activity proposed that is not covered by the table or does not meet the specific standards set forth for historic contributing buildings in SRC 230.025, 230.040 and 230.061; or for non-contributing buildings and structures the standards set forth in SRC 230.030, 230.045 and 230.063 of this section requires major historic design review.

**TABLE 230-1. HISTORIC DESIGN REVIEW BY REVIEW CLASS**

Activity Proposed	Review Class					
	Historic Contributing			Non-Contributing		
	Visible	Not Visible	Applicable Code Section	Visible	Not Visible	Applicable Code Section
<b>Residential Historic Districts</b>						
Alterations and additions	Major	Minor	230.025(g)	Major	Minor	230.030(g)
Deck replacement and additions	Major	Minor	230.025(h)	Minor	N/A	230.030(h)
Door replacement	Major	Minor	230.065 230.025(c)	Minor	N/A	230.070 230.030(c)
Door replacement (in-kind)	Minor	Minor	230.025(c)	Minor	N/A	230.030(c)
Fences	Major	Minor	230.025(j)	Minor	N/A	230.030(j)
New accessory structures	Major	Minor	230.025(i)	Major	Minor	230.030(i)
Porch replacement	Major	Minor	230.065 230.025(d)	Minor	N/A	230.070 230.030(d)
Porch replacement (in-kind)	Minor	Minor	230.025(d)	Minor	N/A	230.030(d)
Restoration of missing features	Major	Minor	230.025(f)	Minor	N/A	230.030(f)
Retaining walls	Major	Minor	230.025(k)	Minor	N/A	230.030(k)
Roof replacement	Minor	Minor	230.065 230.025(e)	Minor	N/A	230.070 230.030(e)
Roof replacement (in-kind)	N/A	N/A	230.025(e)	N/A	N/A	230.030(e)
Siding, exterior trim and minor architectural features replacement	Major	Minor	230.065 230.025(a)	Minor	N/A	230.070 230.030(a)
Siding, exterior trim and minor architectural features replacement (in-kind)	Minor	Minor	230.025(a)	Minor	N/A	230.030(a)
Site features replacement	Major	Minor	230.065 230.025(l)	Minor	N/A	230.070 230.030(l) <u>230.025(l)</u>
Site features replacement (in-kind)	Minor	Minor	230.025(l)	Minor	N/A	230.030(l) <u>230.025(l)</u>

**TABLE 230-1. HISTORIC DESIGN REVIEW BY REVIEW CLASS**

Activity Proposed	Review Class					
	Historic Contributing			Non-Contributing		
	Visible	Not Visible	Applicable Code Section	Visible	Not Visible	Applicable Code Section
Streetscape	Minor	-----	230.075	Minor	-----	230.075
Window replacement	Major	Minor	230.065 230.025(b)	Minor	N/A	230.070 230.030(b)
Window replacement (in-kind)	Minor	Minor	230.025(b)	Minor	N/A	230.030(b)
<b>Commercial Historic Districts</b>						
Accessibility alterations and additions	Major	Minor	230.040(h)	Minor	N/A	230.045(h)
Alterations and additions	Major	Minor	230.040(f)	Major	Minor	230.045(g)
Awnings and canopies replacement or installation	Major	Minor	230.040(k)	Minor	Minor	230.045(k)
Awnings and canopies replacement or installation (in-kind)	Minor	Minor	230.040(k)	Minor	N/A	230.045(k)
Door replacement	Major	Minor	230.065 230.040(c)	Minor	N/A	230.070 230.045(c)
Door replacement (in-kind)	Minor	Minor	230.040(c)	Minor	N/A	230.045(c)
Energy	Major	Minor	<u>230.040(i)</u>	Minor	N/A	<u>230.045(i)</u>
Lintels, architraves, sills, and other architectural details replacement	Major	Minor	230.065 230.040(g)	Minor	N/A	230.070 230.045(f)
Lintels, architraves, sills, and other architectural details replacement (in-kind)	Minor	Minor	230.040( <del>f</del> ) (g)	Minor	N/A	230.045( <del>g</del> ) (f)
Masonry, siding, and exterior trim replacement	Major	Minor	230.065 230.040(a)	Minor	N/A	230.070 230.045(a)
Masonry, siding, and exterior trim replacement (in-kind)	Minor	Minor	230.040(a)	Minor	N/A	230.045(a)
Mechanical equipment and service areas addition and replacement	Major	Minor	230.065 230.040(j)	Minor	N/A	230.070 230.045(j)
Murals	Major	Minor	230.055	Major	N/A	230.055
Roof and cornice replacement	Major	Minor	230.065 230.040(e)	Minor	N/A	230.070 230.045(e)
Roof and cornice replacement (in-kind)	N/A	N/A	230.040(e)	N/A	N/A	230.045(e)
Storefront, or component of storefront, replacement	Major	Minor	230.065 230.040(d)	Minor	N/A	230.070 230.045(d)

**TABLE 230-1. HISTORIC DESIGN REVIEW BY REVIEW CLASS**

Activity Proposed	Review Class					
	Historic Contributing			Non-Contributing		
	Visible	Not Visible	Applicable Code Section	Visible	Not Visible	Applicable Code Section
Storefront, or component of storefront, replacement (in-kind)	Major	Minor	230.040(d)	Minor	N/A	230.045(d)
Streetscape	Minor	-----	230.075	Minor	-----	230.075
Window replacement	Major	Minor	230.065 230.040(b)	Minor	N/A	230.070 230.045(b)
Window replacement (in-kind)	Minor	Minor	230.040(b)	Minor	N/A	230.045(b)
<b>Individually Listed Historic Resources</b>						
Any activity proposed	Follows review class for historic contributing buildings for the type of resource					
Activity Proposed (New Construction)	Review Class					
	Visible		Not Visible		Applicable Code Section	
Residential historic districts	Major		Major		230.035	
Commercial historic districts	Major		Major		230.050	

**TABLE 230-2. PUBLIC HISTORIC DESIGN REVIEW BY REVIEW CLASS**

Activity Proposed	Review Class					
	Historic Contributing			Non-Contributing		
	Primary Facade	Secondary Facade	Applicable Code Section	Primary Facade	Secondary Facade	Applicable Code Section
<b>Public Historic District</b>						
Accessibility alterations and additions	Major	Minor	230.060(j)	Minor	N/A	230.063 (j)
Alterations and additions	Major	Minor	230.060(g)	Major	Minor	230.063 (g)
Awnings and canopies replacement or installation	Major	Minor	230.060(m)	Minor	Minor	230.063 (m)
Awnings and canopies replacement or installation	Minor	Minor	230.060(m)	Minor	N/A	230.063 (m)



**TABLE 230-2. PUBLIC HISTORIC DESIGN REVIEW BY REVIEW CLASS**

Activity Proposed	Review Class					
	Historic Contributing			Non-Contributing		
	Primary Facade	Secondary Facade	Applicable Code Section	Primary Facade	Secondary Facade	Applicable Code Section
(in-kind)						
Decks replacement and additions	Major	Minor	230.060(h)	Minor	N/A	230.063(h)
Door replacement	Major	Minor	230.060(c)	Minor	N/A	230.063(c)
Door replacement (in-kind)	Minor	Minor	230.060(c)	Minor	N/A	230.063(c)
Energy	Major	Minor	230.060(k)	Minor	N/A	230.063(k)
Fences	Major	Minor	230.060(o)	Minor	N/A	230.063(o)
Lintels, architraves, sills, and other architectural details replacement	Major	Minor	230.060(i)	Minor	N/A	230.063(i)
Lintels, architraves, sills, and other architectural details replacement (in-kind)	Minor	Minor	230.060(i)	Minor	N/A	230.063(i)
Masonry, siding, and exterior trim replacement details replacement	Major	Minor	230.060(a)	Minor	N/A	230.063(a)
Masonry, siding, and exterior trim replacement details replacement (in-kind)	Minor	Minor	230.060(a)	Minor	N/A	230.063(a)
Mechanical equipment and service areas addition and replacement	Major	Minor	230.060(l)	Minor	N/A	230.063(l)
Signs	Major	Minor	230.062	Major	N/A	<del>230.064-062</del>
New accessory structures	Major	Minor	230.060(n)	Major	Minor	230.063(n)
Porch replacement	Major	Minor	230.060(d)	Minor	N/A	230.063(d)
Porch replacement (in-kind)	Minor	Minor	230.060(d)	Minor	N/A	230.063(d)
Restoration of missing features	Major	Minor	230.060(f)	Minor	N/A	230.063(f)
Retaining walls	Major	Minor	230.060(p)	Minor	N/A	230.063(p)
Roof and cornice replacement	Minor	Minor	230.060(e)	N/A	N/A	230.063(e)
Roof and cornice replacement (in-kind)	N/A	N/A	230.060(e)	N/A	N/A	230.063(e)
Site features replacement	Major	Minor	230.060(q)	Minor	N/A	230.063(q)

**TABLE 230-2. PUBLIC HISTORIC DESIGN REVIEW BY REVIEW CLASS**

Activity Proposed	Review Class					
	Historic Contributing			Non-Contributing		
	Primary Facade	Secondary Facade	Applicable Code Section	Primary Facade	Secondary Facade	Applicable Code Section
Site features replacement (in-kind)	Minor	Minor	230.060(q)	Minor	N/A	230.063(q)
Streetscape	Minor	-----	230.075	Minor	-----	230.075
Window replacement	Major	Minor	230.060(b)	Minor	N/A	230.063(b)
Window replacement (in-kind)	Minor	Minor	230.060(b)	Minor	N/A	230.063(b)

(d) *Procedure type.*

- (1) Minor historic design review is processed as a Type I procedure under SRC chapter 300.
- (2) Major historic design review is processed as a Type III procedure under SRC chapter 300.

(e) *Additional submittal requirements.*

- (1) In addition to the submittal requirements specified in SRC chapter 300, an application for minor historic design review shall include the following:
  - (A) Plan and elevation drawings, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, of the existing building or structure and of the proposed changes, including materials;
  - (B) Photos of the existing building or structure; and
  - (C) Historic photos of the existing building or structure, if available.
- (2) In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for major historic design review shall include the following:
  - (A) Plan and elevation drawings of the existing building or structure and of the proposed changes, including materials;
  - (B) Photos of the existing building or structure;
  - (C) Historic photos, if available; and
  - (D) Plan and elevation drawings of adjacent properties, or photo-simulation, for additions that increase the gross square footage of the structure by more than 50 percent, or new construction in a historic district.

(f) *Criteria.* Historic design review approval shall be granted if the application satisfied the applicable standards set forth in this chapter.

(Prior Code, § 230.020; Ord. No. 34-10; Ord. No. 25-13)

**Sec. 230.025. Standards for historic contributing buildings in residential historic districts.**

Modifications to historic contributing buildings in residential historic districts shall comply with this section.

- (a) *Siding, exterior trim and minor architectural features.* Replacement of siding, exterior trim, and minor architectural features of historic contributing buildings shall be allowed only where the owner has attempted to repair the original siding, exterior trim or minor architectural feature, but repair was determined to be unfeasible due to poor condition of the original materials. If the trim or siding is not

original then every effort shall be made to replicate the original trim or siding; the effort shall be substantiated by historic, physical, or pictorial evidence. If the trim and siding cannot be replicated then it should be of a compatible design and material.

- (1) *Materials.* The replacement materials are the same type and quality as the original siding, exterior trim or minor architectural feature, or duplicate, to the greatest degree possible, the appearance and structural qualities of the material being replaced.
  - (2) *Design.* The replacement reproduces the appearance of the original siding, exterior trim or minor architectural feature.
  - (3) *Energy efficiency.* Improvements to improve energy efficiency are allowed, provided the exterior appearance of the historic resource is preserved to the greatest extent possible. Example: Adding additional insulation to attics, crawl spaces or basements.
- (b) *Windows.* Replacement of windows in historic contributing buildings shall be allowed only where the owner has attempted to repair the original window, but repair was not feasible due to the poor condition of the original materials. If the window is not original then every effort shall be made to replicate the original window; the effort shall be substantiated by historic, physical, or pictorial evidence. If the window cannot be replicated then it should be of a compatible design and material.
- (1) *Materials.* All features of the window, including the window frame, sash, stiles, rails, muntins, lamb's tongues and glass, are replaced with materials that duplicate, to the greatest degree possible, the appearance and structural qualities of the original.
  - (2) *Design.* Overall design of the window profile of all parts of the window shall reproduce the appearance of the original window.
  - (3) *Improvements to create energy efficiency.*
    - (A) The use of weather-stripping, insulation, or materials to either repair or improve the energy efficiency of shall be evaluated as means to achieve the desired energy efficiency objectives prior to seeking authorization to replace a window.
    - (B) If an owner wishes to improve the energy efficiency of windows located on the primary facade, only energy efficiency measures that are removable and do not permanently alter the resource, including, but not limited to, exterior storm windows and weather-stripping, shall be used on the primary facade.
    - (C) If an owner wishes to improve the energy efficiency of windows located on a facade other than the primary facade, measures that are removable and do not permanently alter the resource, including, but not limited to, exterior storm windows and weather-stripping, shall be used. Reuse of the original window frame and sash with replacement by glass that maintains the overall design and appearance of the window is allowed. Example: Replacement of single-pane glass with new energy efficient double-paned glass is permissible, so long as the window is in satisfactory condition, muntins are wide enough to hold the double-paned glass, the double-paned glass can be inserted into the original window sash, there are only minor alterations to the overall design of the window, and the double-paned glass is not visibly tinted or reflective.
- (c) *Doors.* Replacement of doors in historic contributing buildings shall be allowed only where the owner has attempted to repair the original door, but repair was not feasible due to the poor condition of the original materials. If the doors are not original then every effort shall be made to replicate the original doors; the effort shall be substantiated by historic, physical, or pictorial evidence. If the door cannot be replicated then it should be of a compatible design and material.
- (1) *Materials.* All features of the door shall be replaced with material that duplicate, to the greatest degree possible, the appearance and structural qualities of the original door.
  - (2) *Design.* The overall design of the door shall reproduce, to the greatest degree possible, the appearance of the original door.

- (d) *Porches.* Replacement of porches on historic contributing buildings shall be allowed only where the owner has attempted to repair the original porch, but repair was not feasible due to the poor condition of the original materials. If the porch is not original then every effort shall be made to replicate the original porch; the effort shall be substantiated by historic, physical, or pictorial evidence. If the porch cannot be replicated then it should be of a compatible design and material.
  - (1) *Materials.* All features of the porch shall be replaced with material that duplicate, to the greatest degree possible, the appearance and structural qualities of the original porch.
  - (2) *Design.* The overall design of the porch shall reproduce, to the greatest degree possible, the appearance of the original porch.
- (e) *Roofs.* Replacement of roofs on historic contributing buildings shall be allowed only where the owner has attempted to repair the original roof, but repair was not feasible due to the poor condition of the original materials.
  - (1) *Materials.*
    - (A) Historic specialty roofing materials, such as original tile, slate, or rolled composition roofing should be maintained in place whenever possible.
    - (B) New roof materials should match the original materials in scale and texture as closely as possible. Use of plastic or concrete simulated materials is not allowed.
    - (C) Composition roofing is allowed as a substitute for wood shingles in a complete replacement.
    - (D) Imitation slate and wood are allowed as a substitute for original materials in a complete replacement.
  - (2) *Design.*
    - (A) The original roof form and detailing shall be preserved.
    - (B) Original eave overhangs shall be maintained.
    - (C) Cutting back roof rafters and soffits, boxing in exposed rafter tails, adding fascia boards where none existed, or otherwise altering the historical roof overhang is not allowed.
    - (D) To the extent feasible, inappropriate repairs or additions should be removed or corrected.
  - (3) *Solar panels, rooftop mechanical devices, and skylights.* Solar panels and other rooftop mechanical structures may be added to historic contributing buildings.
    - (A) *Materials.*
      - (i) Non-reflective glass and metal panels are allowed.
      - (ii) Reflective glass and plastic frames are prohibited.
    - (B) *Design.*
      - (i) Solar panels shall not alter the existing profile of the roof, and shall be mounted parallel to the roof plane on rear-facing roofs or placed on the ground in an inconspicuous location.
      - (ii) Satellite dishes, TV antennae and other rooftop mechanical structures shall be installed so they are not visible from the street and do not damage or obscure significant architectural features of the resource.
      - (iii) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.
- (f) *Missing features.* Features that were present on a historic contributing building during the period of significance but which were later removed may be reconstructed.
  - (1) *Materials.* Materials used in the replacement shall match as closely as practicable the composition, design, texture, and other visual qualities of the materials of the missing feature.

- (2) *Design*. The design accurately duplicates the missing feature. The design shall be substantiated by historic, physical, or pictorial evidence. Evidence does not include conjectural designs, or the appearance of features or different elements from other buildings or structures built during the period of significance.
- (g) *Alterations and additions*. Additions to and alterations of the historic contributing building is allowed.
  - (1) *Materials*. Materials for alterations or additions:
    - (A) Building materials shall be of traditional dimensions.
    - (B) Material shall be of the same type, quality and finish as original material in the building.
    - (C) New masonry added to a building shall, to the greatest extent feasible, match the color, texture and bonding pattern of the original masonry.
    - (D) For those areas where original material must be disturbed, original material shall be retained to the maximum extent possible.
  - (2) *Design*. Alterations or additions shall:
    - (A) Be located at the rear, or on an inconspicuous side, of the building.
    - (B) Be designed and constructed to minimize changes to the building.
    - (C) Be limited in size and scale such that a harmonious relationship is created in relationship to the original building.
    - (D) Be designed and constructed in a manner that significant historical, architectural or cultural features of the building are not obscured, damaged, or destroyed.
    - (E) Be designed to be compatible with the size, scale, material, and character of the building, and the district generally.
    - (F) Not destroy or adversely impact existing distinctive materials, features, finishes and construction techniques or examples of craftsmanship that are part of the building
    - (G) Be constructed with the least possible loss of historic materials.
    - (H) Not create a false sense of historical development by including features that would appear to have been part of the building during the period of significance but whose existence is not supported by historical evidence shall not be added to the building.
    - (I) Be designed in a manner that makes it clear what is original to the building, and what is new.
    - (J) Be designed to reflect, but not replicate, the architectural styles of the period of significance.
    - (K) Preserve features of the building that has occurred over time and has attained significance in its own right.
    - (L) Preserve distinguishing original qualities of the building and its site.
- (h) *Decks*. Replacement and addition of decks in historic contributing buildings is allowed.
  - (1) *Materials*. The deck shall be constructed of wood, a wood composite, or a material available during the period of significance.
  - (2) *Design*. The deck shall:
    - (A) Be located off the rear of the resource.
    - (B) Not obscure any significant architectural features of the resource.
    - (C) Be of a reasonable size and scale in relationship to the resource.
    - (D) Shall not extend beyond the width of the existing footprint of the resource.
- (i) *New accessory structures*. New accessory structures may be built on the site of historic contributing buildings.

- (1) *Materials*. New accessory structures shall have the same siding material as the resource on the site.
- (2) *Design*. New accessory structures shall:
  - (A) Be located at the rear of the site.
  - (B) Be no taller than one story.
  - (C) Be similar in character to those built during the period of significance.
  - (D) Be subordinate to the primary structure in terms of mass, size, and height.
- (j) *Fences*. Fences may be added to sites of historic contributing buildings, provided the fence will not result in the removal or destruction of site features identified as significant on the historic resource inventory for the district.
  - (1) *Materials*. The fence shall be constructed of traditional materials that were available during the period of significance.
  - (2) *Design*. Fences shall be no taller than four feet in the front yard and no taller than six feet inside and rear yards.
- (k) *Retaining walls*. Retaining walls may be added to sites of historic contributing buildings, provided the retaining wall will not result in the removal or destruction of site features identified as significant on the historic resource inventory for the district.
  - (1) *Materials*. The retaining wall shall be constructed of traditional materials that were available during the period of significance. Example: If the period of significance is 1920-1940 the materials that were available included, but were not limited to, rusticated stone, formed concrete, poured concrete, and brick.
  - (2) *Design*. Retaining walls shall be no taller than two feet in the front and four feet on the side and rear yard.
- (l) *Site features*. Replacement or alteration of site features of a historic contributing building that are identified as significant features on the historic resource inventory for the district, including, but not limited to, driveways, sidewalks, gardens, significant trees, or geological features is allowed, unless the replacement or alteration would materially alter or destroy the features.
  - (1) *Materials*. Materials shall duplicate, to the greatest degree possible, the appearance and physical qualities of the original materials. Example: Rhododendron hedge planted during the period of significance is replanted with heritage varieties available during the period of significance.
  - (2) *Design*. The design shall reproduce, to the greatest extent possible, the appearance of the original site feature. Example: If the site contains a Lord and Schryver garden, the replacements shall be allowed provided the original design and location of plantings of the historical garden are retained.

(Prior Code, § 230.025; Ord. No. 34-10)

**Sec. 230.030. Standards for non-contributing buildings and structures in residential historic districts.**

Modifications to non-contributing buildings in residential historic districts shall comply with this section.

- (a) *Siding, exterior trim and minor architectural features*. Replacement of siding, exterior trim and minor architectural features of non-contributing buildings in residential historic districts is allowed.
  - (1) *Materials*.
    - (A) Building materials shall be of traditional dimensions.
    - (B) Replacement materials shall duplicate, to the greatest degree possible, appearance and structural qualities that are consistent with building materials on buildings in the district.
    - (C) Wood lap, shingles, brick, and stone are appropriate materials.
    - (D) Alternative materials shall appear similar in scale, proportion, texture and finish with buildings in the district.

- (2) *Design.*
  - (A) Elements should be similar in dimension, design, and pattern to those used on buildings in the district.
  - (B) Extensive use of glass, polished or galvanized metal or other highly-reflective material as a primary exterior finish is not allowed.
  - (C) Ornamental details shall be minimized.
  - (D) Use architectural detail that is generally seen in the district.
- (3) *Improvements to create energy efficiency.* If an owner wishes to improve the energy efficiency of a non-contributing building, the exterior appearance shall be preserved to the greatest degree possible. Example: Adding additional insulation to attics, crawl spaces or basements.
- (b) *Windows.* Replacement of windows in non-contributing buildings is allowed.
  - (1) *Materials.* The replacement window shall be constructed with materials that duplicate, to the greatest degree possible, an appearance and structural qualities consistent with windows in buildings in the district.
  - (2) *Design.*
    - (A) Window openings shall maintain a similar size to the existing windows in the building.
    - (B) Window styles and types shall be similar to the styles and types of buildings in the district.
    - (C) Windows should be simple in shape, arrangement, and detail.
    - (D) Windows shall be finished with trim elements in a manner consistent with buildings in the district.
    - (E) The number of different window styles in the building shall be limited.
  - (3) *Improvements to create energy efficiency.*
    - (A) The use of weather-stripping, insulation, or materials to either repair or improve the energy efficiency of shall be evaluated as means to achieve the desired energy efficiency objectives prior to seeking authorization to replace a window.
    - (B) If an owner wishes to improve the energy efficiency of windows located on the primary facade, only energy efficiency measures shall that are removable and do not permanently alter the resource, including, but not limited to, exterior storm windows and weather-stripping shall be used on the primary facade.
    - (C) If an owner wishes to improve the energy efficiency of windows located on other than the primary facade, measures that are removable and do not permanently alter the resource, including, but not limited to, exterior storm windows and weather-stripping, and to reuse the original window frame and sash with replacement by energy efficient glass that maintains the overall design and appearance of the window are allowed. Example: Replacement of single-pane glass with new energy efficient double-paned glass is permissible, so long as the window is in satisfactory condition, muntins are wide enough to hold the double-paned glass, the double-paned glass can be inserted into the original window sash, there are only minor alterations to the overall design of the window, and the double-paned glass is not visibly tinted or reflective.
- (c) *Doors.* Replacement of doors in non-contributing buildings is allowed.
  - (1) *Materials.* The replacement door shall be constructed with materials that duplicate, to the greatest degree possible, the appearance and structural qualities consistent with doors in buildings in the district.
  - (2) *Design.*
    - (A) Door openings shall maintain a similar size to the existing doors in the building.

- (B) Door styles and types shall be similar to the styles and types of buildings in the district.
  - (C) Doors should be simple in shape, arrangement, and detail.
  - (D) Door shall be finished with trim elements in a manner consistent with buildings in the district.
  - (E) The number of different door styles in the building shall be limited.
- (d) *Porches.* Replacement of porches in non-contributing buildings is allowed.
- (1) *Materials.*
    - (A) Building materials shall be of traditional dimensions.
    - (B) Replacement materials shall duplicate, to the greatest degree possible, appearance and structural qualities that are consistent with building materials on buildings in the district.
    - (C) Wood lap, shingles, brick, and stone are appropriate materials.
    - (D) Alternative materials shall appear similar in scale, proportion, texture and finish with buildings in the district.
  - (2) *Design.* The design should be similar in dimension, style, pattern and detail to porches on buildings in the district.
- (e) *Roofs.* Replacement of roofs on non-contributing buildings is allowed.
- (1) *Materials.*
    - (A) Replacement materials shall be of traditional dimensions.
    - (B) Replacement materials shall duplicate, to the greatest degree possible, appearance and structural qualities that are consistent with building materials on buildings in the district.
    - (C) Replacement materials shall have a non-reflective, matte finish.
  - (2) *Design.* The design should be similar in dimension, style, pattern and detail to roofs on buildings in the district.
  - (3) *Solar panels, rooftop mechanical devices, and skylights.* Solar panels and other rooftop mechanical structures may be added to non-contributing buildings.
    - (A) *Materials.*
      - (i) Non-reflective glass and metal panels are allowed.
      - (ii) Reflective glass and plastic frames are prohibited.
    - (B) *Design.*
      - (i) Solar panels shall not alter the existing profile of the roof, and shall be mounted flush on rear-facing roofs or placed on the ground in an inconspicuous location.
      - (ii) Satellite dishes, TV antennae and other rooftop mechanical structures shall be installed so they are not visible from the street and do not damage or obscure significant architectural features of the resource.
      - (iii) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.
- (f) *Restoration of missing features.* Features present on a historic non-contributing building that were removed after the period of significance may be reconstructed, subject to the following standards:
- (1) *Materials.* Materials used in the replacement shall match as closely as practicable the composition, design, texture, and other visual qualities of the materials of the missing feature.
  - (2) *Design.* The design shall accurately duplicate the missing feature. The design of the missing feature shall be substantiated by historic, physical, or pictorial evidence. Evidence does not include conjectural designs, or the appearance of features or different elements from other buildings or structures built during the period of significance.



- (g) *Alterations and additions.* Additions and alterations that comply with the standards in this section may be made to non-contributing buildings. Whenever practical, additions and alterations to historic non-contributing buildings should result in the restoration of missing features from the period of significance, or the removal of alterations that were made outside of the period of significance.
- (1) *Materials.*
    - (A) Materials shall be consistent with those present on buildings in the district generally.
    - (B) Roofing materials shall have a non-reflective, matte finish.
  - (2) *Design.*
    - (A) The location for an addition shall be at the rear, or on an inconspicuous side, of the building.
    - (B) Changes to features of the building that date from the period of significance shall be minimized.
    - (C) The design shall be compatible with general character of historic contributing buildings in the historic district and create a harmonious relationship with historic contributing buildings in the district generally. Factors in evaluating the design under this ~~paragraph~~ subsection include, but are not limited to:
      - (i) Similarities in the size and scale to those used in historic contributing buildings in the district generally.
      - (ii) Use of architectural features that reflect, or are similar to, the architectural style of historic contributing buildings in the district.
      - (iii) Simple gable or hipped roofs with a pitch similar to surrounding buildings are generally appropriate. Flat roofs may be appropriate when the prevailing styles of architecture provide an appropriate context. Exotic or complex roof forms that detract from the visual continuity of the district are generally inappropriate.
      - (iv) Additions should have a similar mass to surrounding buildings.
      - (v) Front elevations should appear similar in scale to those seen traditionally in the surrounding neighborhood.
      - (vi) The width and height of the addition should not exceed the typical dimensions seen in the district.
      - (vii) Simple rectangular building forms are generally preferred.
    - (D) The design shall make clear what is original and what is new.
    - (E) Features that have been added over time and have attained significance in their own right shall be preserved, even if the features do not reflect the period of significance.
- (h) *Decks.* Decks may be added to non-contributing buildings, subject to the following standards:
- (1) *Materials.* The deck shall be constructed of wood, a wood composite, or a material available during the period of significance.
  - (2) *Design.*
    - (A) The deck shall be located off the rear of the building and shall not extend beyond the width of the existing footprint of the building.
    - (B) The deck shall be of a reasonable size and scale in relationship to the building.
- (i) *New accessory structures.* New accessory structures may be built on the site of non-contributing buildings, subject to the following standards:
- (1) *Materials.*
    - (A) Building materials shall be of traditional dimensions.

- (B) Siding material shall consistent with those present in buildings in the district generally.
- (2) *Design.*
  - (A) The accessory structure shall be located at the rear of the lot or parcel.
  - (B) The accessory structure shall be no taller than one story.
  - (C) The accessory structure shall be of a reasonable size and scale in relationship to the building.
- (j) *Fences.* Fences may be added to sites of non-contributing buildings, provided the fence will not result in the removal or destruction of site features identified as significant on the historic resource inventory for the district.
  - (1) *Materials.* Fences shall be constructed of traditional materials available during the period of significance.
  - (2) *Design.* Fences shall be no taller than four feet in the front yard and no taller than six feet in side and rear yards.
- (k) *Retaining walls.* Retaining walls may be added to sites of non-contributing buildings, provided the retaining wall will not result in the removal or destruction of site features identified as significant on the historic resource inventory for the district.
  - (1) *Materials.* The retaining wall shall be constructed of traditional materials that were available during the period of significance. Example: If the period of significance is 1920-1940 the materials that were available included, but were not limited to, rusticated stone, formed concrete, poured concrete, and brick.
  - (2) *Design.* Retaining walls shall be no taller than two feet in the front and four feet on the side and rear yard.
- (l) *Site features.* Replacement or alteration of site features of a historic non-contributing building that are identified as significant features on the historic resource inventory for the district, including, but not limited to, driveways, sidewalks, gardens, significant trees, or geological features is allowed, unless the replacement or alteration would materially alter or destroy the features.
  - (1) *Materials.* Materials shall duplicate, to the greatest degree possible, the appearance and physical qualities of the original materials. Example: Rhododendron hedge planted during the period of significance is replanted with heritage varieties available during the period of significance.
  - (2) *Design.* The design shall reproduce, to the greatest extent possible, the appearance of the original site feature. Example: If the site contains a Lord and Schryver garden, the replacements shall be allowed, provided the original design and location of plantings of the historical garden are retained.

(Prior Code, § 230.030; Ord. No. 34-10)

#### **Sec. 230.035. Standards for new construction in residential historic districts.**

New buildings may be constructed in residential historic districts, subject to the following standards:

- (a) *Materials.* Materials shall be similar in scale, proportion, texture, and finish to those found on nearby historic structures.
- (b) *Design.*
  - (1) The design shall be compatible with general character of historic contributing buildings in the historic district. Factors in evaluating compatibility include, but are not limited to:
    - (A) The height, width, proportions, size and scale is consistent with those used in similar historic contributing buildings in the district generally.
    - (B) The new building is similar in size and scale to other buildings in the district such that a harmonious relationship is created in relationship.
    - (C) The design reflects, but does not replicate, the architectural style of historic contributing

buildings in the district.

- (D) Architectural elements are used that are similar to those found on historic contributing buildings in the district.
  - (E) Architectural elements such as porches, dormers, doors and windows reflect the spacing, placement, scale, orientation and proportion of buildings in the district.
  - (F) The front facade is designed with human-scaled proportions that are compatible with adjacent buildings and the district as a whole.
  - (G) The building uses similar setbacks, orientation on the site, spacing and distance from adjacent buildings that is found on buildings in the immediate vicinity and the district as a whole.
  - (H) Manufactured dwelling units are prohibited.
- (2) New buildings shall be designed so that the overall character of the site, including, but not limited to, its topography, special geologic features and trees are retained.
- (c) *Accessory structures.* Accessory structures may be built on the site of new construction.
- (1) *Materials.*
    - (A) Building materials shall be of traditional dimensions.
    - (B) Siding material shall be consistent with those present in buildings in the district generally.
  - (2) *Design.*
    - (A) The accessory structure shall be located at the rear of the lot or parcel.
    - (B) The accessory structure shall be no taller than one story.
    - (C) The accessory structure shall be of a reasonable size and scale in relationship to the building.
- (d) *Fences.* Fences may be included in new construction.
- (1) *Materials.* Fences shall be constructed of traditional materials available during the period of significance.
  - (2) *Design.* Fences shall be no taller than four feet in the front yard and no taller than six feet in side and rear yards.
- (e) *Retaining walls.* Retaining walls may be included in new construction, provided the retaining wall will not result in the removal or destruction of site features identified as significant on the historic resource inventory for the district.
- (1) *Materials.* The retaining wall shall be constructed of traditional materials that were available during the period of significance. Example: If the period of significance is 1920-1940 the materials that were available included, but were not limited to, rusticated stone, formed concrete, poured concrete, and brick.
  - (2) *Design.* Retaining walls shall be no taller than two feet in the front and four feet on the side and rear yard.
- (f) *Solar panels, rooftop mechanical devices, and skylights.* Solar panels and other rooftop mechanical structures may be included in new construction.
- (1) *Materials.*
    - (A) Non-reflective glass and metal panels are allowed.
    - (B) Reflective glass and plastic frames are prohibited.
  - (2) *Design.*
    - (A) Solar panels shall not alter the existing profile of the roof, and shall be mounted flush on rear-facing roofs or placed on the ground in an inconspicuous location.
    - (B) Satellite dishes, TV antennae and other rooftop mechanical structures shall be installed so

they are not visible from the street and do not damage or obscure significant architectural feature of the resource.

- (C) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.

(Prior Code, § 230.035; Ord. No. 34-10)

**Sec. 230.040. Standards for historic contributing buildings in commercial historic districts.**

Modifications to historic contributing buildings in commercial historic districts shall comply with this section.

- (a) *Masonry, siding and exterior trim.* Replacement of masonry, siding, and exterior trim of historic contributing buildings shall be allowed only where the owner has attempted repair, but repair was unfeasible due to poor condition of the materials. If the masonry, siding or trim is not original then every effort shall be made to replicate the original feature; the effort shall be substantiated by historic, physical, or pictorial evidence. If the feature cannot be replicated then it should be of a compatible design and material.

- (1) *Materials.*

- (A) Original material shall, if possible, be retained or repaired.
  - (B) Replacement materials shall be, to the greatest degree possible, of the same type, quality, design, size, finish, proportions, and configuration of the original materials.

- (2) *Design.*

- (A) New materials added to a building shall, to the greatest degree possible, match the color, texture and bonding pattern of the original masonry.
  - (B) When repointing brick or masonry, the joint size, profile, color, strength, porosity and permeability of the original mortar should be matched.
  - (C) Unpainted masonry should not be painted or sealed.
  - (D) Paint should not be removed from brick unless testing demonstrates that no damage to the brick will result.
  - (E) The original appearance of the original materials shall be retained, including early signage, whenever possible.

- (b) *Windows.* Replacement of windows in historic contributing buildings shall be allowed only where the owner has attempted repair, but repair unfeasible due to poor condition of the materials. If the window is not original then every effort shall be made to replicate the original feature; the effort shall be substantiated by historic, physical, or pictorial evidence. If the feature cannot be replicated then it should be of a compatible design and material.

- (1) *Materials.*

- (A) Original material shall, if possible, be retained or repaired.
  - (B) Replacement materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions, and configuration of the original materials in the windows.
  - (C) Glass block or tinted, mirrored, opaque, or colored glass is not permitted, unless it is the historic glazing type.

- (2) *Design.*

- (A) A replacement window shall, to the greatest extent feasible, match design, size, proportions, configuration, reflective qualities, and profile of the original window.
  - (B) The size and shape of original window openings should be preserved so that the configuration of the facade is not changed.
  - (C) New window openings into the principal elevations, enlargement or reduction of original

window openings and infill of original window openings are not permitted.

- (D) Original openings that have been covered or blocked should be re-opened when feasible.
  - (E) Windows historically used on upper levels shall not be installed at storefront level, and storefront windows shall not be installed on upper levels.
  - (F) Commercial window types shall not be substituted with residential window types.
  - (G) Interior grilles, grilles between layers of insulating glass, or stenciled mullions in lieu of true divided lights or exterior mullions are not permitted.
- (c) *Doors.* Replacement of doors in historic contributing buildings shall be allowed only where the owner has attempted repair, but repair was determined to be unfeasible due to poor condition of the materials. If the doors are not original then every effort shall be made to replicate the original feature; the effort shall be substantiated by historic, physical, or pictorial evidence. If the feature cannot be replicated then it should be of a compatible design and material.
- (1) *Materials.*
    - (A) Original material shall, if possible, be retained or repaired.
    - (B) Replacement materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions, and configuration of the original materials in the door.
  - (2) *Design.*
    - (A) The replacement door shall, to the greatest extent feasible, match design, size, proportions, and profile of the original door.
    - (B) The size and shape of original door openings should be preserved so that the configuration of the facade is not changed.
    - (C) Original door openings that have been covered or blocked should be re-opened when feasible.
    - (D) Commercial door types shall not be substituted with residential door types.
- (d) *Storefronts.* Replacement of storefronts or components of storefronts in historic contributing buildings shall be allowed only where the owner has attempted repair, but repair was determined to be unfeasible due to poor condition of the materials. If the storefront is not original then every effort shall be made to replicate the original feature; the effort shall be substantiated by historic, physical, or pictorial evidence. If the feature cannot be replicated then it should be of a compatible design and material.
- (1) *Materials.*
    - (A) Original material shall, if possible, be retained or repaired.
    - (B) Replacement materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions, and configuration of the original materials in the storefront.
  - (2) *Design.*
    - (A) To the extent practicable, original storefront components such as windows, door configuration, transoms, signage, and decorative features shall be preserved.
    - (B) Where the original storefront is too deteriorated to save, the commercial character of the building shall be retained through:
      - (i) A restoration of the storefront based on historical research and physical evidence.
      - (ii) Contemporary design that is compatible with the scale, design, materials, color and texture of historic compatible buildings in the district.
    - (C) For buildings that provide a separate upper-story entrance on the exterior facade, the street-level entrance should be the primary focus of the building facade.
- (e) *Roofs and cornices.* Replacement of roofs and cornices on historic contributing buildings is allowed.

- (1) *Materials.*
  - (A) Historic specialty materials, such as original tile, slate, or rolled composition roofing visible from the street should be maintained in place whenever possible.
  - (B) New roof materials that are visible from the street should match the original materials in type, quality, size, finish, proportions, scale, texture and configuration as closely as possible. Plastic or concrete simulated materials are not allowed. Imitation slate and imitation wood are allowed as a substitute for original materials in a complete replacement.
- (2) *Design.*
  - (A) The original roof and cornice form and detailing shall be preserved.
  - (B) Original eave overhangs shall be maintained.
  - (C) Cutting back roof rafters and soffits, boxing in exposed rafter tails, adding fascia boards where none existed, or otherwise altering the historical roof overhang is not allowed.
  - (D) To the extent practical, inappropriate repairs or additions should be removed or corrected.
- (f) *Alterations and additions.* Additions to, or alterations of, the historic contributing building may be made to accommodate uses other than the originally intended purpose.
  - (1) *Materials.* Materials for alterations or additions shall:
    - (A) Building materials shall be of traditional dimensions.
    - (B) Material shall be of the same type, quality and finish as original material in the building.
    - (C) New masonry added to a building shall, to the greatest degree possible, match the color, texture and bonding pattern of the original masonry.
    - (D) For those areas where original material must be disturbed, original material shall be retained to the maximum extent possible.
  - (2) *Design.* Alterations or additions shall:
    - (A) Additions shall be located at the rear, or on an inconspicuous side, of the building.
    - (B) Be designed and constructed to minimize changes to the building.
    - (C) Be limited in size and scale such that a harmonious relationship is created in relationship to the original building.
    - (D) Be designed and constructed in a manner that significant historical, architectural or cultural features of the building are not obscured, damaged, or destroyed.
    - (E) Be designed to be compatible with the size, scale, material, and character of the building, and the district generally.
    - (F) Not destroy or adversely impact existing distinctive materials, features, finishes and construction techniques or examples of craftsmanship that are part of the building.
    - (G) Be constructed with the least possible loss of historic materials
    - (H) Not create a false sense of historical development by including features that would appear to have been part of the building during the period of significance but whose existence is not supported by historical evidence.
    - (I) Be designed in a manner that makes it clear what is original to the building and what is new.
    - (J) Be designed to reflect, but not replicate, the architectural styles of the period of significance.
    - (K) Preserve features of the building that has occurred over time and has attained significance in its own right.
    - (L) Preserve distinguishing original qualities of the building and its site.
    - (M) Not increase the height of a building to more than four stories.

- (g) *Lintels, architraves, sills, and other architectural details.* Replacement of lintels, architraves, sills and other architectural details in historic contributing buildings shall be allowed only where the owner has attempted repair, but repair was unfeasible due to poor condition of the original materials. If the feature is not original then every effort shall be made to replicate the original feature; the effort shall be substantiated by historic, physical, or pictorial evidence. If the feature cannot be replicated then it should be of a compatible design and material.
  - (1) *Materials.*
    - (A) Existing architectural details shall be retained.
    - (B) Original material shall, if possible, be retained or repaired.
    - (C) If replacement material is required, similar material shall be used.
  - (2) *Design.*
    - (A) The replacement shall, to the greatest extent feasible, match design, size, proportions, and profile of the original architectural details.
    - (B) Architectural details should not be added unless there is archival evidence suggesting their presence and design.
- (h) *Accessibility.* Additions or alterations to improve accessibility are allowed.
  - (1) *Materials.* Materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions and configuration of the original materials in the building.
  - (2) *Design.*
    - (A) Design additions or alterations to improve accessibility in a manner that identifies the building's character-defining spaces and features and prevents their damage or loss.
    - (B) Additions and alterations to improve accessibility should be designed in a manner that is compatible with the building and its setting.
- (i) *Energy.* Retrofitting historic contributing buildings to achieve energy efficiency is permitted, if the retrofitting preserves the building's historic character.
  - (1) *Materials.*
    - (A) Materials shall be of a type and quality that will not result in degradation of original material in the resource. Example: Addition of insulation to exterior walls should not negatively affect the function of the wall assembly.
    - (B) The materials for any retro-fitted architectural elements, including, but not limited to, windows and doors shall comply with the standards for materials for such elements set forth in this section.
  - (2) *Design.*
    - (A) To the extent practicable, original systems to control ventilation, such as double hung, transom windows and awnings, shall be preserved.
    - (B) Before seeking to replace windows or doors, improve thermal efficiency through weather-stripping, storm windows, interior shades, blinds and awnings.
    - (C) The designs of any retro-fitted architectural elements, including, but not limited to, windows and doors shall comply with the standards for replacement of such elements set forth in this section.
    - (D) Retrofitting shall be designed in a manner that prevents loss of original material or architectural elements.
- (j) *Mechanical equipment and service areas.* Addition and replacement of mechanical equipment, including, but not limited to, heating and cooling systems, solar panels and telecommunications

equipment, and service areas, including, but not limited to, dumpster enclosures, is permitted.

- (1) *Materials*. Materials shall be harmonious in type, color, scale, texture, and proportions with the building and the district generally.
- (2) *Design*.
  - (A) Mechanical equipment and service areas should be located out of public view and designed as an integral part of the overall building design.
  - (B) Mechanical equipment and service areas should be placed at the rear of the building, recessed on the roof of the building, or screened by appropriate fencing.
  - (C) Low-profile mechanical units and elevator shafts may be placed on rooftops if they are not visible from the street, or set back and screened from view.
  - (D) Solar panels should have low profiles and not be visible from right-of-way, other than alleys, and shall be installed in a manner that minimizes damage to historic materials.
  - (E) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.
  - (F) Mechanical equipment placed at street level should be screened in a manner that is compatible with the streetscape and adjacent buildings.
  - (G) New skylights and vents shall be placed behind and below the parapet level.
- (k) *Awnings and canopies*. Replacement or installation of awnings and canopies on historic contributing buildings is allowed.
  - (1) *Materials*.
    - (A) Materials that are compatible with the character of the building's period and style shall be used.
    - (B) Canvass is an approved material for awnings and canopies.
  - (2) *Design*.
    - (A) Awnings shall be located within window openings, and below transoms.
    - (B) Umbrella-type awnings and non-historic forms are not permitted.
    - (C) Awnings shall be attached in such a manner that historic materials or features are not damaged.
    - (D) Marquees may be used where compatible with the building and neighboring buildings.
    - (E) Awnings, canopies, or marquees shall not obscure significant architectural features on the building.
    - (F) Awnings, canopies, or marquees shall have size, scale and design that is compatible with the building and neighboring buildings.

(Prior Code, § 230.040; Ord. No. 34-10)

**Sec. 230.045. Standards for non-contributing buildings and structures in commercial historic districts.**

Modifications to non-contributing buildings in commercial historic districts shall comply with this section.

- (a) *Masonry, siding and exterior trim*. Replacement of masonry, siding, and exterior trim of non-contributing buildings is allowed.
  - (1) *Materials*.
    - (A) For historic non-contributing buildings, material dating from the period of significance shall, if possible, be retained or repaired.
    - (B) Replacement materials shall be, to the greatest degree possible, of the same type, quality,



design, size, finish, proportions, and configuration of the materials commonly used on other buildings in the district.

(2) *Design.*

- (A) The design shall, to the greatest degree possible, match the color, texture and bonding pattern of the original materials.
- (B) For historic non-contributing buildings the appearance of original materials that were used on the building during the period of significance shall be restored or reconstructed whenever possible.

(b) *Windows.* Replacement of windows in non-contributing buildings is allowed.

(1) *Materials.*

- (A) Windows dating from the period of significance shall, if possible, be retained and repaired or restored.
- (B) Replacement materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions and configuration of windows commonly used on other buildings in the district.
- (C) Glass block or tinted, mirrored, opaque, or colored glass is not permitted, unless it is the historic glazing type.

(2) *Design.*

- (A) Replacement windows should, to the greatest degree possible, match design, size, proportions, configuration, reflective qualities and profile of original windows dating from the period of significance, if documentary evidence of the appearance is available.
- (B) The size and shape of window openings dating from the period of significance should be preserved so that the configuration of the facade is not changed.
- (C) Original openings that have been covered or blocked should be re-opened when feasible.
- (D) New window openings into the principal elevations, enlargement or reduction of original window openings and infill of original window openings are not permitted.
- (E) Window styles historically used on upper levels shall not be installed at storefront level, and storefront windows shall not be installed on upper levels.
- (F) Commercial window types shall not be substituted with residential window types.
- (G) Interior grilles, grilles between layers of insulating glass, or stenciled mullions in lieu of true divided lights or exterior mullions are not permitted.

(c) *Doors.* Replacement of doors in non-contributing buildings is allowed.

(1) *Materials.*

- (A) Doors dating from the period of significance shall, if possible, be retained and repaired or restored.
- (B) Replacement materials shall be, to the greatest degree possible, of the same type, quality, design, size, finish, proportions and configuration of the doors commonly found in the district.

(2) *Design.*

- (A) Replacement doors shall, to the greatest degree possible, match design, size, proportions and profile of the original door dating from the period of significance, if documentary evidence of the appearance is available.
- (B) Original door openings that have been covered or blocked should be re-opened when feasible.
- (C) The size and shape of original door openings should be preserved so that the configuration of the facade is not changed.

- (D) Commercial door types shall not be substituted with residential door types.
- (d) *Storefronts.* Replacement of storefronts or components of storefronts in non-contributing buildings is allowed.
  - (1) *Materials.*
    - (A) Materials dating from the period of significance shall, if possible, be retained and repaired or restored.
    - (B) Replacement materials shall be, to the greatest degree possible, of the same type, quality, design, size, finish, proportions and configuration of the storefronts commonly found in the district.
  - (2) *Design.*
    - (A) To the extent practicable, original storefront components such as windows, door configuration, transoms, signage and decorative features dating from the period of significance shall be preserved.
    - (B) Restoration of the appearance of the storefront during the period of significance, based on historical research and physical evidence, is preferred.
    - (C) Replacement that is contemporary in design shall be compatible with the scale, proportions, massing, height, rhythm, materials, color and texture of historic contributing buildings in the district.
- (e) *Roofs and cornices.* Replacement of roofs and cornices on non-contributing buildings is allowed.
  - (1) *Materials.*
    - (A) Historic specialty materials, such as original tile, slate, or rolled composition roofing dating from the period of significance should be maintained in place whenever possible.
    - (B) Replacement materials that are visible from the street shall be, to the greatest degree possible, of the same type, quality, design, size, finish, proportions and configuration of the roof and cornices commonly found in the district. Plastic or concrete simulated materials are not allowed. Imitation slate and wood are allowed as a substitute for original materials in a complete replacement.
  - (2) *Design.*
    - (A) To the extent practicable, original roof and cornice components visible from the street dating from the period of significance shall be preserved.
    - (B) Eave overhangs dating from the period of significance shall be maintained.
    - (C) Restoration of the appearance of the roof and cornice that is visible from the street, based on historical research and physical evidence from the period of significance, is preferred.
    - (D) Replacement of roofs and cornices that are contemporary in design shall be compatible with the scale, proportions, massing, height, rhythm, materials, color and texture of historic buildings in the district.
    - (E) Cutting back roof rafters and soffits, boxing in exposed rafter tails, adding fascia boards where none existed, or otherwise altering material that dates from the period of significance is not allowed.
    - (F) To the extent practical, inappropriate repairs or additions that occurred after the period of significance should be removed or corrected.
- (f) *Lintels, architraves, sills and other architectural details.* Replacement of lintels, architraves, sills and other architectural details on non-contributing buildings is allowed.
  - (1) *Materials.*

- (A) Materials dating from the period of significance shall, if possible, be retained and repaired or restored.
  - (B) Replacement materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions and configuration commonly found in the district.
- (2) *Design.*
- (A) To the extent practicable, original material dating from the period of significance shall be preserved.
  - (B) Restoration of the appearance of architectural details that are visible from the street, based on historical research and physical evidence from the period of significance, is preferred.
  - (C) Replacement architectural details that are contemporary in design shall be compatible with the scale, proportions, massing, height, rhythm, materials, color and texture of historic buildings in the district.
- (g) *Alterations and additions.* Additions and alterations that comply with the standards in this section may be made to historic non-contributing buildings. Whenever practical, additions and alterations to historic non-contributing buildings should result in the restoration of missing features from the period of significance, or the removal of alterations that were made outside of the period of significance.
- (1) *Materials.*
- (A) Materials shall be consistent with those present in buildings in the district generally.
  - (B) Roofing materials shall have a non-reflective, matte finish.
- (2) *Design.*
- (A) The location for an addition shall be at the rear, or on an inconspicuous side, of the building.
  - (B) Changes to features of a historic non-contributing building that date from the period of significance shall be minimized.
  - (C) The design shall be compatible with the character of historic contributing buildings in the historic district and create a harmonious relationship with historic contributing buildings in the district generally. Factors in evaluating the design under this ~~paragraph~~ subsection include, but are not limited to:
    - (i) Similarities in the size and scale to those used in historic contributing buildings in the district generally.
    - (ii) Use of architectural features that reflect, or are similar to, the architectural style of historic contributing buildings in the district.
    - (iii) Simple gable or hipped roofs with a pitch similar to surrounding buildings are generally appropriate. Flat roofs may be appropriate when the prevailing styles of architecture provide an appropriate context. Exotic or complex roof forms that detract from the visual continuity of the district are generally inappropriate.
    - (iv) Additions should have a similar mass to surrounding buildings.
    - (v) Front elevations should appear similar in scale to those seen traditionally in the surrounding neighborhood.
    - (vi) The width and height of the addition should not exceed the typical dimensions seen in the district.
    - (vii) Simple rectangular building forms are generally preferred.
  - (D) The design shall make clear what is original and what is new.
  - (E) Features that have been added over time and have attained significance in their own right shall be preserved, even if the features do not reflect the period of significance.

- (F) An addition that adds stories shall increase the height of a building to no more than four stories.
- (h) *Accessibility.* Additions or alterations to improve accessibility are allowed.
  - (1) *Materials.* Materials shall be, to the greatest degree possible, of the same type, quality, design, size, finish, proportions and configuration of materials commonly used in the district.
  - (2) *Design.*
    - (A) Design additions or alterations to improve accessibility in a manner that identifies the building's character-defining spaces and features and prevents their damage or loss.
    - (B) Additions and alterations to improved accessibility should be designed in a manner that is compatible with the building and its setting.
- (i) *Energy.* Retrofitting non-contributing buildings to achieve energy efficiency is permitted, if the retrofitting preserves the character of the historic district.
  - (1) *Materials.* The materials for any retro-fitted architectural elements, including, but not limited to, windows and doors shall comply with the standards for materials for such elements set forth in this section.
  - (2) *Design.*
    - (A) To the extent practicable, systems to control ventilation, such as double hung, transom windows and awnings, dating from the period of significance should be preserved.
    - (B) The designs of any retro-fitted architectural elements, including, but not limited to, windows and doors shall comply with the standards for replacement of such elements set forth in this section.
    - (C) Retrofitting shall be designed in a manner that prevents loss of material or architectural elements dating from the period of significance.
- (j) *Mechanical equipment and service areas.* Addition and replacement of mechanical equipment, including, but not limited to, heating and cooling systems, solar panels and telecommunications equipment, and service areas, including, but not limited to, dumpster enclosures, is allowed.
  - (1) *Materials.* Materials shall be harmonious in type, color, scale, texture and proportions with the building and the district generally.
  - (2) *Design.*
    - (A) Mechanical equipment and service areas should be located out of public view and designed as an integral part of the overall building design.
    - (B) Mechanical equipment and service areas should be placed at the rear of the building, recessed on the roof of the building, or screened by appropriate fencing.
    - (C) Low-profile mechanical units and elevator shafts may be placed on rooftops if they are not visible from the street, or set back and screened from view.
    - (D) Solar panels should have low profiles and not be visible from right-of-way, other than alleys, and shall be installed in a manner that minimizes damage to historic materials.
    - (E) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.
    - (F) Mechanical equipment placed at street level should be screened in a manner that is compatible with the streetscape and adjacent buildings.
    - (G) New skylights and vents shall be placed behind and below the parapet level.
- (k) *Awnings and canopies.* Replacement or installation of awnings and canopies on non-contributing buildings is allowed.

- (1) *Materials.*
  - (A) Materials that are compatible with the character of the district shall be used.
  - (B) Canvass is an approved material for awnings and canopies.
- (2) *Design.*
  - (A) Awnings shall be located within window openings, and below transoms.
  - (B) Umbrella-type awnings and non-historic forms are not permitted.
  - (C) Awnings shall be attached in such a manner that historic materials or features are not damaged.
  - (D) Marquees may be used where compatible with the building and neighboring buildings.
  - (E) Awnings, canopies, or marquees shall not obscure significant architectural features on the building.
  - (F) Awnings, canopies, or marquees shall have size, scale and design that is compatible with the building and neighboring buildings.

(Prior Code, § 230.045; Ord. No. 34-10)

**Sec. 230.050. Standards for new construction in commercial historic districts.**

New buildings may be constructed in commercial historic districts, subject to the following standards:

- (a) *Materials.*
  - (1) The primary facade shall be constructed of traditional building materials such as brick or stone. Stucco or pre-cast concrete block shall not be used in the primary facade.
  - (2) Materials used in the construction shall be identical or similar to those available for similar buildings or structures built during the period of significance.
  - (3) Materials shall be similar in scale, proportion, texture, and finish to those found on nearby historic structures.
- (b) *Design.*
  - (1) The design shall be compatible with the general character of historic contributing buildings in the historic district. Factors in evaluating compatibility include, but are not limited to:
    - (A) The height, width, proportions, size and scale is consistent with those used in similar historic contributing buildings in the district generally.
    - (B) The design reflects, but does not replicate, the architectural style of historic contributing buildings in the district.
    - (C) Architectural elements that are similar to those found on historic contributing buildings in the historic district are used.
    - (D) Architectural elements such as lintels, cornices, doors, storefronts and windows reflect the spacing, placement, scale, orientation and proportion of buildings in the district.
    - (E) The front facade is designed with human-scaled proportions that are compatible with adjacent buildings and the district as a whole.
  - (2) Buildings shall be placed contiguous with the right-of-way line.
  - (3) Buildings shall be designed without above ground pedestrian walkways which are prohibited across any public street.
  - (4) Walls shall include storefronts along each ground floor that is adjacent to a public street. Windows shall not be tinted, mirrored or treated in such a way as to block views into the interior.
  - (5) Parking within a building on the ground floor shall only be allowed behind secondary facades.

Commercial storefronts or office uses shall be provided between any ground floor parking area and the primary facades fronting the public street. Parking is prohibited between the building and the street.

- (6) No new building shall be designed to allow drive-through uses, except banks and credit unions where construction of the bank or credit union is commenced on or after October 1, 2011, may include a drive-through use as a conditional use subject to the following standards:
  - (A) All components of the drive-through, including kiosk, structure, and drive aisle, shall be located on a secondary facade, not visible from the right-of-way, other than an alley,
  - (B) Queuing lanes shall not be permitted between the building and the right-of-way, other than an alley,
  - (C) Up to two queuing lanes may be permitted,
  - (D) If the subject property abuts an alley, access to and from the drive-through from the alley is encouraged.
- (7) Manufactured dwelling units are prohibited
- (c) *Mechanical equipment and service areas.* Mechanical equipment, including, but not limited to, heating and cooling systems, solar panels and telecommunications equipment, and service areas, including, but not limited to, dumpster enclosures, shall meet the following standards:
  - (1) *Materials.* Materials shall be harmonious in type, color, scale, texture, and proportions with the building and the district generally.
  - (2) *Design.*
    - (A) Mechanical equipment and service areas should be located out of public view and designed as an integral part of the overall building design.
    - (B) Mechanical equipment and service areas should be placed at the rear of the building, recessed on the roof of the building, or screened by appropriate fencing.
    - (C) Low-profile mechanical units and elevator shafts may be placed on rooftops if they are not visible from the street, or are set back and screened from view.
    - (D) Solar panels should have low profiles and not be visible from the street.
    - (E) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.
    - (F) Mechanical equipment placed at street level should be screened in a manner that is compatible with the streetscape and adjacent buildings.
    - (G) Skylights and vents shall be placed behind and below the parapet level.
- (d) *Awnings and canopies.* Awnings and canopies on new construction shall meet the following standards:
  - (1) *Materials.*
    - (A) Materials that are compatible with the character of the district shall be used.
    - (B) Canvass is an approved material for awnings and canopies.
  - (2) *Design.*
    - (A) Awnings shall be located within window openings, and below transoms.
    - (B) Umbrella-type awnings and non-historic forms are not permitted.
    - (C) Marquees may be used where compatible with the building and neighboring buildings.
    - (D) Awnings, canopies, or marquees shall not obscure significant architectural features on the building.
    - (E) Awnings, canopies, or marquees shall have size, scale and design that is compatible with the

building and neighboring buildings.

(Prior Code, § 230.050; Ord. No. 34-10; Ord. No. 22-11)

**Sec. 230.055. Murals in commercial historic districts.**

Murals that comply with this section are allowed in commercial historic districts:

- (a) Retain historic murals.
- (b) Murals shall be located only on the side or rear of buildings.
- (c) Murals shall not be located on primary facades, or secondary facades that face right-of-way.
- (d) Murals shall be located only on non-historic non-contributing buildings.

(Prior Code, § 230.055; Ord. No. 34-10)

**Sec. 230.056. Signs in commercial historic districts.**

In addition to other regulations within this chapter, signs in commercial historic districts shall be designed and approved in accordance with the following standards:

- (a) Historic signs shall be retained whenever possible, particularly if the sign is associated with historic figures, events or places, significant as evidence of the history of the product, business or service advertised, significant as reflecting the history of the building or the development of the historic district, characteristic of a specific period, or integral to the building's or structure's design or physical fabric.
- (b) Recreate a historic sign only with sufficient historical, pictorial, and physical documentation.
- (c) New signs shall:
  - (1) Be located between transom and sill of first story, within a historic signboard, or suspended from awning or marquee.
  - (2) Be located perpendicular to corner, flush to the facade or perpendicular to building.
  - (3) Not be located in transom areas.
  - (4) Not obscure windows or significant architectural features.
  - (5) Be painted on side of building only if the building was previously painted and the sign has historic precedence. Do not paint on brick surfaces, if not previously painted.
  - (6) Be oriented to the main entrance and shall not be placed in a manner that has no relationship to main customer entrance.
  - (7) Be constructed of materials such as wood or metal, except for untreated mill-finished metals.
  - (8) Not use neon unless incorporated into a larger sign and there is historic precedence.
  - (9) Not use freestanding neon or plastic, back-lighted boxes.
  - (10) Be attached into mortar joints, not into masonry, with sign loads properly calculated and distributed.
  - (11) Have conduit located in the least obtrusive places.
  - (12) Not have exposed conduit.
  - (13) Use a dark background with light lettering.
  - (14) Not incorporate faux painting, e.g., stone, brick, metal.
  - (15) Design new signs that respect the size, scale and design of the historic resource.
  - (16) Locate new signs where they do not obscure significant features.
  - (17) Design new signs that respect neighboring resources.
  - (18) Use materials that are compatible with and characteristic of the building's or structure's period and style.

- (19) Attach signs carefully to prevent damage to historic materials and ensure the safety of pedestrians.
- (20) Any sign identifying the use of the building or structure otherwise permitted by this chapter shall be limited to the minimum necessary for such identification.

(Prior Code, § 230.056; Ord. No. 34-10)

**Sec. 230.057. Oregon state capitol.**

Unless approved pursuant to SRC 230.065, no significant features on existing resources within the boundary of the Oregon State Capitol as identified in Table 230-3 shall be altered.

<b>TABLE 230-3. OREGON STATE CAPITOL</b>		
<b>Zone</b>	<b>Resource</b>	<b>Significant Features</b>
1	Capitol Building and adjacent wings	<input type="checkbox"/> Rotunda. <input type="checkbox"/> Gold Oregon Pioneer Statue.
	Additions	<input type="checkbox"/> Cast bronze Bas-Reliefs.
2	Oregon Migration Relief Sculpture	<input type="checkbox"/> Figures of Pioneers and a Covered Wagon. <input type="checkbox"/> Map of Oregon Trail.
	Lewis & Clark Relief Sculpture	<input type="checkbox"/> Figures of Lewis, Clark and Sacagawea. <input type="checkbox"/> Map of Expedition
3	Willson Park	<input type="checkbox"/> Breyman Fountain. <input type="checkbox"/> Waite Fountain. <input type="checkbox"/> Walk of Flags. <input type="checkbox"/> Liberty Bell Replica. <input type="checkbox"/> Gazebo. <input type="checkbox"/> Parade of Animals Sculpture. <input type="checkbox"/> Douglas-Fir tree grown from seed that rode aboard Apollo 14. <input type="checkbox"/> Capitol Beaver Family Sculpture.
4	Capitol (East) Park	<input type="checkbox"/> Circuit Rider Statue. <input type="checkbox"/> John McLoughlin Statue. <input type="checkbox"/> Jason Lee Statue. <input type="checkbox"/> Corinthian Columns remaining from Second Capitol. <input type="checkbox"/> Memorial to Oregon Recipients of Congressional Medal of Honor.
5	North Plaza, Sunken Terrace	<input type="checkbox"/> Sprague Fountain. <input type="checkbox"/> Wall of Water Fountain.

(Prior Code, § 230.057; Ord. No. 25-13)

**Sec. 230.058. Oregon state hospital district.**

Unless approved pursuant to SRC 230.065, no significant features on existing resources within the Oregon State Hospital District as identified in Table 230-4 shall be altered. Any alterations or additions within Zone 1 of the Oregon State Hospital District shall be limited to secondary facades. No alterations shall be allowed on primary



facades or significant features as identified in Table 230-4.

<b>TABLE 230-4. OREGON STATE HOSPITAL DISTRICT RESOURCES</b>			
<b>Zone</b>	<b>Structure/Building</b>	<b>Primary Facade</b>	<b>Significant Features</b>
1	Memorial Building	South (Greenway Dr.) North (Recovery Dr.) South (Recovery Dr.)	<input type="checkbox"/> Double-hung windows. <input type="checkbox"/> Decorative brick corbelling at roofline.
	Kirkbride Building	West (24th St.) North (Center St.)	<input type="checkbox"/> Cupola spire. <input type="checkbox"/> Arched multi-light double hung windows. <input type="checkbox"/> Roof corbelling and brackets.
	Dome Building	West (23rd St.) South (Center St. - includes south facade of east wing) North (Bittern Street)	<input type="checkbox"/> Dome. <input type="checkbox"/> Wood multi-light windows. <input type="checkbox"/> Front entry staircase.
2	Kirkbride Grounds Structures/Historic Park	West (24th St.) North (Center St.)	<input type="checkbox"/> Fountain area with 'Baby Hercules' Statue. <input type="checkbox"/> Memorial circle with vault markers. <input type="checkbox"/> Park entrance pillars.
3	R01- Cottage	South (Greenway Dr.) North (Center St.) West (26th St. NE) East (Recovery Dr. NE)	<input type="checkbox"/> Roof gables. <input type="checkbox"/> Wooden lintels. <input type="checkbox"/> Multi-light double-hung windows. <input type="checkbox"/> Brick/stucco-clad chimneys.
	R02- Cottage	South (Greenway Dr.) North (Center St.) West (26th St. NE) East (Recovery Dr. NE)	
	R03- Cottage	South (Greenway Dr.) North (Center St.) West (26th St. NE) East (Recovery Dr. NE)	
	R04- Cottage	North (Greenway Dr.)	
	R05- Cottage	North (Greenway Dr.)	
	R06- Cottage	North (Greenway Dr.)	
	R07- Cottage	North (Greenway Dr.)	
	R08- Cottage	North (Greenway Dr.)	
	R09- Cottage	North (Greenway Dr.)	
	R10- Cottage	North (Greenway Dr.)	
	R11- Cottage	North (Greenway Dr.)	

<b>TABLE 230-4. OREGON STATE HOSPITAL DISTRICT RESOURCES</b>			
<b>Zone</b>	<b>Structure/Building</b>	<b>Primary Facade</b>	<b>Significant Features</b>
	R12- Cottage	North (Greenway Dr.)	
	R13- Cottage	North (Greenway Dr.)	
	R14- Cottage	West (24th Pl.)	
	R15- Cottage	West (24th Pl.)	
	R16- Cottage	West (24th Pl.)	
	R17- Cottage	East (24th Pl.)	
	R18- Cottage	East (24th Pl.)	
	R19- Cottage	North (Bates Dr.)	
	R20- Cottage	North (Bates Dr.)	
	R21- Cottage	North (Bates Dr.)	
	S07- Cottage	North (private rd. off of Park Ave.)	
	S08- Cottage	North (private rd. off of Park Ave.)	
4	Oregon State Hospital (primary treatment building)	West (24th St.) North (Center St.) (Considered an addition to the Kirkbride structure)	<input type="checkbox"/> Front entry
5	S04- Physical Plant	North (Center St.) East (Park Ave.) West	<input type="checkbox"/> Corbelled cornices, flat roof, wood doors and transoms.
	Yaquina Hall	South (Bittern St.)	<input type="checkbox"/> Front entries
	Santiam Hall	West (27th Pl.)	
	Breitenbush Hall	South (Center St.)	
	McKenzie Hall	West (25th St.)	
	Eola Hall	South (Bittern St.)	
6	Open space	North (D Street NE) West (23rd Street NE) East (Park Ave NE)	<input type="checkbox"/> Trees abutting the right-of-way along D Street and Park Ave NE

(Prior Code, § 230.058; Ord. No. 25-13)

**Sec. 230.060. Standards for historic contributing buildings in public historic districts and individually listed public historic resources.**

Modification to historic contributing buildings in public historic districts and individually listed public historic resources shall comply with this section.

- (a) *Masonry, siding, exterior trim and minor architectural features.* Replacement of masonry, siding, exterior trim, and minor architectural features of historic contributing buildings and individually listed public historic resources shall be allowed only where the owner has attempted to repair the original siding, exterior trim or minor architectural feature, but repair was determined to be unfeasible due to the

poor condition of the original materials. If the masonry, siding, or trim is not original then every effort shall be made to replicate the original materials; the effort shall be substantiated by historic, physical, or pictorial evidence. If the masonry, siding, or trim cannot be replicated then it should be of a compatible design and material.

- (1) *Materials.* The replacement materials are the same type and quality as the original siding, exterior trim or minor architectural feature, or duplicate, to the greatest degree possible, the appearance and structural qualities of the material being replaced.
  - (2) *Design.* The replacement reproduces the appearance of the original siding, exterior trim or minor architectural feature.
  - (3) *Energy efficiency.* Improvements to improve energy efficiency are allowed, provided the exterior appearance of the historic resource is preserved to the greatest extent possible. Example: Adding additional insulation to attics, crawl spaces or basements.
- (b) *Windows.* Replacement of windows and individually listed public historic resources shall be allowed only where the owner has attempted to repair the original window, but repair was not feasible due to the poor condition of the original materials. If the window is not original then every effort shall be made to replicate the original window; the effort shall be substantiated by historic, physical, or pictorial evidence. If the window cannot be replicated then it should be of a compatible design and material.
- (1) *Materials.* All features of the window, including the window frame, sash, stiles, rails, muntins, lamb's tongues and glass, are replaced with materials that duplicate, to the greatest degree possible, the appearance and structural qualities of the original.
  - (2) *Design.* Overall design of the window profile of all parts of the window shall reproduce the appearance of the original window.
  - (3) *Energy efficiency.*
    - (A) The use of weather-stripping, insulation, or materials to either repair or improve the energy efficiency shall be evaluated as means to achieve the desired energy efficiency objectives prior to seeking authorization to replace a window.
    - (B) If an owner wishes to improve the energy efficiency of windows located on the primary facade, only energy efficiency measures that are removable and do not permanently alter the resource shall be used. This includes, but is not limited to, exterior storm windows, weather-stripping.
    - (C) If an owner wishes to improve the energy efficiency of windows located on a facade other than the primary facade, measures that are removable and do not permanently alter the resource shall be used. This includes, but is not limited to, exterior storm windows, weather-stripping. Reuse of the original window frame and sash with replacement glass that maintains the overall design and appearance of the window is allowed. Example: Replacement of single-pane glass with new energy efficient double-paned glass is permissible, so long as the window is in satisfactory condition, muntins are wide enough to hold the double-paned glass, the double-paned glass can be inserted into the original window sash, there are only minor alterations to the overall design of the window, and the double-paned glass is not visibly tinted or reflective.
- (c) *Doors.* Replacement of doors in historic contributing buildings and individually listed public historic resources shall be allowed only where the owner has attempted to repair the original door, but repair was not feasible due to the poor condition of the original materials. If the doors are not original, then every effort shall be made to replicate the original doors; the effort shall be substantiated by historic, physical, or pictorial evidence. If the door cannot be replicated then it should be of a compatible design and material.
- (1) *Materials.* All features of the door shall be replaced with materials that duplicate, to the greatest degree possible, the appearance and structural qualities of the original door.

- (2) *Design.* The overall design of the door shall reproduce, to the greatest degree possible, the appearance of the original door.
- (d) *Porches.* Replacement of porches on historic contributing buildings and individually listed public historic resources shall be allowed only where the owner has attempted to repair the original porch, but repair was not feasible due to the poor condition of the original materials. If the porch is not original, then every effort shall be made to replicate the original porch; the effort shall be substantiated by historic, physical, or pictorial evidence. If the porch cannot be replicated then it should be of a compatible design and material.
  - (1) *Materials.* All features of the porch shall be replaced with material that duplicate, to the greatest degree possible, the appearance and structural qualities of the original porch.
  - (2) *Design.* The overall design of the porch shall reproduce, to the greatest degree possible, the appearance of the original porch.
- (e) *Roofs and cornices.* Replacement of roofs and cornices on historic contributing buildings and individually listed public historic resources shall be allowed only where the owner has attempted to repair the original roof, but repair was not feasible due to the poor condition of the original materials.
  - (1) *Materials.*
    - (A) Historic specialty roofing materials, such as original tile, slate, or rolled composition roofing should be maintained in place whenever possible.
    - (B) New roof materials should match the original materials in scale and texture as closely as possible. Use of plastic or concrete simulated materials is not allowed.
    - (C) Composition roofing is allowed as a substitute for wood shingles in a complete replacement.
    - (D) Imitation slate and wood are allowed as a substitute for original materials in a complete replacement.
  - (2) *Design.*
    - (A) The original roof and cornice form and detailing shall be preserved.
    - (B) Original eave overhangs shall be maintained.
    - (C) Cutting back roof rafter and soffits, boxing in exposed rafter tails, adding fascia boards where none existed, or otherwise altering the historical roof overhang is not allowed.
    - (D) To the extent feasible, inappropriate repairs or additions should be removed or corrected.
  - (3) *Solar panels, rooftop mechanical devices, and skylights.* Solar panels and other rooftop mechanical structures may be added to historic contributing buildings and individually listed public historic resources.
    - (A) *Materials.*
      - (i) Non-reflective glass and metal panels are allowed.
      - (ii) Reflective glass and plastic frames are prohibited.
    - (B) *Design.*
      - (i) Solar panels shall not alter the existing profile of the roof, and shall be mounted parallel to the roof plane on rear-facing roofs or placed on the ground in an inconspicuous location.
      - (ii) Satellite dishes, TV antennae and other rooftop mechanical structures shall be installed so they are not visible from the street and do not damage or obscure significant architectural features of the resource.
      - (iii) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.

- (f) *Missing features.* Features that were present on a historic contributing building and individually listed public historic resources during the period of significance but which were later removed may be reconstructed.
  - (1) *Materials.* Materials used in the replacement shall match as closely as practicable the composition, design, texture, and other visual qualities of the materials of the missing feature.
  - (2) *Design.* The design shall accurately duplicate the missing feature. The design shall be substantiated by historic, physical, or pictorial evidence. Evidence does not include conjectural designs, or the appearance of features or different elements from other buildings or structures built during the period of significance.
- (g) *Alterations and additions.* Additions to and alterations of the historic contributing building and individually listed public historic resources are allowed.
  - (1) *Materials.*
    - (A) Building materials shall be of traditional dimensions.
    - (B) Material shall be of the same type, quality and finish as original material in the building.
    - (C) New masonry added to a building shall, to the greatest extent feasible, match the color, texture and bonding pattern of the original masonry.
    - (D) For those areas where original material must be disturbed, original material shall be retained to the maximum extent possible.
  - (2) *Design.* Alterations or additions shall:
    - (A) Be located at the rear, or on an inconspicuous side, of the building.
    - (B) Be designed and constructed to minimize changes to the building.
    - (C) Be limited in size and scale such that a harmonious relationship is created with the original building.
    - (D) Be designed and constructed in a manner that significant historical, architectural or cultural features of the building are not obscured, damaged, or destroyed.
    - (E) Be designed to be compatible with the size, scale, material, and character of the building, and the district generally.
    - (F) Not destroy or adversely impact existing distinctive materials, features, finishes and construction techniques or examples of craftsmanship that are part of the building.
    - (G) Be constructed with the least possible loss of historic materials.
    - (H) Not create a false sense of historical development by including features that would appear to have been part of the building during the period of significance but whose existence is not supported by historical evidence.
    - (I) Be designed in a manner that makes it clear what is original to the building and what is new.
    - (J) Be designed to reflect, but not replicate, the architectural styles of the period of significance.
    - (K) Preserve features of the building that have occurred over time and have attained significance in their own right.
    - (L) Preserve distinguishing original qualities of the building and its site.
    - (M) Not increase the height of a building to more than four stories.
- (h) *Decks.* Replacement and addition of decks in historic contributing buildings and individually listed public historic resources is allowed.
  - (1) *Materials.* The deck shall be constructed of wood, a wood composite, or a material available during the period of significance.

- (2) *Design.* The deck shall:
  - (A) Be located off the rear of the resource.
  - (B) Not obscure any significant architectural features of the resource.
  - (C) Be of a reasonable size and scale in relationship to the resource.
  - (D) Shall not extend beyond the width of the existing footprint of the resource.
- (i) *Lintels, architraves, sills, and other architectural details.* Replacement of lintels, architraves, sills and other architectural details in historic contributing buildings and individually listed public historic resources shall be allowed only where the owner has attempted repair, but repair was unfeasible due to the poor condition of the original materials. If the feature is not original then every effort shall be made to replicate the original feature; the effort shall be substantiated by historic, physical, or pictorial evidence. If the feature cannot be replicated then it should be of a compatible design and material.
  - (1) *Materials.*
    - (A) Existing architectural details shall be retained.
    - (B) Original material shall, if possible, be retained or repaired.
    - (C) If replacement material is required, similar material shall be used.
  - (2) *Design.*
    - (A) The replacement shall, to the greatest extent feasible, match design, size, proportions, and profile of the original architectural details.
    - (B) Architectural details should not be added unless there is archival evidence suggesting their presence and design.
- (j) *Accessibility.* Additions or alterations to improve accessibility are allowed.
  - (1) *Materials.* To the greatest extent practicable, materials shall be of the same type, quality, design, size, finish, proportions and configuration of the original materials in the building.
  - (2) *Design.*
    - (A) Additions or alterations to improve accessibility should be designed in a manner that identifies the building's character-defining spaces and features and prevents their damage or loss.
    - (B) Additions and alterations to improve accessibility should be designed in a manner that is compatible with the building and its setting.
- (k) *Energy efficiency.* Retrofitting historic contributing buildings and individually listed public historic resources to achieve energy efficiency is permitted, if the retrofitting preserves the building's historic character.
  - (1) *Materials.*
    - (A) Materials shall be of a type and quality that will not result in degradation of original material in the resource. Example: Addition of insulation to exterior walls should not negatively affect the function of the wall assembly.
    - (B) The materials for any retrofitted architectural elements shall comply with the standards for materials for such elements set forth in this section. This includes, but is not limited to, windows and doors.
  - (2) *Design.*
    - (A) To the extent practicable, original systems to control ventilation, such as double hung, transom windows and awnings, shall be preserved.
    - (B) Before seeking to replace windows or doors, improve thermal efficiency through weather-stripping, storm windows, interior shades, blinds and awnings.

- (C) The designs of any retrofitted architectural elements shall comply with the standards for replacement of such elements set forth in this section.
  - (D) Retrofitting shall be designed in a manner that prevents loss of original material or architectural elements.
- (l) *Mechanical equipment and service areas.* Addition and replacement of mechanical equipment is permitted. This includes, but is not limited to, heating and cooling systems, solar panels, telecommunications equipment and dumpster enclosures.
  - (1) *Materials.* Materials shall be harmonious in type, color, scale, texture, and proportions with the building and the district generally.
  - (2) *Design.*
    - (A) Mechanical equipment and service areas should be located out of public view and designed as an integral part of the overall building design.
    - (B) Mechanical equipment and service areas should be placed at the rear of the building, recessed on the roof of the building, or screened by appropriate fencing.
    - (C) Low-profile mechanical units and elevator shafts may be placed on rooftops if they are not visible from the street, or are set back and screened from view.
    - (D) Solar panels should have low profiles and not be visible from right-of-way, other than alleys, and shall be installed in a manner that minimizes damage to historic materials.
    - (E) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.
    - (F) Mechanical equipment placed at street level should be screened in a manner that is compatible with the streetscape and adjacent buildings.
    - (G) New skylights and vents shall be placed behind and below the parapet level.
- (m) *Awnings and canopies.*
  - (1) *Materials.* Replacement or installation of awnings and canopies on historic contributing buildings and individually listed public historic resources is allowed.
    - (A) Materials that are compatible with the character of the building's period and style shall be used.
    - (B) Canvass is an approved material for awnings and canopies.
  - (2) *Design.*
    - (A) Awnings shall be located within window openings and below transoms.
    - (B) Umbrella-type awnings and non-historic forms are not permitted.
    - (C) Awnings shall be attached in such a manner that historic materials or features are not damaged.
    - (D) Marquees may be used where compatible with the building and neighboring buildings.
    - (E) Awnings, canopies, or marquees shall not obscure significant architectural features on the building.
    - (F) Awnings, canopies, or marquees shall have size, scale and design that are compatible with the building and neighboring buildings.
- (n) *New accessory structures.* New accessory structures may be built on the site of historic contributing buildings and individually listed public historic resources.
  - (1) *Materials.* New accessory structures shall have the same siding material as the primary resources, or consistent with other primary structures in the zone.

- (2) *Design*. New accessory structures shall:
  - (A) Not be located on or around the primary facade of an existing resource.
  - (B) Be no taller than one story.
  - (C) Be similar in character to those built during the period of significance.
  - (D) Be subordinate to the primary structure in terms of mass, size, and height.
- (o) *Fences*. Fences may be added to sites of historic contributing buildings and individually listed public historic resources, provided the fence will not result in the removal or destruction of site features identified as significant on the historic resource inventory.
  - (1) *Materials*. The fence shall be constructed of traditional materials that were available during the period of significance.
  - (2) *Design*. Fences shall be no taller than four feet in the front yard and no taller than six feet in side and rear yards.
- (p) *Retaining walls*. Retaining walls may be added to sites of historic contributing buildings and individually listed public historic resources, provided the retaining wall will not result in the removal or destruction of site features identified as significant on the historic resource inventory.
  - (1) *Materials*. The retaining wall shall be constructed of traditional materials that were available during the period of significance. Example: If the period of significance is 1920-1940 the materials that were available included, but were not limited to, rusticated stone, formed concrete, poured concrete, and brick.
  - (2) *Design*. Retaining walls shall be no taller than two feet in the front and four feet on the side and rear yards.
- (q) *Site features*. Replacement or alteration of site features of a historic contributing building and individually listed public historic resources that are identified as significant features on the historic resource inventory, including, but not limited to, driveways, sidewalks, gardens, significant trees, or geological features is allowed, unless the replacement or alteration would materially alter or destroy the features.
  - (1) *Materials*. Materials shall duplicate, to the greatest degree possible, the appearance and physical qualities of the original materials. Example: Rhododendron hedge planted during the period of significance is replanted with heritage varieties available during the period of significance.
  - (2) *Design*. The design shall reproduce, to the greatest extent possible, the appearance of the original site feature. Example: If the site contains a Lord and Schryver garden, the replacements shall be allowed provided the original design and location of plantings of the historical garden are retained.

(Prior Code, § 230.060; Ord. No. 25-13)

#### **Sec. 230.062. Signs in public historic districts.**

Signs in public historic districts and on an individually listed public historic resource shall comply with this section, as well as any applicable requirements set forth in SRC chapter 900.

- (a) Historic signs shall be retained whenever possible, particularly if the sign is associated with historic figures, events or places, significant as evidence of the history of the product, business or service advertised, significant as reflecting the history of the building or the development of the historic district, characteristic of a specific period, or integral to the building's or structure's design or physical fabric.
- (b) Reconstruction of historic signs shall only be allowed if there is sufficient historical, pictorial, and physical documentation to replicate the sign's appearance at a specific period of time and in its historic location.
- (c) New signs shall:
  - (1) Be compatible with the size, scale, and design of the historic resource.



- (2) Be located where they do not obscure significant features of a historic resource.
- (3) Use materials that are compatible with and characteristic of the period of significance.
- (4) Be attached in a manner that prevents damage to historic materials.
- (5) Any sign identifying the use of the building or structure shall be limited to the minimum size necessary to provide such identification.

(Prior Code, § 230.062; Ord. No. 25-13)

**Sec. 230.063. Standards for non-contributing buildings and structures in public historic districts.**

Modifications to non-contributing buildings in public historic districts shall comply with this section.

- (a) *Masonry, siding, exterior trim, and minor architectural features.* Replacement of masonry, siding, and exterior trim of non-contributing buildings is allowed.
  - (1) *Materials.*
    - (A) For historic non-contributing buildings, material dating from the period of significance shall, if possible, be retained or repaired.
    - (B) Replacement materials shall be, to the greatest degree possible, of the same type, quality, design, size, finish, proportions, and configuration of the materials commonly used on other buildings in the district.
  - (2) *Design.*
    - (A) The design shall, to the greatest degree possible, match the color, texture and bonding pattern of the original materials.
    - (B) For historic non-contributing buildings the appearance of original materials that were used on the building during the period of significance shall be restored or reconstructed whenever possible.
- (b) *Windows.* Replacement of windows in historic non-contributing buildings is allowed.
  - (1) *Materials.*
    - (A) Windows dating from the period of significance shall, if feasible, be retained and repaired or restored.
    - (B) Replacement materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions and configuration of windows commonly used on other buildings in the district.
    - (C) Glass block or tinted, mirrored, opaque, or colored glass is not permitted, unless it is the historic glazing type.
  - (2) *Design.*
    - (A) Replacement windows should, to the greatest degree possible, match design, size, proportions, configuration, reflective qualities and profile of the original windows dating from the period of significance, if documentary evidence of the appearance is available.
    - (B) The size and shape of the window openings dating from the period of significance should be preserved so that the configuration of the facade is not changed.
    - (C) Original openings that have been covered or blocked should be re-opened when feasible.
    - (D) New window openings into the principal elevations, enlargement or reduction of original window openings, and infill of original window openings are not permitted.
    - (E) Window styles historically used on upper levels shall not be installed at storefront level, and storefront windows shall not be installed on upper levels.
    - (F) Commercial window types shall not be substituted with residential window types, unless the

type of window being replaced is residential.

- (G) Interior grilles, grilles between layers of insulating glass, or stenciled mullions in lieu of true divided lights or exterior mullions are not permitted.
- (c) *Doors.* Replacement of doors in non-contributing buildings shall be allowed.
  - (1) *Materials.*
    - (A) Doors dating from the period of significance shall, if possible, be retained and repaired or restored.
    - (B) Replacement materials shall be, to the greatest degree possible, of the same type, quality, design, size, finish, proportions and configuration of the doors commonly found in the district.
  - (2) *Design.*
    - (A) Replacement doors shall, to the greatest degree possible, match design, size, proportions and profile of the original door dating from the period of significance, if documentary evidence of the appearance is available.
    - (B) Original door openings that have been covered or blocked should be reopened when feasible.
    - (C) The size and shape of original door openings should be preserved so that the configuration of the facade is not changed.
    - (D) Commercial door types shall not be substituted with residential door types, unless the type of door being replaced is residential.
- (d) *Porches.* Replacement of porches on non-contributing buildings is allowed.
  - (1) *Materials.*
    - (A) All features of the porch shall be replaced with material that duplicate, to the greatest degree possible, the appearance and structural qualities of the original porch.
    - (B) Replacement materials shall duplicate, to the greatest degree possible, the appearance and structural qualities that are consistent with building materials on buildings in the district.
    - (C) Wood lap, shingles, brick, and stone are appropriate materials.
    - (D) Alternative materials shall appear similar in scale, proportion, texture and finish with buildings in the district.
  - (2) *Design.* The design should be similar in dimension, style, pattern and detail to porches on buildings in the district.
- (e) *Roofs and cornices.* Replacement of roofs and cornices on non-contributing buildings shall be allowed.
  - (1) *Materials.*
    - (A) Historic specialty roofing materials, such as original tile, slate, or rolled composition roofing dating from the period of significance should be maintained in place whenever possible.
    - (B) Replacement materials that are visible from the street shall be, to the greatest degree possible, of the same type, quality, design, size, finish, proportions and configuration of the roof and cornices commonly found in the district. Plastic or concrete simulated materials are not allowed. Imitation slate and wood are allowed as a substitute for original materials in a complete replacement.
  - (2) *Design.*
    - (A) To the extent practicable, original roof and cornice components visible from the street dating from the period of significance shall be preserved.
    - (B) Eave overhangs dating from the period of significance shall be maintained.
    - (C) Restoration of the appearance of the roof and cornice that is visible from the street, based on

historical research and physical evidence from the period of significance, is preferred.

- (D) Replacement of roofs and cornices that are contemporary in design shall be compatible with the scale, proportions, massing, height, rhythm, materials, color and texture of historic buildings in the district.
  - (E) Cutting back roof rafters and soffits, boxing in exposed rafter tails, adding fascia boards where none existed, or otherwise altering material that dates from the period of significance is not allowed.
  - (F) To the extent practical, inappropriate repairs or additions that occurred after the period of significance should be removed or corrected.
- (f) *Missing features.* Features that were present on a non-contributing building during the period of significance but which were later removed may be reconstructed.
- (1) *Materials.* Materials used in the replacement shall match as closely as practicable the composition, design, texture, and other visual qualities of the materials of the missing feature.
  - (2) *Design.* The design accurately duplicates the missing feature. The design shall be substantiated by historic, physical, or pictorial evidence. Evidence does not include conjectural designs, or the appearance of features or different elements from other buildings or structures built during the period of significance.
- (g) *Alterations and additions.* Additions and alterations that comply with the standards in this section may be made to historic non-contributing buildings. Whenever practical, additions and alterations to historic non-contributing buildings should result in the restoration of missing features from the period of significance, or the removal of alterations that were made outside of the period of significance.
- (1) *Materials.*
    - (A) Materials shall be consistent with those present in buildings in the district generally.
    - (B) Roofing materials shall have a non-reflective, matte finish.
  - (2) *Design.*
    - (A) The location for an addition shall be at the rear, or on an inconspicuous side of the building.
    - (B) Changes to features of a historic non-contributing building that date from the period of significance shall be minimized.
    - (C) The design shall be compatible with the character of non-contributing buildings in the historic district and create a harmonious relationship with historic contributing buildings in the district generally. Factors in evaluating the design under this ~~paragraph~~ subsection include, but are not limited to:
      - (i) Similarities in the size and scale to those used in historic contributing buildings in the district generally.
      - (ii) Use of architectural features that reflect, or are similar to, the architectural style of historic contributing buildings in the district.
      - (iii) Simple gable or hipped roofs with a pitch similar to surrounding buildings are generally appropriate. Flat roofs may be appropriate when the prevailing styles of architecture provide an appropriate context. Exotic or complex roof forms that detract from the visual continuity of the district are generally inappropriate.
      - (iv) Additions should have a similar mass to surrounding buildings.
      - (v) Front elevations should appear similar in scale to those seen traditionally in the surrounding neighborhood.
      - (vi) The width and height of the addition should not exceed the typical dimensions seen in the district.

- (vii) Simple rectangular building forms are generally preferred.
  - (D) The design shall make clear what is original and what is new.
  - (E) Features that have been added over time and have attained significance in their own right shall be preserved, even if the features do not reflect the period of significance.
  - (F) An addition that adds stories shall increase the height of a building to no more than four stories.
- (h) *Decks.* Replacement and addition of decks in non-contributing buildings is allowed, subject to the following standards:
- (1) *Materials.* The deck shall be constructed of wood, a wood composite, or a material available during the period of significance.
  - (2) *Design.* The deck shall:
    - (A) Be located off the rear of the resource.
    - (B) Be of a reasonable size and scale in relationship to the resource.
- (i) *Lintels, architraves, sills, and other architectural details.* Replacement of lintels, architraves, sills, and other architectural details on non-contributing buildings is allowed.
- (1) *Materials.*
    - (A) Materials dating from the period of significance shall, if possible, be retained and repaired or restored.
    - (B) Replacement materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions and configuration commonly found in the district.
  - (2) *Design.*
    - (A) To the extent practicable, original material dating from the period of significance shall be preserved.
    - (B) Restoration of the appearance of architectural details that are visible from the street, based on historical research and physical evidence from the period of significance, is preferred.
    - (C) Replacement of architectural details that are contemporary in design shall be compatible with the scale, proportions, massing, height, rhythm, materials, color, and texture of historic buildings in the district.
- (j) *Accessibility.* Additions or alterations to improve accessibility are allowed.
- (1) *Materials.* Materials shall be, to the greatest extent practicable, of the same type, quality, design, size, finish, proportions and configuration of the original materials in the building.
  - (2) *Design.*
    - (A) Additions or alterations to improve accessibility shall be designed in a manner that identifies the building's character-defining spaces and features, and prevents their damage or loss.
    - (B) Additions and alterations to improve accessibility should be designed in a manner that is compatible with the building and its setting.
- (k) *Energy efficiency.* Retrofitting non-contributing buildings to achieve energy efficiency is permitted, if the retrofitting preserves the character of the historic district.
- (1) *Materials.* The materials for any retrofitted architectural elements shall comply with the standards for materials for such elements set forth in this section. This includes, but is not limited to, windows and doors.
  - (2) *Design.*
    - (A) To the extent practicable, original systems to control ventilation, such as double hung,

transom windows and awnings, dating from the period of significance shall be preserved.

- (B) The designs of any retrofitted architectural elements shall comply with the standards for replacement of such elements set forth in this section. This includes, but is not limited to, windows and doors.
  - (C) Retrofitting shall be designed in a manner that prevents loss of original material or architectural elements dating from the period of significance.
- (l) *Mechanical equipment and service areas.* Addition and replacement of mechanical equipment is permitted. This includes, but is not limited to, heating and cooling systems, solar panels, telecommunications equipment, and dumpster enclosures.
- (1) *Materials.* Materials shall be harmonious in type, color, scale, texture, and proportions with the building and the district generally.
  - (2) *Design.*
    - (A) Mechanical equipment and service areas should be located out of public view and designed as an integral part of the overall building design.
    - (B) Mechanical equipment and service areas should be placed at the rear of the building, recessed on the roof of the building, or screened by appropriate fencing.
    - (C) Low-profile mechanical units and elevator shafts may be placed on rooftops if they are not visible from the street, or are set back and screened from view.
    - (D) Solar panels should have low profiles and not be visible from right-of-way, other than alleys, and shall be installed in a manner that minimizes damage to historic materials.
    - (E) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.
    - (F) Mechanical equipment placed at street level should be screened in a manner that is compatible with the streetscape and adjacent buildings.
    - (G) New skylights and vents shall be placed behind and below the parapet level.
- (m) *Awnings and canopies.* Replacement or installation of awnings and canopies on non-contributing buildings is allowed.
- (1) *Materials.*
    - (A) Materials that are compatible with the character of the district shall be used.
    - (B) Canvass is an approved material for awnings and canopies.
  - (2) *Design.*
    - (A) Awnings shall be located within window openings, and below transoms.
    - (B) Umbrella-type awnings and non-historic forms are not permitted.
    - (C) Awnings shall be attached in such a manner that historic materials or features are not damaged.
    - (D) Marquees may be used where compatible with the building and neighboring buildings.
    - (E) Awnings, canopies, or marquees shall not obscure significant architectural features on the building.
    - (F) Awnings, canopies, or marquees shall have size, scale, and design that are compatible with the building and neighboring buildings.
- (n) *New accessory structures.* New accessory structures may be built on the site of non-contributing buildings, subject to the following standards:
- (1) *Materials.*

- (A) Building materials shall be of traditional dimensions.
  - (B) Siding material shall be consistent with those present in buildings in close proximity to the accessory, generally.
- (2) *Design.* New accessory structures shall:
  - (A) Not be located on or around the primary facade of an existing resource.
  - (B) Be no taller than one story.
  - (C) Be of a reasonable size and scale in relationship to the building.
- (o) *Fences.* Fences may be added to sites of non-contributing buildings, provided the fencing will not result in the removal or destruction of site features identified as significant on the historic resource inventory for the district.
  - (1) *Materials.* Fences shall be constructed of traditional materials that were available during the period of significance.
  - (2) *Design.* Fences shall be no taller than four feet in the front yard and no taller than six feet in side and rear yards.
- (p) *Retaining walls.* Retaining walls may be added to sites of non-contributing buildings, provided the retaining wall will not result in the removal or destruction of site features identified as significant on the historic resource inventory for the district.
  - (1) *Materials.* The retaining wall shall be constructed of traditional materials that were available during the period of significance. Example: If the period of significance is 1920-1940, the materials that were available included, but were not limited to, rusticated stone, formed concrete, poured concrete, and brick.
  - (2) *Design.* Retaining walls shall be no taller than two feet in the front and four feet on the side and rear yard.
- (q) *Site features.* Replacement or alteration of site features of a non-contributing building that are identified as significant features on the historic resource inventory for the district, including, but not limited to, driveways, sidewalks, gardens, significant trees, or geological features is allowed, unless the replacement or alteration would materially alter or destroy the features.
  - (1) *Materials.* Materials shall duplicate, to the greatest degree practicable, the appearance and physical qualities of the original materials. Example: Rhododendron hedge planted during the period of significance is replanted with heritage varieties available during the period of significance.
  - (2) *Design.* The design shall reproduce, to the greatest extent practicable, the appearance of the original site feature. Example: If the site contains a Lord and Schryver garden, the replacements shall be allowed provided the original design and location of plantings of the historical garden are retained.

(Prior Code, § 230.063; Ord. No. 25-13)

**Sec. 230.064. Standards for new construction in public historic districts.**

New buildings may be constructed in public historic districts, subject to the following standards:

- (a) *Materials.*
  - (1) The primary facade shall be constructed of building materials that are consistent with other primary structures in the vicinity.
  - (2) Materials used in the construction shall be identical or similar those available for similar buildings or structures built during the period of significance.
  - (3) Materials shall be similar in scale, proportion, texture, and finish to those found on nearby historic structures.
- (b) *Design.*

- (1) Within all public historic districts, other than the Oregon State Hospital District, the design shall be compatible with general character of historic contributing buildings in the historic district. Factors in evaluating compatibility include, but are not limited to:
  - (A) The height, width, proportions, size and scale is consistent with those used in similar historic contributing buildings in the district generally.
  - (B) The design reflects, but does not replicate, the architectural style of historic contributing buildings in the district.
  - (C) Architectural elements that are similar to those found on historic contributing buildings in the historic district are used.
  - (D) Architectural elements such as lintels, cornices, doors, and windows reflect the spacing, placement, scale, orientation and proportion of buildings in the district.
  - (E) The front facade is designed with proportions that are compatible with adjacent buildings in the vicinity.
- (2) Within the Oregon State Hospital District the design shall be compatible with general character of the historic contributing buildings, as identified in Table 230-4, located in the zone, as identified in Figure 230-5, where the work is occurring.
  - (A) The height, width, proportions, size and scale is consistent with those used in similar historic contributing buildings in the district generally.
  - (B) The design reflects, but does not replicate, the architectural style of historic contributing buildings in the district.
  - (C) Architectural elements that are similar to those found on historic contributing buildings in the historic district are used.
  - (D) Architectural elements such as lintels, cornices, doors, and windows reflect the spacing, placement, scale, orientation, and proportion of buildings in the district.
  - (E) The front facade is designed with proportions that are compatible with adjacent buildings in the vicinity.
- (c) *Mechanical equipment and service areas.* Mechanical equipment, including, but not limited to, heating and cooling systems, solar panels, and telecommunications equipment, and service areas, including, but not limited to, dumpster enclosures, shall meet the following standards:
  - (1) *Materials.* Materials shall be harmonious in type, color, scale, texture, and proportions with the building and the district generally.
  - (2) *Design.*
    - (A) Mechanical equipment and service areas should be located out of public view and designed as an integral part of the overall building design.
    - (B) Mechanical equipment and service areas should be placed at the rear of the building, recessed on the roof of the building, or screened by appropriate fencing.
    - (C) Low-profile mechanical units and elevator shafts may be placed on rooftops if they are not visible from the street, or are set back and screened from view.
    - (D) Solar panels should have low profiles and not be visible from the street.
    - (E) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.
    - (F) Mechanical equipment placed at street level should be screened in a manner that is compatible with the streetscape and adjacent buildings.
    - (G) Skylights and vents shall be placed behind and below the parapet level.

- (d) *Accessory structures.* Accessory structures may be built on the site of new construction.
  - (1) *Materials.*
    - (A) Building materials shall be of traditional dimensions.
    - (B) Siding material shall be consistent with those present in buildings in the district generally.
  - (2) *Design.*
    - (A) The accessory structure shall be located at the rear of the lot or parcel.
    - (B) The accessory structure shall be no taller than one story.
    - (C) The accessory structure shall be of a reasonable size and scale in relationship to the building.
- (e) *Awnings and canopies.* Awnings and canopies on new construction shall meet the following standards:
  - (1) *Materials.*
    - (A) Materials that are compatible with the character of the district shall be used.
    - (B) Canvass is an approved material for awnings and canopies.
  - (2) *Design.*
    - (A) Awnings shall be located within window openings, and below transoms.
    - (B) Umbrella-type awnings and non-historic forms are not permitted.
    - (C) Marquees may be used where compatible with the building and neighboring buildings.
    - (D) Awnings, canopies, or marquees shall not obscure significant architectural features on the building.
    - (E) Awnings, canopies, or marquees shall have size, scale, and design that are compatible with the building and neighboring buildings.
- (f) *Fences.* Fences may be included in new construction.
  - (1) *Materials.* Fences shall be constructed of traditional materials available during the period of significance.
  - (2) *Design.* Fences shall be no taller than four feet in the front yard and no taller than six feet in side and rear yards.
- (g) *Retaining walls.* Retaining walls may be included in new construction, provided the retaining wall will not result in the removal or destruction of site features identified as significant on the historic resource inventory for the district.
  - (1) *Materials.* The retaining wall shall be constructed of traditional materials that were available during the period of significance. Example: If the period of significance is 1920-1940, the materials that were available included, but were not limited to, rusticated stone, formed concrete, poured concrete, and brick.
  - (2) *Design.* Retaining walls shall be no taller than two feet in the front and four feet on the side and rear yard.
- (h) *Solar panels, rooftop mechanical devices, and skylights.* Solar panels and other rooftop mechanical structures may be included in new construction.
  - (1) *Materials.*
    - (A) Non-reflective glass and metal panels are allowed.
    - (B) Reflective glass and plastic frames are prohibited.
  - (2) *Design.*
    - (A) Solar panels shall not alter the existing profile of the roof, and shall be mounted flush on rear-facing roofs or placed on the ground in an inconspicuous location.



- (B) Satellite dishes, TV antennae and other rooftop mechanical structures shall be installed so they are not visible from the street and do not damage or obscure significant architectural feature of the resource.
- (C) Skylights shall be flat and shall not alter the existing profile of the roof. Bubble-type skylights are prohibited.

(Prior Code, § 230.064; Ord. No. 25-13)

**Sec. 230.065. General guidelines for historic contributing resources.**

In lieu of the standards for historic contributing buildings set forth in SRC 230.025 and ~~SRC 230.040~~, an applicant may make a proposal for preservation, restoration, or rehabilitation activity, regardless of type of work, which shall conform to the following guidelines:

- (a) Except as otherwise provided in this chapter, the property shall be used for its historic purpose, or for a similar purpose that will not alter street access, landscape design, entrance(s), height, footprint, fenestration, or massing.
- (b) Historic materials, finishes and distinctive features shall, when possible, be preserved and repaired according to historic preservation methods, rather than restored.
- (c) Distinctive stylistic features or examples of skilled craftsmanship significance shall be treated with sensitivity.
- (d) Historic features shall be restored or reconstructed only when supported by physical or photographic evidence.
- (e) Changes that have taken place to a historic resource over the course of time are evidence of the history and development of a historic resource and its environment, and should be recognized and respected. These changes may have acquired significance in their own right, and this significance should be recognized and respected.
- (f) Additions and alterations to a historic resource shall be designed and constructed to minimize changes to the historic resource.
- (g) Additions and alterations shall be constructed with the least possible loss of historic materials and so that significant features are not obscured, damaged, or destroyed.
- (h) Structural deficiencies in a historic resource shall be corrected without visually changing the composition, design, texture or other visual qualities.
- (i) Excavation or re-grading shall not be allowed adjacent to or within the site of a historic resource which could cause the foundation to settle, shift, or fail, or have a similar effect on adjacent historic resources.

(Prior Code, § 230.065; Ord. No. 34-10)

**Sec. 230.070. General guidelines for non-contributing buildings and structures.**

In lieu of the standards for non-contributing buildings and structures set forth in SRC 230.030 and ~~SRC 230.045 of this section~~, an applicant may make changes to a non-contributing building or structure, regardless of type of work, which shall conform to the following guidelines:

- (a) Materials shall be consistent with those present in buildings and structures in the district generally.
- (b) Alterations and additions shall be compatible in design and construction with the general character of buildings or structures in the historic district. Factors in evaluating compatibility include, but are not limited to:
  - (1) Architectural elements such as porches, dormers, doors and windows reflect the spacing, placement, scale, orientation and proportion of buildings in the district, generally.
  - (2) The location is at the rear, or on an inconspicuous side, of the building or structure.
  - (3) The size and scale is consistent and harmonious with the buildings and structures in the district generally.

- (4) The design reflects, but does not replicate, the architectural style of historic contributing buildings and structures in the district.
- (5) The building uses similar setbacks, orientation on the site, spacing and distance from adjacent buildings that is found on buildings in the immediate vicinity and the district as a whole.

(Prior Code, § 230.070; Ord. No. 34-10)

**Sec. 230.075. Streetscape standards.**

Streetscape improvements in historic districts shall comply with this section.

(a) *Materials.*

- (1) Replacement materials should match as closely as possible to the original color, texture, size and finish of the original materials.
- (2) Diseased street trees should be replaced in kind, if possible.

(b) *Design.*

- (1) Historic street lamps shall be preserved, if feasible.
- (2) Healthy, mature street trees shall be preserved if they are significant to the district.
- (3) Historic landscaped buffer zones, such as the grassy median between the sidewalk and curb shall be preserved.
- (4) Historic retaining walls should be preserved, if feasible.
- (5) Significant sidewalk and driveway features should be preserved when they contribute to the character of the district.
- (6) Original driveway locations and curb cuts should be preserved when they contribute to the character of the district.
- (7) Only those portions of character-defining streetscape that are deteriorated beyond repair shall be replaced.
- (8) New sidewalks should align with existing historic sidewalks on the block, if present.
- (9) When feasible, replacement or new sidewalks should exhibit scoring lines and brush patterns consistent with the historic material when those elements contribute to the historic character of the district.

(Prior Code, § 230.075; Ord. No. 34-10)

**Sec. 230.080. Individually listed resources.**

Historic preservation activity on an individually listed resource shall comply with the standards for historic contributing buildings for the type of resource.

(Prior Code, § 230.080; Ord. No. 34-10)

**Sec. 230.082. Public historic mitigation.**

(a) A public agency shall avoid inadvertent impacts to a historic resource for which the agency is responsible.

(b) A public agency that alters an historic resource for which the agency is responsible to the degree where the alteration has adverse effect on the historic resource shall mitigate the adverse effect as provided in this subsection.

- (1) *Level of effect.* Any proposed alteration that will have an adverse effect to the historic resource shall be classified as to the level of effect, as set forth in Table 230-5. The level of effect is based on the scale of work and the location of the work. Example: An alteration that involves minor work on a secondary facade will not have as high of an adverse effect on a public historic resource as a project involving major work on a primary facade.

**TABLE 230-5. PUBLIC HISTORIC MITIGATION – LEVEL OF EFFECT**

<b>Activity Proposed</b>	<b>Primary Facade</b>	<b>Level of Effect</b>	<b>Secondary Facade</b>	<b>Level of Effect</b>
<b>Public Historic District</b>				
Demolition	Adverse Effect	Level Three	Adverse Effect	Level Two
Accessibility alterations and additions	Adverse Effect	Level One	No Adverse Effect	None
Alterations and additions	Adverse Effect	Level Two	No Adverse Effect	None
Awnings and canopies replacement or installation	Adverse Effect	Level One	No Adverse Effect	None
Awnings and canopies replacement or installation (in-kind)	No Adverse Effect	None	No Adverse Effect	None
Decks replacement and additions	Adverse Effect	Level One	No Adverse Effect	None
Door replacement	Adverse Effect	Level One	No Adverse Effect	None
Door replacement (in-kind)	No Adverse Effect	None	No Adverse Effect	None
Energy	Adverse Effect	Level One	No Adverse Effect	None
Fences	Adverse Effect	Level One	No Adverse Effect	None
Lintels, architraves, sills, and other architectural details replacement	Adverse Effect	Level One	No Adverse Effect	None
Lintels, architraves, sills, and other architectural details replacement (in-kind)	No Adverse Effect	None	No Adverse Effect	None
Masonry, siding, and exterior trim replacement details replacement	Adverse Effect	Level Two	No Adverse Effect	None
Masonry, siding, and exterior trim replacement details replacement (in-kind)	No Adverse Effect	None	No Adverse Effect	None
Mechanical equipment and service areas addition and replacement	Adverse Effect	Level One	No Adverse Effect	None
Murals and signs	Adverse Effect	Level One	No Adverse Effect	None

<b>TABLE 230-5. PUBLIC HISTORIC MITIGATION – LEVEL OF EFFECT</b>				
<b>Activity Proposed</b>	<b>Primary Facade</b>	<b>Level of Effect</b>	<b>Secondary Facade</b>	<b>Level of Effect</b>
Murals and signs (meeting standards)	No Adverse Effect	None	No Adverse Effect	None
Porch replacement	Adverse Effect	Level Two	No Adverse Effect	None
Porch replacement (in-kind)	No Adverse Effect	None	No Adverse Effect	None
Restoration of missing features	No Adverse Effect	None	No Adverse Effect	None
Retaining walls	Adverse Effect	Level One	No Adverse Effect	None
Roof and cornice replacement	Adverse Effect	Level Two	No Adverse Effect	None
Roof and cornice replacement (in-kind)	No Adverse Effect	None	No Effect	None
Site features replacement	Adverse Effect	Level One	No Adverse Effect	None
Site features replacement (in-kind)	No Adverse Effect	None	No Adverse Effect	None
Window replacement	Adverse Effect	Level Two	No Adverse Effect	None
Window replacement (in-kind)	No Adverse Effect	None	No Adverse Effect	None

- (2) *Mitigation required.* Mitigation shall be commensurate with the level, as set forth in this ~~paragraph~~ subsection.

- (A) *Level One: minor adverse effect.* Work involves loss of historic features or minor alterations. Mitigation shall include photo documentation of original feature or features prior to removal and an intensive level documentation of the historic resource. The historic resource shall be documented utilizing the standards for photographing and documenting historic resources established by the SHPO.
- (B) *Level Two: moderate adverse effect.* Work involves major alterations or additions. Mitigation shall include photo documentation of original feature or features prior to commencement of work, ILS level documentation of the historic resource, and the development of both on-site and stand-alone educational materials which will meaningfully educate the public about the historic resource. Examples of stand-alone educational materials include, but are not limited to, informational websites and pamphlets. A digital version of any educational materials shall be provided and adequate hard copies printed for distribution by the City. On-site materials include, but are not

limited to, informational kiosks or panels containing historical photos, architectural information and maps relating to the historic resource and site that are installed on the site of the historic resource.

- (C) *Level Three: major adverse effect.* Work results in demolition of a historic resource. Mitigation shall include photo documentation of historic resource prior to commencement of demolition. ILS level documentation of the historic resource, and the development of both on-site and stand-alone educational materials which will meaningfully educate the public about the historic resource, and donation to the City's Historic Preservation Trust Fund, as provided in this ~~paragraph~~ subsection. Examples of stand-alone educational materials include, but are not limited to, informational websites and pamphlets. A digital version of any educational materials shall be provided along, and adequate hard copies printed for distribution by the City. On-site materials include, but are not limited to, informational kiosks or panels containing historical photos, architectural information and maps relating to the historic resource and site that are installed on the site of the historic resource. The public agency shall donate 0.1 percent of the estimated market value of the historic resource to the City's Historic Preservation Trust Fund.

- (3) *Completion of mitigation.* Mitigation shall be complete at the time of completion of project giving rise to the required mitigation.

(Prior Code, § 230.082; Ord. No. 25-13)

#### **Sec. 230.085. Historic resource adaptive reuse.**

(a) *Applicability.* This section allows adaptive reuse of historic-contributing buildings and individually listed resources in all residential zones, in all public zones, and in the Commercial Office zone, in order to preserve these buildings or structures, where other uses would not be economically practical, and where a zone change would be inappropriate.

(b) *Procedure type.* Historical resource adaptive reuse is a Type III procedure under SRC chapter 300.

(c) *Additional submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for historic resource adaptive reuse shall include:

- (1) Cost/benefit analysis.
- (2) Documentation of good faith efforts by the property owner to put the property to economically beneficial use, including, but not limited to, leasing the building or resource;
- (3) Any capital expenditures associated with the building or structure during the two years immediately preceding the application for adaptive reuse.
- (4) Site plan identifying the following:
  - (A) All streets that abut the site and their designation (i.e., arterial, collector etc.); and
  - (B) Proposed parking, if applicable.

(d) *Criteria.* An application for historic resource adaptive reuse shall be granted if the following criteria are met:

- (1) The building is a historic contributing building or an individually listed resource.
- (2) Use of the building or structure for any other use allowed in the zone is not economically practical, and the property does not meet the criteria for a zone change.
- (3) Allowing the proposed use will encourage preservation of the resource.
- (4) The building or structure will not be structurally expanded, or if historic non-contributing, will be restored.
- (5) The building or structure is located on an arterial or collector street.
- (6) Parking that meets the requirements of SRC chapter 806 will be provided.
- (7) The proposed use will be compatible with and have minimal impact on the livability or appropriate

development of surrounding property.

(e) *Conditions.* The Review Authority shall impose such conditions on the historic resource adaptive reuse permit as are necessary to establish compliance with the approval criteria.

(f) *Approval to run with the land.* Unless otherwise provided in the decision granting, historic adaptive reuse permits shall run with the land.

(g) *Historic design review.* Historic design review is required for any exterior alterations to a building or structure that has received historic resource adaptive reuse approval.

(h) *Uses permitted.* The uses permitted for adaptive reuse pursuant to this section, either singularly or in combination, are:

- (1) Additional dwelling units:
  - (A) RS: maximum of four units;
  - (B) RD: maximum of four units.
- (2) Telephone answering service.
- (3) Professional offices:
  - (A) Accounting services;
  - (B) Artists;
  - (C) Engineering, architectural, and surveying services;
  - (D) Legal services;
  - (E) Offices of physicians, dentists, osteopathic physicians, and other health practitioners.
- (4) Retail:
  - (A) Used merchandise store;
  - (B) Men's and boys' clothing and accessory stores;
  - (C) Women's ready-to-wear stores;
  - (D) Women's accessory and specialty stores;
  - (E) Children's and infants' wear stores;
  - (F) Art gallery and framing shop.
- (5) Services:
  - (A) Interior decorating studio;
  - (B) Child day care services;
  - (C) Residential care.
- (6) Other: Other office, service, and retail uses not otherwise enumerated in this subsection that are substantially similar in traffic generation, noise generation, parking demand, hours of operation, and other similar characteristics relating to compatibility with surrounding uses.

(Prior Code, § 230.085; Ord. No. 34-10; Ord. No. 25-13; Ord. No. 31-13)

### **Sec. 230.090. Demolition.**

(a) *Applicability.* Prior to the issuance of a permit for the demolition of one-half or more of the ground floor square footage of a historic contributing building or individually listed resource, the owner must first obtain a historic resource demolition permit pursuant to this section. Historic resource demolition permit approval is a two stage process. "Stage 1" requires review by the Building Official to determine whether the building or resource can be reasonably moved. If the building or structure can be moved, "Stage 1" requires review to certify the relocation of the building or resource. If the building or resource cannot be moved, or no suitable location can be found, "Stage 2" requires review by the Historic Landmarks Commission to determine whether the building or resource should

be demolished.

(b) *Procedure type.*

- (1) Historic resource demolition approval is a Type III procedure under SRC chapter 300.

(c) *Historic resource demolition permit Stage 1.*

- (1) *Submittal requirements.* An application for historic resource demolition permit Stage 1 shall include a report from a structural engineer as to the soundness of the structure and the feasibility of transporting the building or resource on public right-of-way.
- (2) *Criteria.* Historic resource demolition permit Stage 1 shall be granted if the applicant demonstrates that the structural integrity of the building or resource retains sufficient integrity that transporting the building or resource upon public right-of-way would not present a reasonable likelihood of collapse, or would not otherwise endanger public health, safety and welfare. Should the permit be granted, the applicant shall proceed with a relocation permit application. Should the permit not be granted, the applicant shall proceed with Stage 2 demolition review before the Historic Landmarks Commission.
- (3) *Relocation permit application.* If the building or resource can be moved, the applicant shall make a reasonable attempt to relocate the building or resource. The applicant shall notify the Director of the new location of the building. If the original requirements relating to integrity under SRC 230.030 are met, the building or resource shall retain its designation on the new site. If the original requirements relating to integrity are not met, the building or resource shall have its designation removed pursuant to SRC 230.010. Should the applicant be unable to find a suitable site for relocation, the applicant may proceed to Stage 2 historic resource demolition review.
- (4) *Appeals of building official's decision.* Appeals of the Building Official's decision shall be made according to the procedures for contested case proceedings under SRC chapter 20J.

(d) *Historic resource demolition Stage 2.*

- (1) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for historic resource demolition Stage 2 shall include:
- (A) Statement of the historic value and significance of the building or resource to the community, taking into consideration its designation as a local landmark, individually listed historic contributing building on the National Register or its location within a National Register Historic District;
- (B) Statement demonstrating the property is incapable of generating a reasonable economic return, including, but not limited to:
- (i) The purchase price of the building or resource;
  - (ii) The annual gross income generated from the building or resource for the last two years;
  - (iii) Documentation of good faith efforts by the property owner, leasee or renter the building or resource;
  - (iv) The debt associated with the building or resource including a profit and loss statement for the two years immediately preceding the Stage 1 application for demolition; and
  - (v) Any capital expenditures associated with the building or structure during the two years immediately preceding the Stage 1 application for demolition.
- (C) Statement demonstrating good faith efforts of property owner to sell or relocate the building or resource, including, but not limited to:
- (i) Real estate taxes for the two years immediately preceding the application;
  - (ii) Assessed value for the two years immediately preceding the application;
  - (iii) Current fair market value of building or resource as determined by appraiser;
  - (iv) All listings for building or resource for past two years including prices asked/offers received; and

- (v) Documentation of all attempts to relocate the building or resource.
- (D) Analysis of the proposed adaptive reuse of the building or resource, including, but not limited to:
  - (i) Report from structural engineer on the condition of building or resource;
  - (ii) Estimate of cost for rehabilitation of building or resource with an existing use;
  - (iii) Report from real estate or other market professional identifying potential alternative uses allowed for development of the building or resource with existing zoning. The report should include a market analysis evaluating need for alternative uses as well as the number of existing alternative uses already present within the zone;
  - (iv) Estimate of cost for rehabilitation of building or resource for at least two other identified uses; and
  - (v) Report identifying available economic incentives for adaptive reuse of the building or resource, including any federal tax credits available for rehabilitation of National Register properties.
- (E) A proposed plan for redevelopment of the site on which the building or resource is located.
- (2) *Criteria.* An application for a historic resource demolition permit shall be granted if the following criteria are met:
  - (A) The value to the community of the proposed use of the property outweighs the value of retaining the designated historic resource on the present site.
  - (B) The designated historic resource is not capable of generating a reasonable economic return and the demolition is economically necessary.
  - (C) The owner has made a good faith effort to sell or relocate the designated resource.
  - (D) No prudent and feasible alternative exists to rehabilitate and reuse the designated resource in its present location.
- (3) *Issuance of demolition permit.* Unless an appeal is filed, or the ~~City~~-Council initiates review, the demolition permit shall be issued upon the expiration of the 30-day notice period. If an appeal is filed, or review is initiated, the demolition permit shall be issued no sooner than 21 days from the date such appeal or review is final.

(Prior Code, § 230.090; Ord. No. 34-10)

**Sec. 230.095. Demolition by neglect.**

(a) No owner of a historic contributing building or an individually listed resource shall maintain and keep such building or resource in a manner that promotes or allows deterioration, dilapidation and decay of any portion of the building or resource, or that would, if the building or resource is vacant, allow open entry by unauthorized persons. Violation of this subsection is hereby declared to be a public nuisance which may be abated as provided in this section.

(b) *Criteria.* An owner violates subsection (a) of this section, if the owner promotes or allows any of the following to occur to, or exist in, the historic contributing building or individually listed resource:

- (1) Faults, defects, or other conditions which render the building or resource structurally unsafe or not properly watertight.
- (2) Deterioration of walls or support members due to failure to paint or otherwise maintain the building or resource.
- (3) Failure to keep windows and doors secured in a manner that prevents the entry by unauthorized persons.
- (4) Failure to maintain parts of the resource so they are securely attached and will not fall or injure persons or property.
- (5) Deterioration to the foundation.



- (6) Deterioration to floor supports such that they cannot carry imposed loads with safety.
- (7) Deterioration to members of walls, or other vertical supports in such a manner to prevent splitting, leaning, listing, buckling, or becoming insufficient to carry imposed loads with safety.
- (8) Deterioration of members of ceiling, roofs, ceiling and roof supports, or other horizontal members to the extent that they sag, split, or buckle.
- (9) Deterioration of ceilings, roofs, or their supports, or other horizontal members such that they become insufficient to carry imposed loads with safety.
- (10) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

(c) Abatement. When the code enforcement official has reasonable grounds to believe that a violation of this section has occurred or is occurring, the code enforcement official may initiate enforcement proceedings by issuing an enforcement order, as provided in SRC 20J.090. Enforcement proceedings, and appeals thereof, shall follow the procedures set forth in SRC 20J.090 through 20J.430.

(d) Nothing in this section shall prevent the summary abatement of unsafe or dangerous condition of a historic resource that constitutes an imminent and serious threat to public safety.

(Prior Code, § 230.095; Ord. No. 34-10)

### **Sec. 230.100. Preservation of archeological resources.**

(a) Archeological resources shall be protected and preserved in place subject to the requirements of federal, state, and local regulations, including the guidelines administered by the Oregon State Historic Preservation Office and ORS 358.905—358.961.

(b) A person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on public or private lands unless that activity is authorized by a permit issued under ORS 390.235. A violation of this subsection is a misdemeanor.

(Prior Code, § 230.100; Ord. No. 34-10)

### **Sec. 230.101. Enforcement.**

In addition to any remedies set forth in this chapter, SRC 230.001—230.095 may be enforced through SRC 110.110.

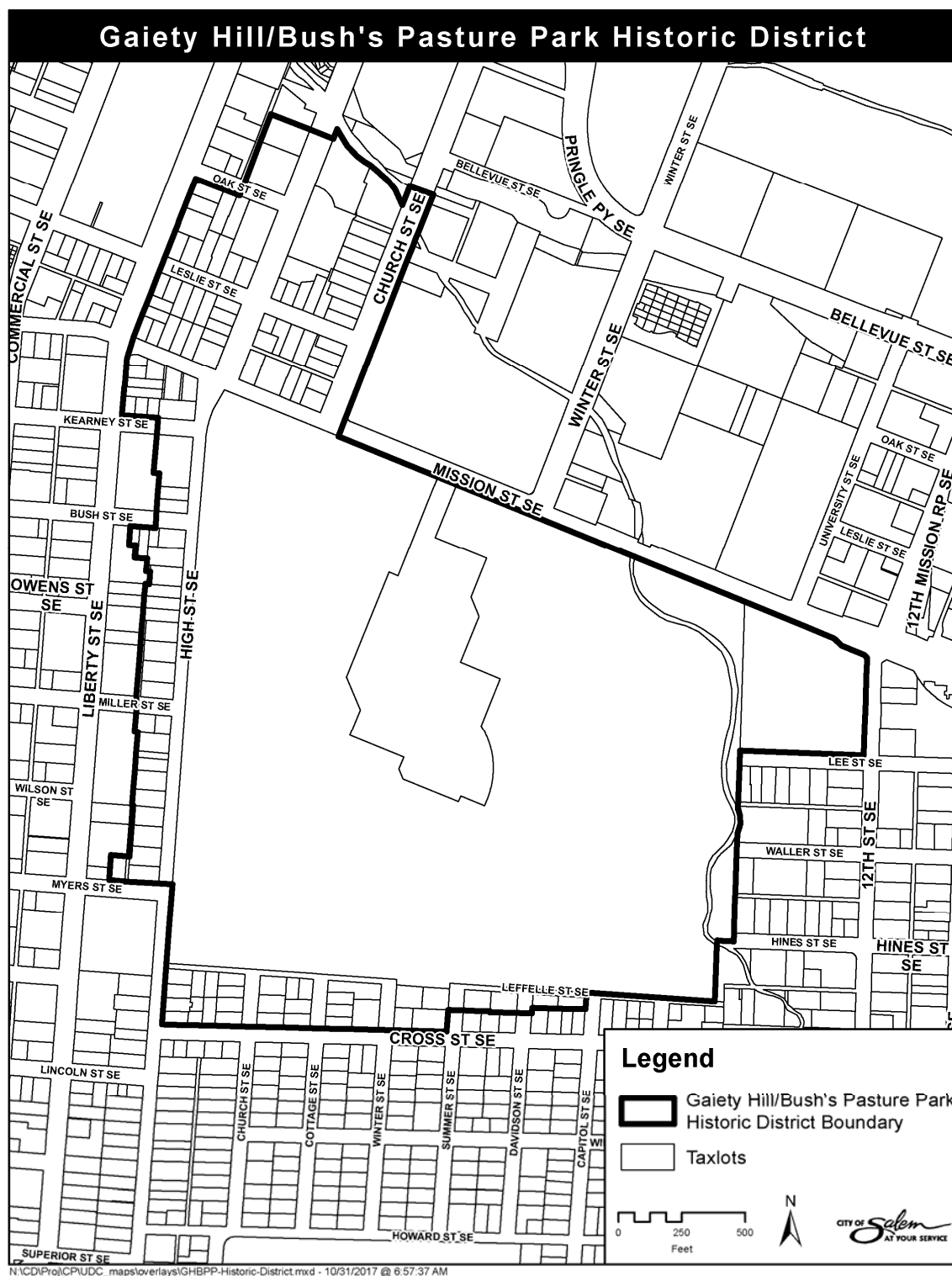
(Prior Code, § 230.101; Ord. No. 34-10)

### **Secs. 230.110—230.190. Reserved**

### **Sec. 230.200. Historic districts.**

The historic districts in Salem are:

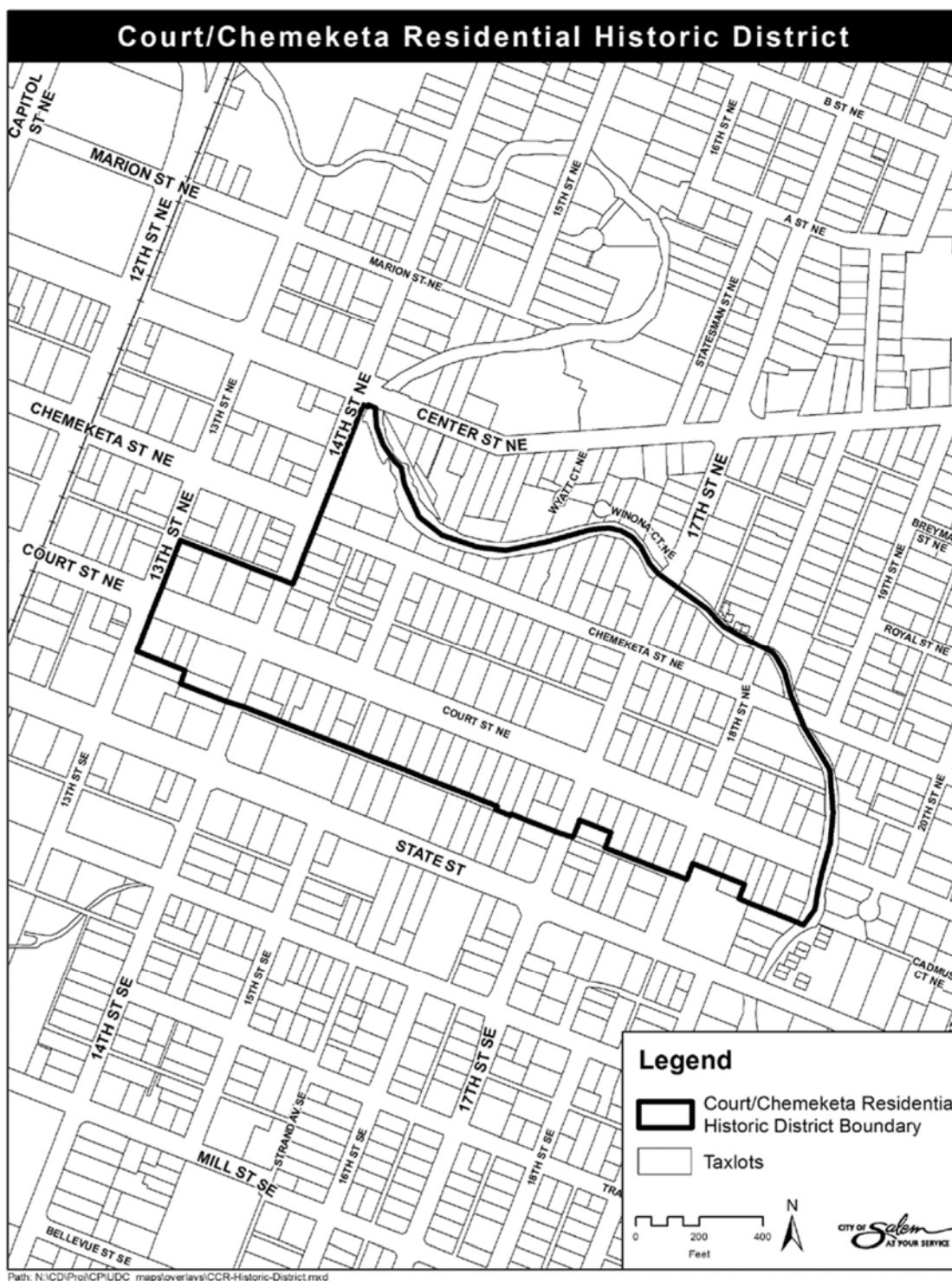
- (a) *Gaiety Hill/Bush's Pasture Park Historic District (Figure 230-1).* The Gaiety Hill/Bush's Pasture Historic District was listed on the National Register of Historic Places in 1986. The period of significance is 1878-1938. The area of the district is 143 acres, and includes 113 historic contributing resources and 32 non-contributing resources. Resources are primarily residential, and the most predominant style the Craftsman Bungalow. The district includes four major Lord and Schryver gardens. The district is most noted for Bush's Pasture Park, located at the center of the district.

**FIGURE 230-1 GAIETY HILL/BUSH'S PASTURE PARK**

- (b) *Court Street-Chemeketa Street Historic District (Figure 230-2).* The Court Street-Chemeketa Historic District was listed on the National Register of Historic Places in 1987. The period of significance is 1860-1937. The area of the district is 38.75 acres and includes 99 historic contributing and 48 non-contributing resources. The overall character of the district is that of a late 19th and early 20th century neighborhood.

Resources are primarily residential. The district is named for its two east-west streets. Court Street is a 99-foot wide boulevard lined with larger and older houses. Chemeketa Street is narrower and lined primarily with bungalows and cottages, some of which front Mill Creek.

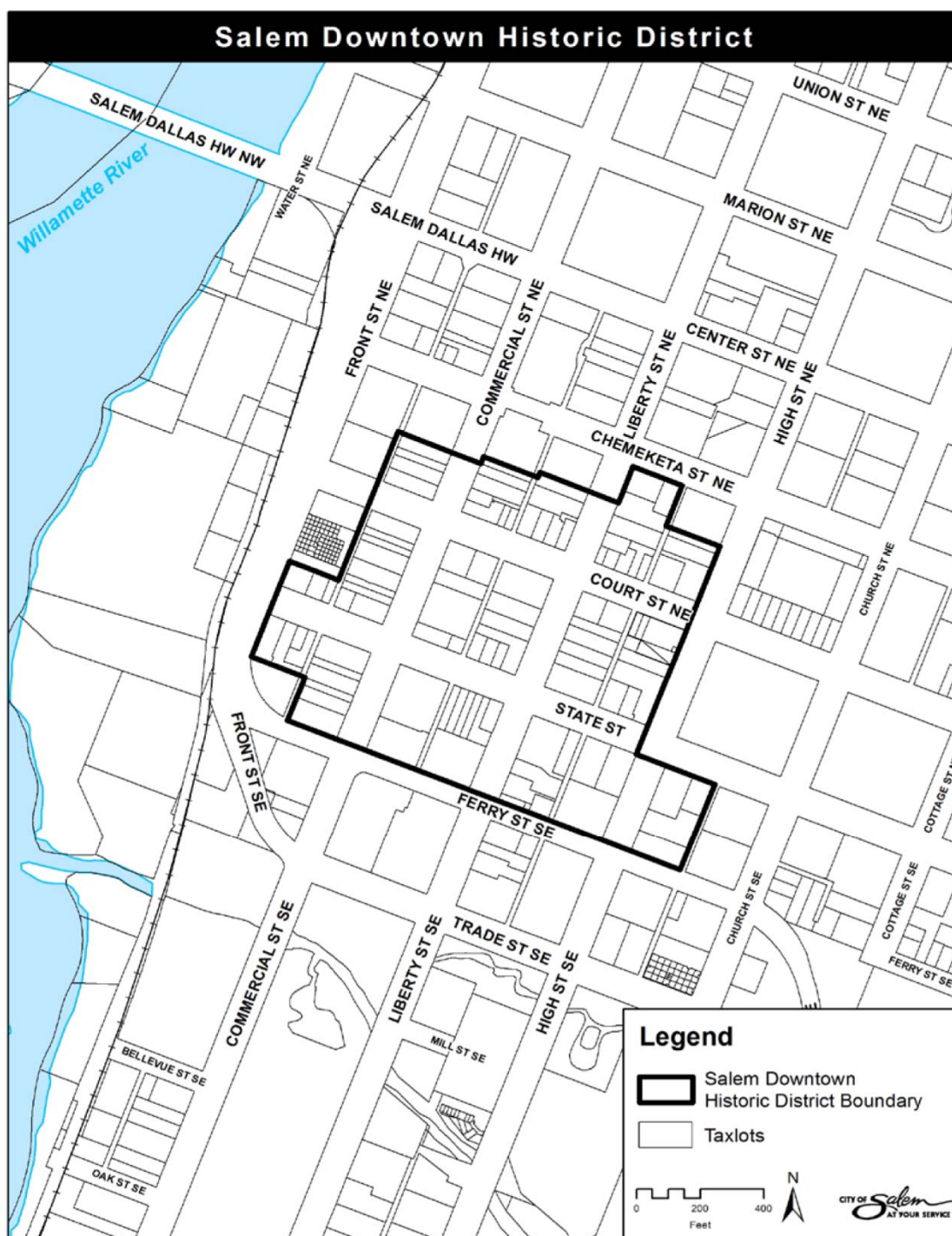
**FIGURE 230-2 COURT/CHEMEKETA DISTRICT**



(c) *Salem Downtown Historic District (Figure 230-3).* The Salem Downtown Historic District was listed on

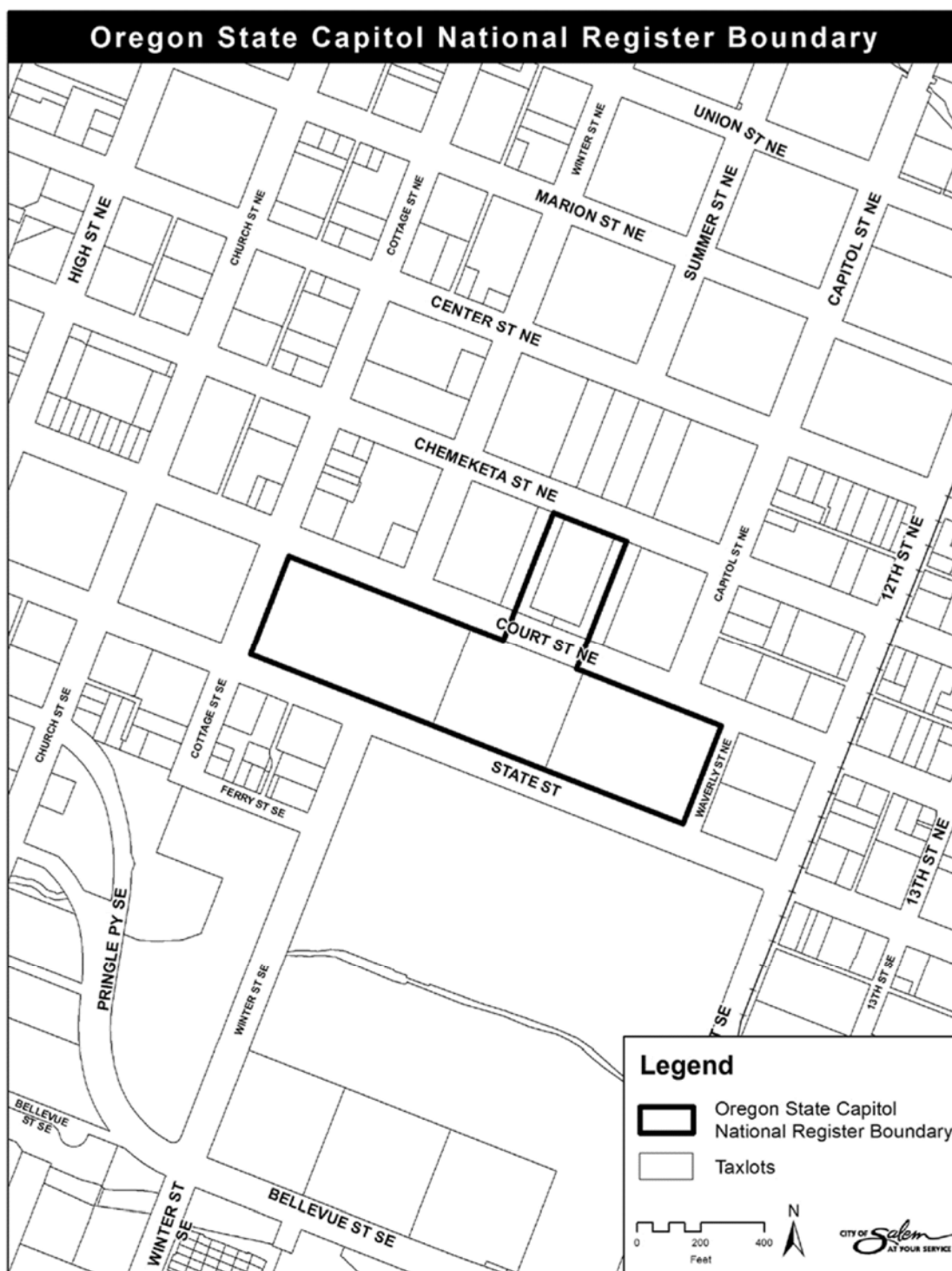
the National Register of Historic Places in 2001. The period of significance is 1867-1950. The district is comprised of approximately seven city blocks and includes 57 historic contributing resources and 35 non-contributing resources. Resources are primarily commercial in character. The district comprises commercial buildings which share a continuity of scale, lot-line development at the street, common building materials such as brick and concrete, and stylistic elements derived from traditional architectural styles such as Richardsonian Romanesque and Italianate. The storefronts throughout the district reflect both the downtown's early development, as well as efforts to modernize over time.

**FIGURE 230-3. SALEM DOWNTOWN HISTORIC DISTRICT**



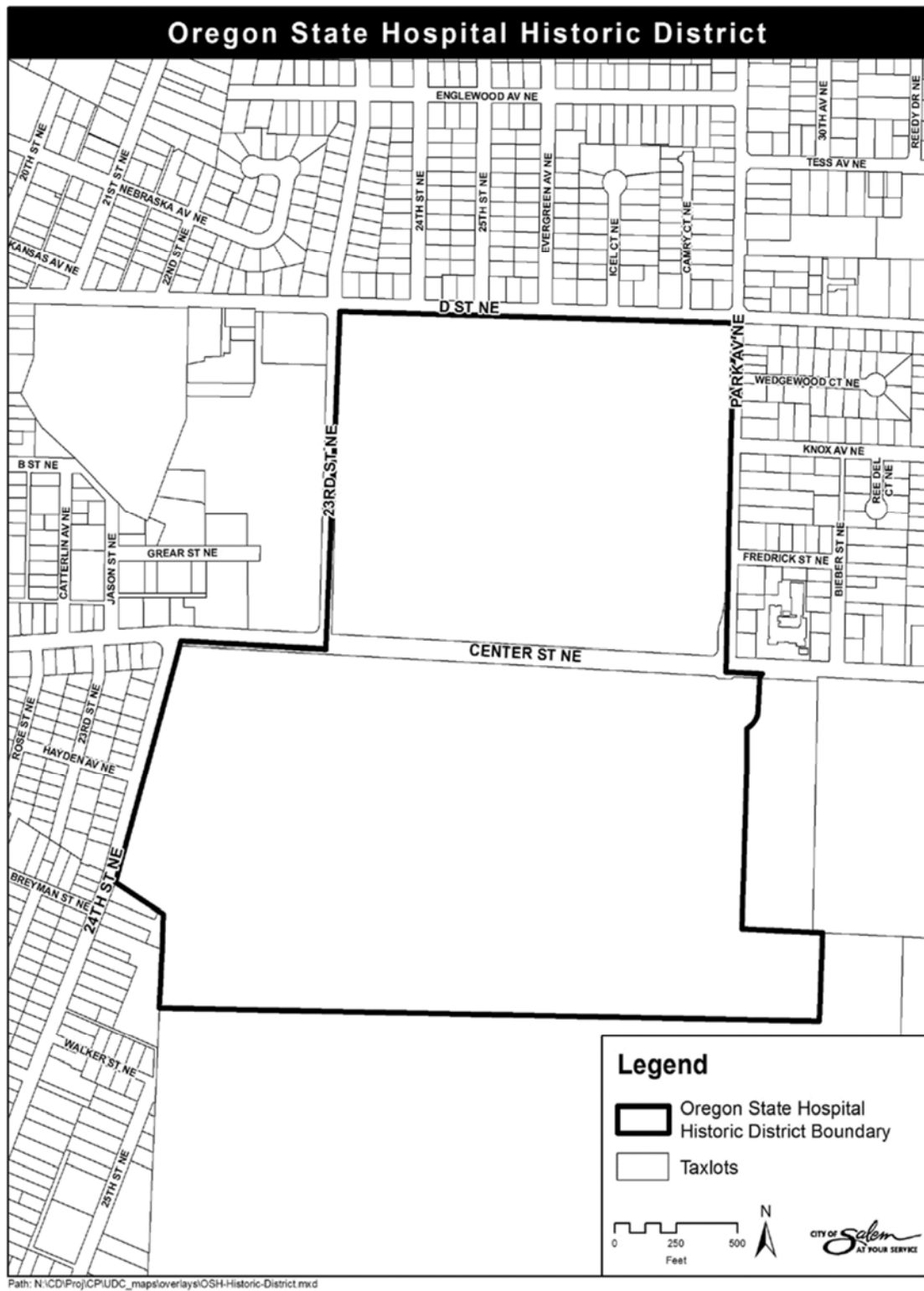
- (d) *Oregon State Capitol (Figure 230-4).* The Oregon State Capitol was listed on the National Register of Historic Places in 1988. The Oregon State Capitol was constructed between 1936 and 1938, is 14.49 acres; includes the Capitol Building and adjacent wings, Wilson Park to the west, Capitol Park to the east, and extends to the north from the Capitol steps across Court Street to include one block of the former East and West Summer Streets and the sunken lawn terrace between these two streets.

**FIGURE 230-4. OREGON STATE CAPITOL**



- (e) *Oregon State Hospital District (Figure 230-5)*. The Oregon State Hospital District was listed on the National Register of Historic Places in 2008. The period of significance is 1883-1958. The area of the district had 67 resources at the time of designation. The resources included buildings constructed for office use, a physical plant and support buildings, patient treatment wards, and staff residences.

**FIGURE 230-5. OREGON STATE HOSPITAL DISTRICT**



(Prior Code, § 230.200; Ord. No. 25-13)

**Secs. 230.210, 230.220. Reserved**

**Sec. 230.225. Individually listed resources.**

The list of individually listed local resources shall be maintained by the Director. The list may be maintained electronically, and shall be available to the general public.

(Prior Code, § 230.225; Ord. No. 25-13)



**CHAPTERS 231—234. RESERVED**

## CHAPTER 235. MANUFACTURED DWELLING PARKS

### **Sec. 235.001. Purpose.**

The purpose of this chapter is to establish the approval criteria and development standards applicable to manufactured dwelling parks and the placement of manufactured dwellings, accessory structures, and park buildings within manufactured dwelling parks. The development standards in this chapter are in addition to the standards contained in the Oregon Manufactured Dwelling and Park Specialty Code and the Oregon Manufactured Dwelling Installation Specialty Code.

(Prior Code, § 235.001; Ord. No. 31-13)

### **Sec. 235.005. Definitions.**

~~Unless the context otherwise specifically requires, as used in this chapter, the following mean: The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~(b) ———Expand:~~ means to increase the park area and/or increase the number of spaces.

~~(a)Park building:~~ means any nonresidential building used for park purposes, such as washrooms, office buildings, recreation buildings, and similar structures.

~~(c)Park street:~~ means a private way which affords principal means of access to abutting individual manufactured dwelling spaces and park buildings.

~~(d) ———Space:~~ means any area or portion of a manufactured dwelling park which is designated or used for occupancy by one manufactured dwelling.

~~(e)Stand:~~ means that portion of a space reserved for the location of the manufactured dwelling.

~~(f)Theater space:~~ means a space within a manufactured dwelling park which has a width that is greater than its depth, in order to accommodate the siting of manufactured dwellings with the longer dimension of the dwelling parallel to the street.

(Prior Code, § 235.005; Ord. No. 31-13)

### **Sec. 235.010. Manufactured dwelling park permit.**

(a) *Applicability.* No manufactured dwelling park shall be established or expanded without receiving manufactured dwelling park permit approval as set forth in this section.

(b) *Procedure type.* A manufactured dwelling park permit is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for a manufactured dwelling park permit shall include the following:

- (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
  - (A) A title block indicating the type of application, applicant's name, date, and location of subject property,
  - (B) Scale and north arrow;
  - (C) Property boundary lines with dimensions and the total area of the site;
  - (D) The boundaries, dimensions, and area of each proposed manufactured dwelling park space;
  - (E) The location, width, and names of all existing streets abutting the perimeter of the subject property;
  - (F) The location, width, grade, and names of all proposed streets within the manufactured dwelling park;

- (G) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway and driveway approach locations, indicating distance to such structures from all property lines and adjacent on-site structures;
  - (H) Loading areas, if included within the proposed development;
  - (I) The size and location of solid waste and recyclables storage and collection areas and the amount of overhead clearance above such enclosures, if included within the proposed development;
  - (J) All proposed landscape areas on the site, with an indication of square footage and percentage of total site area;
  - (K) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808;
  - (L) The location of any existing street trees, and the proposed location of street trees required to be planted at time of development pursuant to SRC chapter 86; and
  - (M) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.
- (2) Three copies of an existing conditions plan drawn to the same scale as the site plan, which shall include, at a minimum, the following:
- (A) The total site area, dimensions, and orientation relative to north;
  - (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways and driveway approaches, noting their distance from property lines;
  - (C) Site topography shown at two-foot contour intervals, with specific identification of slopes in excess of 15 percent; and
  - (D) The location of the 100-year floodplain, if applicable.
- (3) A completed Trip Generation Estimate for the proposed development, on forms provided by the City;
- (4) A traffic impact analysis, if required under SRC chapter 803;
- (5) The location of drainage patterns and drainage courses, if applicable;
- (6) A preliminary plan showing the location of existing and proposed city infrastructure;
- (7) A geological assessment or geotechnical report, if required by SRC chapter 810, or a certification from an engineering geologist or geotechnical engineer that landslide risk on the site is low, and that there is no need for further landslide risk assessment.
- (d) *Criteria.* A manufactured dwelling park permit shall be approved if the following criteria are met:
- (1) The proposed manufactured dwelling park complies with the standards of this chapter and with all applicable provisions of the UDC.
  - (2) The proposed manufactured dwelling park complies with the standards of the Oregon Manufactured Dwelling and Park Specialty Code and the Oregon Manufactured Dwelling Installation Specialty Code.

(Prior Code, § 235.010; Ord. No. 31-13)

**Sec. 235.015. Modification of manufactured dwelling park permit approval.**

(a) *Applicability.* A manufactured dwelling park permit approval may be modified after its effective date if the proposed modification meets the criteria set forth in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for manufactured dwelling park permit.

(b) *Procedure type.* Modification of a manufactured dwelling park permit approval is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for modification of a manufactured dwelling park permit approval shall include the information required under SRC 235.010(c).

(d) *Criteria.* An application for modification of a manufactured dwelling park permit approval shall be granted if the following criteria are met:

- (1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
- (2) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

(e) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

(Prior Code, § 235.015; Ord. No. 31-13)

**Sec. 235.020. Standards for manufactured dwelling parks.**

In addition to the requirements of the Oregon Manufactured Dwelling and Park Specialty Code and the Oregon Manufactured Dwelling Installation Specialty Code, manufactured dwelling parks shall comply with the standards set forth in this section.

- (a) *General development standards.* Manufactured dwelling parks shall conform to the general development standards set forth in Table 235-1.

TABLE 235-1. MANUFACTURED DWELLING PARK GENERAL DEVELOPMENT STANDARDS		
Standard	Requirement	Limitations & Qualifications
Park Size		
RA and RS zones	Min. 1 acre	
	Max. 12 acres	
RM-I and RM-II zones	Min. 1 acre	
	No Max.	
Park-To-Park Separation		
RA and RS zones	Min. 500 ft.	<p>Park-to-park separation is measured from the closest point of the proposed manufactured dwelling park to another manufactured dwelling park.</p> <p>For purposes of this standard, a manufactured dwelling park held in common ownership shall constitute a single manufactured dwelling park, notwithstanding the existence of internal public streets.</p>
RM-I and RM-II zones	None	
Park Space Size		
RA and RS zones	Min. 4,000 sq. ft.	
RM-I and RM-II zones	Min. 4,000 sq. ft.	Applicable to spaces abutting an RA or RS zone district.
	Min. average of 3,000 sq. ft., provided no space shall be less than 2,000	Applicable to spaces not abutting an RA or RS zone district.

<b>TABLE 235-1. MANUFACTURED DWELLING PARK GENERAL DEVELOPMENT STANDARDS</b>		
<b>Standard</b>	<b>Requirement</b>	<b>Limitations &amp; Qualifications</b>
	sq. ft.	
<b>Park Space Width</b>		
RA and RS zones	Min. 40 ft.	Not applicable to theater spaces. Theater spaces are subject to SRC 235.020(b).
RM-I and RM-II zones	Min. 30 ft.	
<b>Park Space Depth</b>		
RA and RS zones	Min. 70 ft.	Not applicable to theater spaces. Theater spaces are subject to SRC 235.020(b).
	Max. 300% of average width	
RM-I and RM-II zones	Min. 40 ft.	

- (b) *Theater spaces.* Within the RA and RS zones, a minimum of ten percent of the spaces within a manufactured dwelling park shall be theater spaces. Theater spaces shall meet minimum space size requirements; and shall have a minimum space depth of 50 feet and a minimum space width that is greater than the depth.
- (c) *On-site storage.* All trash enclosures and outdoor storage of furniture, tools, equipment, building materials, or supplies belonging to the management of the park shall be screened. Screening shall be a minimum six-foot-high sight-obscuring fence, wall, or hedge.
- (d) *Fire hydrants.* Fire hydrants shall be provided according to the standards and specifications on file in the office of the ~~Public Works~~ Director and applicable state law. Fire hydrants shall be installed and provide fire flow as required by the fire code official.
- (e) *Driveways and driveway approaches.* Within 100 feet of the intersection of a park street with a public street, driveway approaches shall conform to the standards set forth in SRC chapter 804. Driveways providing access from a public street shall be a minimum 20 feet in depth.

(Prior Code, § 235.020; Ord. No. 31-13)

**Sec. 235.025. Types of manufactured dwellings permitted.**

Within the RA, RS, RM-I, and RM-II zones, the following types of manufactured dwellings are permitted within a manufactured dwelling park:

- (a) *RA and RS Zones.* Only manufactured homes meeting state manufactured dwelling construction and safety standards are permitted.
- (b) *RM-I and RM-II Zones.* Only manufactured dwellings meeting state manufactured dwelling construction and safety standards are permitted.

(Prior Code, § 235.025; Ord. No. 31-13)

**Sec. 235.030. Standards for manufactured dwellings, accessory structures, and park buildings within manufactured dwelling parks.**

In addition to the requirements of the Oregon Manufactured Dwelling and Park Specialty Code and the Oregon Manufactured Dwelling Installation Specialty Code, manufactured dwellings, accessory structures, and park buildings within manufactured dwelling parks shall comply with the standards set forth in this section.

- (a) *Park perimeter setbacks.* Setbacks from the perimeter boundary of a manufactured dwelling park shall be provided as set forth in Table 235-2.

<b>TABLE 235-2. PARK PERIMETER SETBACKS</b>		
<b>Requirement</b>	<b>Standard</b>	<b>Limitations &amp; Qualifications</b>
<b>Park Perimeter Setbacks—Abutting Street</b>		
Manufactured Dwellings		
RA, RS, RM-I, and RM-II zones	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable along collector or arterial streets.
Accessory Structures		
RA, RS, RM-I, and RM-II zones	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable along collector or arterial streets.
Park Buildings		
RA, RS, RM-I, and RM-II zones	Min. 12 ft.	Applicable along local streets.
	Min. 20 ft.	Applicable along collector or arterial streets.
<b>Park Perimeter Setbacks—Not Abutting Street</b>		
Interior Side		
Manufactured Dwellings		
RA, RS, RM-I, and RM-II zones	Min. 5 ft.	
Accessory Structures		
RA, RS, RM-I, and RM-II zones	Min. 5 ft.	
Park Buildings		
RA, RS, RM-I, and RM-II zones	Min. 14 ft.	For any portion of a park building not more than 1 story in height.
	Min. 20 ft.	For any portion of a park building greater than 1 story in height.
Interior Rear		
Manufactured Dwellings		
RA, RS, RM-I, and RM-II zones	Min. 14 ft.	For any portion of a manufactured dwelling not more than 1 story in height.
	Min. 20 ft.	For any portion of a manufactured dwelling greater than 1 story in height.
Accessory Structures		
RA, RS, RM-I, and RM-II zones	None	Applicable to accessory structures not more than 9 ft. in height.

**TABLE 235-2. PARK PERIMETER SETBACKS**

Requirement	Standard	Limitations & Qualifications
	Min. 1 ft. for each 1 ft. of height over 9 ft.	Applicable to accessory structures greater than 9 ft. in height.
Park Buildings		
RA, RS, RM-I, and RM-II zones	Min. 14 ft.	For any portion of a park building not more than 1 story in height.
	Min. 20 ft.	For any portion of a park building greater than 1 story in height.

- (b) *Space coverage; height.* Manufactured dwellings, accessory structures, and park buildings within manufactured dwelling parks shall conform to the space coverage and height standards set forth in Table 235-3.

**TABLE 235-3. SPACE COVERAGE; HEIGHT**

Requirement	Standard	Limitations & Qualifications
<b>Space Coverage</b>		
Manufactured Dwellings and Accessory Structures		
RA, RS, RM-I, and RM-II zones	Max. 60%	
Park Buildings		
RA and RS zones	Max. 35%	
RM-I and RM-II zones	Max. 50%	
<b>Height</b>		
Manufactured Dwellings		
RA and RS zones	Max. 35 ft.	Applicable to new or replacement manufactured dwellings.
	Max. 28 ft. or existing manufactured dwelling height, whichever is greater	Applicable to existing manufactured dwellings.
RM-I and RM-II zones	Max. 35 ft.	
Accessory Structures		
RA, RS, RM-I, and RM-II zones	Max. 15 ft.	
Park Buildings		
RA and RS zones	Max. 50 ft.	
RM-I and RM-II zones	Max. 70 ft.	

- (c) *Decks; patios.* Each space shall be provided with one or more slabs or decks adjacent to the stand that are constructed of concrete, asphalt, flagstone, wood, or other equivalent surface material which, either singly or in combination, total not less than 120 square feet in area and are not less than four feet in width in their smallest dimension.
- (d) *Storage of manufactured dwellings.* A manufactured dwelling shall not remain overnight in a manufactured dwelling park unless it is parked in a manufactured dwelling space.
- (e) *Storage of recreational vehicles.* Storage of recreational vehicles is allowed in the following locations:
  - (1) On driveways within a yard adjacent to a street; and
  - (2) Within side or rear yards that are screened from all public areas, public and private rights-of-way, and property that is used for residential purposes by a minimum six-foot-high sight-obscuring fence, wall, or hedge.
- (f) *Manufactured home size, design, and materials with RA and RS zones.* Manufactured homes located within manufactured dwelling parks less than three acres in size within RA and RS zones shall:
  - (1) Be a minimum of 864 square feet in size and a minimum of 24 feet in width;
  - (2) Have a pitched roof with a minimum nominal slope of three feet in height for each 12 feet in width;
  - (3) Have exterior siding and roofing that is similar in color, material, and appearance to the exterior siding and roofing material used on residential dwellings in the community, or which is comparable to the predominant materials used on surrounding dwellings, as determined by the City; and
  - (4) Have skirting which appears in design, color, and texture to be an integral part of the exterior walls, unless the manufactured home is set on a ground level foundation.

(Prior Code, § 235.030; Ord. No. 31-13)

#### **Sec. 235.035. Other provisions.**

In addition to the standards set forth in this chapter, development within a manufactured dwelling park must comply with all other applicable development standards of the UDC, including, but not limited to, the following chapters:

- (a) Floodplain Overlay Zone: SRC chapter 601.
- (b) General Development Standards: SRC chapter 800.
- (c) Public Improvements: SRC chapter 802.
- (d) Streets and Right-of-Way Improvements: SRC chapter 803.
- (e) Driveway Approaches: SRC chapter 804.
- (f) Vision Clearance: SRC chapter 805.
- (g) Off-Street Parking, Loading and Driveways: SRC chapter 806.
- (h) Landscaping and Screening: SRC chapter 807.
- (i) Preservation of Trees and Vegetation: SRC chapter 808.
- (j) Wetlands: SRC chapter 809.
- (k) Landslide Hazards: SRC chapter 810.
- (l) Sign Code: SRC chapter 900.

(Prior Code, § 235.035; Ord. No. 31-13)



**CHAPTERS 236—239. RESERVED**

## CHAPTER 240. CONDITIONAL USE

### **Sec. 240.001. Purpose.**

The purpose of this chapter is to allow uses that are similar to other uses permitted outright in a zone but because of the manner in which the use may be conducted, or the land and buildings developed for the use, review is required to determine whether the imposition of conditions is necessary to minimize the negative impacts on uses in the surrounding area.

(Prior Code, § 240.001; Ord. No. 12-12)

### **Sec. 240.005. Conditional use permits.**

#### *(a) Applicability.*

- (1) No building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this chapter.
- (2) No use for which a conditional use permit has been granted shall be expanded, relocated, or changed to another conditional use, and no building or structure devoted to such use shall be structurally altered or enlarged, unless a new conditional use permit, or a modification of an existing conditional use permit, has been granted pursuant to this chapter for such expansion, relocation, change, structural alteration, or enlargement; provided, however, a new conditional use permit, or modification of an existing conditional use permit, shall not be required for interior construction or tenant improvements that involve no change of use, or for alterations required to address a building code violation or to comply with the Americans with Disabilities Act.

#### *(b) Procedure type.* A conditional use permit is processed as a Type III procedure under SRC chapter 300.

*(c) Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for a conditional use permit shall include the following:

- (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
  - (A) The total site area, dimensions, and orientation relative to north;
  - (B) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway locations, indicating distance to such structures from all property lines and adjacent on-site structures;
  - (C) Loading areas, if included with proposed development;
  - (D) All proposed landscape areas on the site, with an indication of square footage and as a percentage of site area;
  - (E) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;
  - (F) The location of all trees and vegetation required to be protected under SRC chapter 808; and
  - (G) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.
- (2) An existing conditions plan of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
  - (A) The total site area, dimensions, and orientation relative to north;
  - (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines and whether they are to be removed;

(C) The location of the 100-year floodplain, if applicable; and

(D) The location of drainage patterns and drainage courses, if applicable.

(3) A completed Trip Generation Estimate for the proposed development, on forms provided by the City.

(4) A traffic impact analysis, if required SRC chapter 803.

(d) *Criteria.* An application for conditional use permit shall be granted if all of the following criteria are met:

(1) The proposed use is allowed as a conditional use in the zone;

(2) The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions; and

(3) The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

(e) *Transfer of conditional use permit.* Unless otherwise provided in the decision granting the conditional use permit, conditional use permits shall run with the land.

(Prior Code, § 240.005; Ord. No. 12-12; Ord. No. 31-13)

#### **Sec. 240.010. Modification of conditional use approval.**

(a) *Applicability.* A conditional use permit approval may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for conditional use permit.

(b) *Procedure type.* Modification of a conditional use permit approval is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for modification of a conditional use permit approval shall include the information required under SRC 240.005(c).

(d) *Criteria.* An application for modification of a conditional use permit approval shall be granted if all of the following criteria are met:

(1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and

(2) When compared with the original approval, the proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

(e) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

(Prior Code, § 240.010; Ord. No. 12-12; Ord. No. 31-13)

**CHAPTERS 241—244. RESERVED**

## CHAPTER 245. VARIANCES

### **Sec. 245.001. Purpose.**

Because each area of land is, to some degree, unique as to its suitability for and constraints on development, the development standards imposed under the UDC cannot foresee all conceivable situations applicable to the development of every property at every moment. Therefore it is the purpose of this chapter to provide a process that will allow flexibility, adaptability, and reasonableness in the application and administration of the UDC where special conditions exist that create an unreasonable hardship or practical difficulty that limit the suitability of land for development.

(Prior Code, § 245.001; Ord. No. 12-12)

### **Sec. 245.005. Variances.**

(a) *Applicability.* Unless otherwise provided in the UDC, buildings, structures, or land shall not be developed contrary to the applicable development standards of the UDC unless a variance has been granted pursuant to this chapter.

(1) *Prohibition.* No variance shall be granted to:

- (A) Allow a use or activity not allowed under the UDC;
- (B) Change the status of a use or activity under the UDC;
- (C) Modify a definition or use classification;
- (D) Modify a use standard;
- (E) Modify the applicability of any requirement under the UDC;
- (F) Modify a development standard specifically identified as non-variable;
- (G) Modify a development standard that contains the word “prohibited”;
- (H) Modify procedural requirements under the UDC; or
- (I) A design review guideline or design review standard.

(b) *Procedure Type.* A variance is processed as a Type III procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for a variance shall include the following:

- (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing all information necessary to establish satisfaction with the approval criteria. By way of example, but not of limitation, such information may include the following:
  - (A) The total site area, dimensions, and orientation relative to north;
  - (B) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway locations, indicating distance to such structures from all property lines and adjacent on-site structures;
  - (C) All proposed landscape areas on the site, with an indication of square footage and as a percentage of site area;
  - (D) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;
  - (E) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808; and
  - (F) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.

- (2) An existing conditions plan of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

- (A) The total site area, dimensions, and orientation relative to north;
- (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines and whether they are to be removed;
- (C) The location of the 100-year floodplain, if applicable; and
- (D) The location of drainage patterns and drainage courses, if applicable.

- (d) *Criteria.* An application for a variance shall be granted if all of the following criteria are met:

- (1) There is an unreasonable hardship or practical difficulty created by the physical characteristics of the land.
- (2) The variance will not result in adverse effects that are unreasonably detrimental to the public health, safety, and welfare or to property or improvements in the vicinity.

(e) *Transfer of variance.* Unless otherwise provided in the final decision granting the variance, a variance shall run with the land.

(Prior Code, § 245.005; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 245.010. Modification of variance approval.**

(a) *Applicability.* A variance approval may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for variance.

(b) *Procedure type.* Modification of a variance approval is processed as a Type III procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for modification of a variance approval shall include the information required under SRC 245.005(c).

(d) *Criteria.* An application for modification of a variance approval shall be granted if all of the following criteria are met:

- (1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
- (2) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

(e) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

(Prior Code, § 245.010; Ord. No. 12-12)

**CHAPTERS 246—249. RESERVED**

## CHAPTER 250. ADJUSTMENTS

### **Sec. 250.001. Purpose.**

The purpose of this chapter is to provide a process to allow deviations from the development standards of the UDC for developments that, while not meeting the standards of the UDC, will continue to meet the intended purpose of those standards. Adjustments provide for an alternative way to meet the purposes of the Code and provide for flexibility to allow reasonable development of property where special conditions or unusual circumstances exist.

(Prior Code, § 250.001; Ord. No. 12-12)

### **Sec. 250.005. Adjustments.**

(a) *Applicability.*

(1) *Classes.*

(A) A Class 1 adjustment is an adjustment to any numerical development standard in the UDC that increases or decreases the standard by not more than 20 percent.

(B) A Class 2 adjustment is an adjustment to any development standard in the UDC other than a Class 1 adjustment, including an adjustment to any numerical development standard in the UDC that increases or decreases the standard by more than 20 percent.

(2) *Prohibition.* Notwithstanding ~~paragraph subsection (a)~~(1) of this subsection, an adjustment shall not be granted to:

(A) Allow a use or activity not allowed under the UDC;

(B) Change the status of a use or activity under the UDC;

(C) Modify a definition or use classification;

(D) Modify a use standard;

(E) Modify the applicability of any requirement under the UDC;

(F) Modify a development standard specifically identified as non-adjustable;

(G) Modify a development standard that contains the word “prohibited”;

(H) Modify a procedural requirement under the UDC;

(I) Modify a condition of approval placed on property through a previous planning action;

(J) A design review guideline or design review standard; or

(K) The required landscaping in the Industrial Business Campus (IBC) Zone.

(b) *Procedure type.* Class 1 and Class 2 adjustments are processed as a Type II Procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for a Class 1 or Class 2 adjustment shall include the following:

(1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing all information necessary to establish satisfaction with the approval criteria. By way of example, but not of limitation, such information may include the following:

(A) The total site area, dimensions, and orientation relative to north;

(B) The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway locations, indicating distance to such structures from all property lines and adjacent on-site structures;

(C) All proposed landscape areas on the site, with an indication of square footage and as a percentage



- of site area;
  - (D) The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC chapter 807;
  - (E) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808; and
  - (F) Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.
- (2) An existing conditions plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
- (A) The total site area, dimensions, and orientation relative to north;
  - (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines;
  - (C) The location of the 100-year floodplain, if applicable; and
  - (D) The location of drainage patterns and drainage courses, if applicable.
- (d) *Criteria.*
- (1) An application for a Class 1 adjustment shall be granted if all of the following criteria are met:
- (A) The purpose underlying the specific development standard proposed for adjustment is:
    - (i) Clearly inapplicable to the proposed development; or
    - (ii) Clearly satisfied by the proposed development.
  - (B) The proposed adjustment will not unreasonably impact surrounding existing or potential uses or development.
- (2) An application for a Class 2 adjustment shall be granted if all of the following criteria are met:
- (A) The purpose underlying the specific development standard proposed for adjustment is:
    - (i) Clearly inapplicable to the proposed development; or
    - (ii) Equally or better met by the proposed development.
  - (B) If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area.
  - (C) If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

(e) *Transfer of adjustments.* Unless otherwise provided in the final decision granting the adjustment, an adjustment shall run with the land.

(Prior Code, § 250.005; Ord. No. 12-12; Ord. No. 31-13)

#### **Sec. 250.010. Modification of adjustment approval.**

(a) *Applicability.* An adjustment may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for adjustment.

(b) *Procedure type.* Modification of a Class 1 or Class 2 adjustment approval is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for modification of a Class 1 or Class 2 adjustment approval shall include the information required under SRC 250.005(c).

(d) *Criteria.* An application for modification of a Class 1 or Class 2 adjustment approval shall be granted if all of the following criteria are met:

- (1) The proposed modification is not substantially inconsistent with the conditions of the original approval;  
and
- (2) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

(e) *Expiration.* The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.

(Prior Code, § 250.010; Ord. No. 12-12)

**CHAPTERS 251—254. RESERVED**

## CHAPTER 255. STREET NAMING, ADDRESSING AND VACATION OF PUBLIC PROPERTY

### **Sec. 255.005. Naming of new public and private streets in land divisions, planned unit developments, manufactured dwelling parks, and site plan approvals.**

(a) *Applicability.* All new public and private streets created as part of a land division, planned unit development, manufactured dwelling park, or site plan approval shall be named using the standards set forth in SRC 255.015.

(b) *Coordination with county government.* The naming of new public and private streets within land divisions, planned unit developments, manufactured dwelling parks, or site plan approvals shall be coordinated with the appropriate county.

(c) *Procedure.*

(1) The naming of new public and private streets within land divisions, planned unit developments, manufactured dwelling parks, and site plan approvals shall be conducted as part of the land division, planned unit development, manufactured dwelling park, or site plan approval, and shall follow the procedures set forth in this section.

(2) Prior to submission of the final plat or final PUD plan, or at the time of submission of application for manufactured dwelling park or site plan approval, the applicant shall submit a list of proposed street names. Upon receiving the list of street names, the list shall be reviewed to determine if they comply with the street naming criteria under SRC 255.015. If they meet the criteria, the applicant shall be informed of their approval. If proposed names do not meet the criteria, the applicant shall submit alternative names.

(d) *Names to be used on final plat, final PUD plan, or in development.* The names approved by the Director pursuant to this section shall be used as the names of the streets on the final subdivision plat, the final planned unit development plan, or in the manufactured dwelling park or development subject to the site plan approval.

(Prior Code, § 255.005; Ord. No. 12-12; Ord. No. 31-13)

### **Sec. 255.010. Naming of unnamed public and private streets and new connections between existing public and private streets; renaming existing public and private streets.**

(a) *Applicability.* The naming of an unnamed public or private street or a new connection between existing public or private streets, or the renaming of an existing public or private street, shall be made in accordance with this section.

(1) *Classes.*

(A) A Class 1 street naming is a proceeding initiated by a petitioner to rename an existing public or private street.

(B) A Class 2 street naming is a proceeding initiated by the City to:

(i) Name an unnamed public or private street, or a new connection between existing public or private streets; or

(ii) Rename an existing public or private street.

(2) *Discretionary act by the ~~City~~ Council.* The name given to an unnamed public or private street or a new connection between existing public or private streets, or the renaming of an existing public or private street, is a legislative act, subject to the discretion of the ~~City~~ Council.

(b) *Coordination with county government.* The naming of an unnamed public or private street or a new connection between existing public or private streets, or the renaming of an existing public or private street, shall be coordinated with the appropriate county.

(c) *Procedure.* In-lieu of the procedures set forth in SRC chapter 300, the naming of an unnamed public or

private street or a new connection between existing public or private streets, or the renaming of an existing public or private street, shall follow the procedures set forth in this subsection.

(1) *Initiation.*

(A) A Class 1 street naming is initiated by application of a person owning real property abutting the street to be renamed.

(B) A Class 2 street naming is initiated by resolution of the ~~City~~ Council.

(2) *Submittal requirements.*

(A) An application for a Class 1 street naming shall include the following:

(i) Name of street proposed to be changed;

(ii) Reason for request;

(iii) No fewer than two suggested new names that meet the street naming criteria set forth in SRC 255.015;

(iv) A map containing the location of the street, including the beginning and ending address numbers, and the names of all cross streets;

(v) List of the names, addresses and zip code of each owner and each resident of all property abutting the street;

(vi) A petition containing signatures of at least 51 percent of the residents and property owners abutting the street, stating that they agree that the street should be renamed, and consent to the suggested new names; and

(vii) Payment of the application fee.

(B) A resolution initiating a Class 2 street naming shall include the following:

(i) Name of street proposed to be changed;

(ii) A proposed new name that meets the street naming criteria set forth in SRC 255.015; and

(iii) A map containing the location of the street, including the beginning and ending address numbers, and the names of all cross streets.

(3) *Referral to Planning Commission.* A proposal to name an unnamed public or private street or a new connection between existing public or private streets, or rename an existing public or private street, shall be referred to the Planning Commission for its recommendation.

(4) ~~City~~ Council hearing. After receiving the recommendation of the Planning Commission, the ~~City~~ Council shall hold a public hearing on the proposal.

(5) *Notice.* Notice of the hearing shall be published once in a newspaper of general circulation in the City no later than one week prior to date the hearing is to be held. Notice shall also be given by mail to all property owners and residents abutting the street.

(6) *Criteria.* The naming of an unnamed public or private street or a new connection between existing public or private streets, or the renaming of an existing public or private street, shall be granted if all of the following criteria are met:

(A) The proposed name complies with the street naming standards set forth in SRC 255.015.

(B) Renaming the street with the proposed name is in the best interest of the City.

(7) *Decision.* After the hearing, the ~~City~~ Council may enact an ordinance accepting the Planning Commission's recommendation, and naming the unnamed public or private street or the connection between existing public or private streets, or renaming the public or private street, or adopt a resolution rejecting the recommendation.

(8) *Post-decision notice.* A certified copy of the ordinance naming the unnamed public or private street or the connection between existing public or private streets, or renaming the public or private street, shall

be filed with the county clerk, the county assessor, the county surveyor, and the postmaster, and mailed to all property owners and residents along the street.

(Prior Code, § 255.010; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 255.015. Street naming standards.**

(a) *Names, generally.*

- (1) A street name shall not duplicate a street name already in use, including any name for a street within Marion and Polk Counties, unless it is reasonably likely that the two streets will be connected at some future time.
- (2) The street name shall not sound like another street name such that the new name could cause confusion between the two streets.
- (3) The street name shall not be a name that is deliberately misspelled, a pun, a frivolous association with another word, a neologism, or slang.
- (4) A new street shall not be given a street name that is a number, unless it is reasonably likely the street will be connected at some future time with another street that has been given a street name that is the same number.

(b) *Cul-de-sacs.*

- (1) A street that is not a through-street shall retain its name along the entire length of the street.
- (2) A cul-de-sac that contains five or fewer lots abutting the cul-de-sac shall be considered an extension of the intersecting street and shall not be given a new street name. For purposes of this ~~paragraph~~ subsection, a flag lot taking access from the cul-de-sac shall be considered a lot abutting the cul-de-sac.
- (3) A cul-de-sac that does not have a street on the opposing side shall be designated "court." A court may be given the name of the intersecting street along with the designation "court."

(c) *Local or collector streets.*

- (1) Local and collector streets running north-south shall be designated "street."
- (2) Local and collector streets running east-west shall be designated "avenue."
- (3) Local or collector streets that are skewed or meandering shall be designated "drive."
- (4) Local or collector streets less than 1,000 feet in length shall be designated "place," "way," or "lane."

(d) *Arterial streets.*

- (1) An arterial that includes a linear park alongside the arterial shall be designated "parkway."
- (2) An arterial that includes landscaping dividing opposing lanes of traffic shall be designated "boulevard."
- (3) An arterial that is skewed or meandering shall be designated "road."

(e) *Circle and loop streets.*

- (1) A street that intersects one street at two locations shall be designated "loop."
- (2) Loop streets may have only one interior cross street, which has a different name than the loop.
- (3) A street that starts and ends at one entrance/exit shall be designated "circle."
- (4) Loop streets and circle streets shall have no streets intersecting the exterior of the loop or circle.

(f) *Private streets.*

- (1) Private streets shall be designated "private way."
- (2) If a private street with the designation of "private way" becomes a public street, the designation shall be removed, and if the street name does not include an appropriate street designation, the designation shall be changed to the appropriate designation for a public street as set forth in this section.

- (g) *Indication of addressing district.* All street names shall include an identification of the addressing district

within which the street, or segment thereof, is located. The addressing district shall follow the street name, and shall be designated by the abbreviation N, NE, NW, SE, or S, as the case may be.

(Prior Code, § 255.015; Ord. No. 12-12)

**Sec. 255.020. Applicability.**

(a) Each building and structure and each premises in the City shall have an address that complies with SRC 255.045, assigned to it by the City.

(b) The owner or occupant of a building or structure, other than an accessory building or structure, shall place the address number assigned by the City on the building in the location set forth in SRC 255.050.

(Prior Code, § 255.020; Ord. No. 12-12)

**Sec. 255.025. Coordination with the county governments.**

Assigning address numbers at or near the City's corporate limits shall be coordinated with the appropriate county.

(Prior Code, § 255.025; Ord. No. 12-12)

**Sec. 255.030. Address map.**

The Director shall maintain a map that clearly indicates the current address numbers assigned pursuant to SRC 255.045.

(Prior Code, § 255.030; Ord. No. 12-12)

**Sec. 255.035. Non-conforming numbers.**

Any address numbers that do not comply with SRC 255.030 through 255.065 shall be changed to conform with SRC 255.030 through 255.065 when required by the Director.

(Prior Code, § 255.035; Ord. No. 12-12)

**Sec. 255.040. Division of the City into addressing districts; baseline.**

(a) *Addressing districts.* As illustrated in Figure 255-1, the City is divided into the following addressing districts for the purpose of assigning addresses:

- (1) South District (S): All that portion of the City south of Mission Street, west of Commercial Street and Liberty Road, and south and east of the Willamette River, also including Minto-Brown Island.
- (2) Southeast District (SE): All of the City south of State Street and east of the Willamette River, but not including the South District.
- (3) Northeast District (NE): that part of the City lying north of State Street and east of the Willamette River, but not including the area in the North District.
- (4) North District (N): That part of the City lying east of the Willamette River, west of the North River Road, and north of the southern boundary of River Road Park.
- (5) Northwest District (NW): All that portion of the City in Polk County.

(b) *Baselines.* As illustrated in Figure 255-1, the baselines for assigning southerly, easterly, northerly, and westerly addresses shall be as follows:

- (1) The division line between the Northeast District and the Southeast District and the division line between the Northwest District and the South District shall establish the baseline for starting points northerly and southerly.
- (2) The division line between the South District and Southeast District and the division line between Northwest District and Northeast District and the line between North District and the Northwest District shall establish the baseline for starting points easterly and westerly.

(Prior Code, § 255.040; Ord. No. 12-12)

**Sec. 255.045. Address number standards.**

(a) *Sequence of one hundred numbers.* The segment of a street lying between two blocks shall have addresses assigned from a sequence of one hundred numbers. Both sides of the street shall have addresses assigned from the same one hundred number sequence.

(b) *Assignment of odd and even numbers.* Address numbers shall be assigned sequentially along each block face. Odd numbers shall be assigned to the north and west sides of the street and even numbers shall be assigned to the south and east sides of the street. Odd and even numbers shall be assigned continuously along the entire length of a street, regardless of changes in direction.

(c) *Short, irregular, winding, circle, and loop streets and cul-de-sacs.* The number sequence for short streets, irregular streets, winding streets, circle streets, loop streets, and cul-de-sacs shall correspond as closely as possible to the numbering required by this section.

(d) *Buildings with more than one principal entrance.* Where a building or structure has more than one principal entrance for use by different occupants, each entrance may be assigned a different address number.

(e) *Address numbers for buildings or structures not fronting on street.* Any building or structure that does not front on a named street, and is serviced by an unnamed street or accessway, shall be numbered sequentially as if the unnamed street or accessway was an extension of the named street.

(f) *Addresses for accessory buildings and structures.* Address numbers shall be assigned to all accessory buildings and structures other than those accessory buildings and structures associated with a residential use.

(Prior Code, § 255.045; Ord. No. 12-12)

**Sec. 255.050. Size and placement of address numbers.**

(a) Addresses shall be in Arabic numbers, shall not be less than three inches high, shall be of a contrasting color from the background, and shall be placed so that the numbers are readily visible from the adjoining street.

(b) Address numbers shall be placed in a conspicuous place as provided in this subsection:

- (1) Where a building or structure is located 35 feet or less from a street, the address numbers shall be placed in a conspicuous place on the main entrance.
- (2) If the main entrance is not readily visible from the street, address numbers shall be located at the intersection of the street and the driveway providing access to the building or structure. If there is no driveway, the address number shall be placed within ten feet of the property line, at a point that provides pedestrian access to the building or structure.
- (3) Where a building or structure is located more than 35 feet from the street, the address numbers shall be located at the intersection of the street and the driveway providing access to the building or structure. If there is no driveway, the address number shall be placed within ten feet of the property line, at a point that provides pedestrian access to the building or structure.
- (4) Where a building or structure is located on a flag lot, the address numbers shall be located at the intersection of the street and the flag lot accessway providing access to the building or structure.

(Prior Code, § 255.050; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 255.055. Painting address numbers on curbs.**

(a) The owner or occupant of any building, structure, or premises may place the address number on the curb in front of the building, structure, or premises, provided the address number meets the following standards:

- (1) The address number shall be stenciled in black paint upon a rectangular box, approximately six inches by 24 inches, painted on the curb with white or yellow paint;
- (2) The address number shall be four inches high, and shall be centered in the box and evenly spaced; and
- (3) The rectangular box shall be placed as close as possible to the driveway, on the same side of the driveway as the main building. If there is no driveway, the rectangular box shall be painted directly in front of the front door.



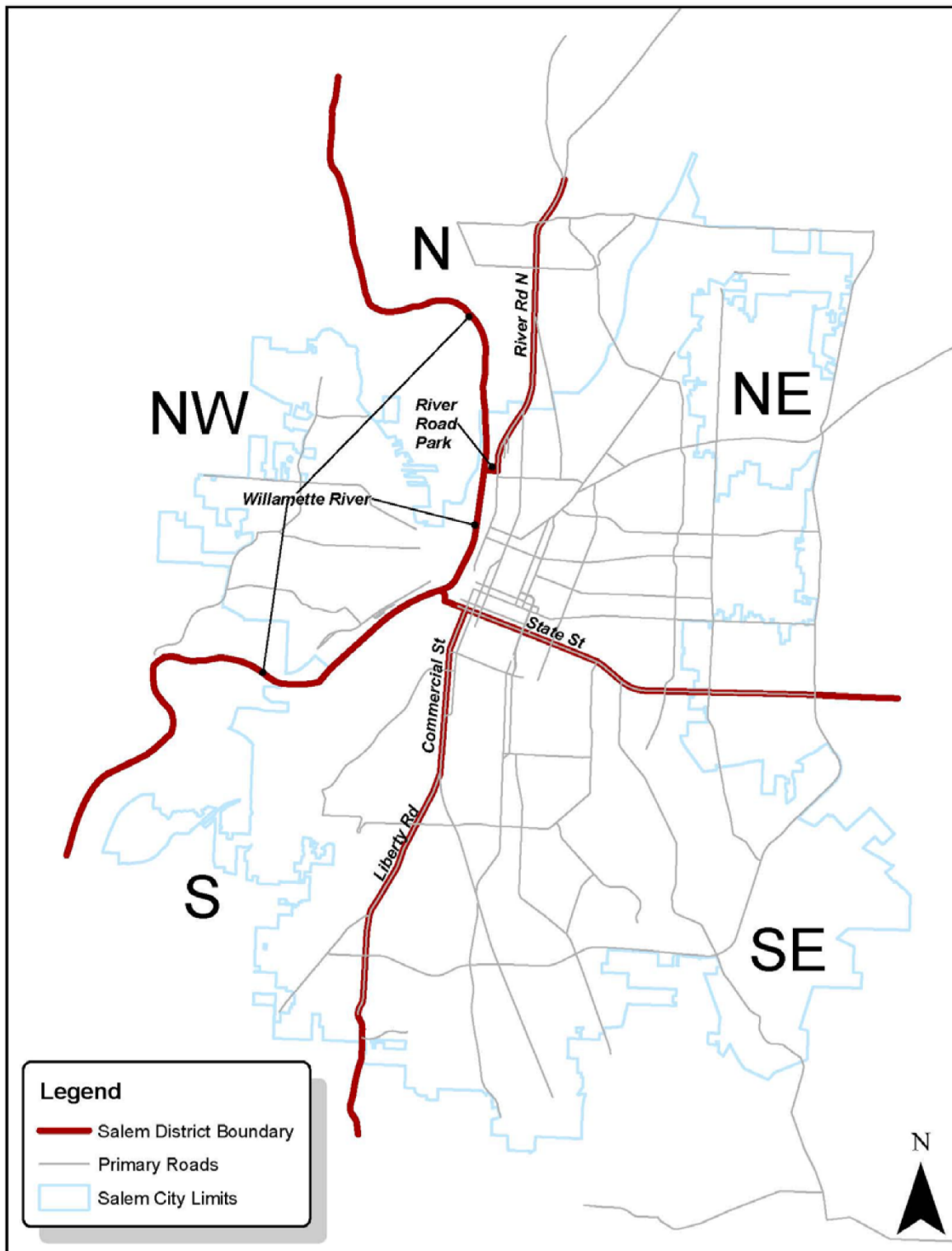
(b) Where an address number is placed on the curb by a person other than the owner or occupant, the person shall inform the owner or occupant, in writing, that placement of the address number is strictly voluntary and not required by the City or any other governmental agency.

(Prior Code, § 255.055; Ord. No. 12-12)

**Sec. 255.060. Change of address number.**

Any owner of real property may request a change in the address numbers by submitting a change of address number form and paying the application fee. The Director may not assign a new address number if the address number does not comply with SRC 255.045.

(Prior Code, § 255.060; Ord. No. 12-12)

**FIGURE 255-1. ADDRESSING DISTRICTS****Sec. 255.065. Vacation of public property.**

(a) *Applicability.* All requests to vacate right-of-way or to vacate the dedication of any other public place, or any part thereof, shall be made in accordance with this section.

(1) Classes.

(A) A Class 1 vacation is a proceeding initiated by a petitioner to vacate right-of-way, or any part thereof.

(B) A Class 2 vacation is a proceeding initiated by the City to:

(i) Vacate right-of-way, or any part thereof; or

(ii) Vacate the dedication of any other public place, or any part thereof.

(b) *Procedure.* In lieu of the procedures set forth in SRC chapter 300, proceedings to vacate a street, alley, or dedication of any other public place shall follow the procedures set forth in ORS 271.080—271.230 and this section.

(1) *Initiation.*

(A) A Class 1 vacation is initiated by petition of a person owning real property abutting the right-of-way, or any part thereof, to be vacated.

(B) A Class 2 vacation is initiated by resolution of the ~~City~~ Council.

(2) *Submittal requirements.*

(A) A petition for a Class 1 vacation shall be made on forms provided by the Director, contain everything required by ORS 271.080, and be accompanied by the following:

(i) A title report verifying ownership of the property abutting the area proposed to be vacated;

(ii) A map showing the area proposed to be vacated and the area encompassing the affected area, with tax lots labeled;

(iii) A list of all properties and owners, by tax lot, within the affected area;

(iv) An application form; and

(v) The application fee, as set by resolution of the ~~City~~ Council.

(B) A resolution initiating a Class 2 vacation shall include the legal description of the proposed area to be vacated.

(3) *Filing of petition; verification of consents.* A petitioner shall file a petition for a Class 1 vacation with the Director. The Director shall determine whether the petition contains the required information and consents. The Director shall notify all potentially affected public utilities. If the petition contains all the required information and consents, the Director shall forward the petition to the ~~City~~ Council, along with any responses from public utilities and recommendation as to whether there appears to be any reason why the petition should be denied, in whole or in part. If the recommendation is to deny the petition, in whole or in part, or if the ~~City~~ Council, on its own motion, determines that the petition should be denied, in whole or in part, the petitioner shall be given notice of the date the ~~City~~ Council will take final action on the denial. If the ~~City~~ Council determines that there appears no reason why the petition should be not granted, in whole or in part, the ~~City~~ Council shall set a public hearing on the petition.

(4) *Application fee.* The application fee for a Class 1 vacation shall be used to pay the expenses incurred by the City in the vacation process, including, but not limited to, the costs of publishing and posting notices, and preparing and recording certified copies of the ordinance and map. If the actual expenses exceed the amount of the application fee, the petitioner shall pay, upon request from the Director, the amount the Director estimates will be needed to cover the additional expenses. The vacation proceeding shall be stayed until the additional amount is deposited with the City. If the actual expenses are less than the total amount deposited with the City, the remainder shall be refunded to the petitioner.

(5) *Notice and hearing.* Notice for Class 1 and Class 2 vacations shall comply with ORS 271.110 and ORS 271.130. The hearing shall be conducted following the procedures set forth in SRC 300.900 through ~~SRC~~ 300.990.

(6) *Criteria.* A Class 1 or Class 2 vacation shall be approved only if the vacation meets the following criteria:

(A) The area proposed to be vacated is not presently, or will not in the future be, needed for public

services, facilities, or utilities;

- (B) The vacation does not prevent the extension of, or the retention of public services, facilities, or utilities;
  - (C) Public services, facilities, or utilities can be extended in an orderly and efficient manner in an alternate location;
  - (D) The vacation does not impede the future best use, development of, or access to abutting property;
  - (E) The vacation does not conflict with provisions of the UDC including the street connectivity standards and block lengths;
  - (F) All required consents have been obtained;
  - (G) Notices required by ORS 271.080—271.130 have been duly given; and
  - (H) The public interest would not be prejudiced by the vacation.
- (7) *Decision; conditions and reservations; assessment of special benefit.*
- (A) *Form of decision.* After the hearing, the ~~City~~Council may enact an ordinance granting the vacation, in whole or in part, or adopt a resolution rejecting the proposed vacation.
  - (B) *Conditions and reservations.* The ~~City~~Council may impose such conditions or make such reservations as it deems to be in the public interest, including, but not limited to, reservation of easements for municipal and public utilities in the area vacated.
  - (C) *Assessment of special benefit.* The ~~City~~Council may provide for the payment to the City of such sum of money in a Class 1 vacation as its finds to be just and equitable as an assessment of special benefit upon the real property abutting upon the vacated area, and for the cost of curbs, drainage, paving, sewer, or other local improvement already completed or to be constructed upon the area vacated. Notice of proposed assessment of special benefits shall be given to the owners of the property to be assessed at least three days before the public hearing on the vacation. Notice shall be given to such property owners by mail at the property owners' last known address. If an assessment of special benefit is made, the ~~City~~Council shall include such assessment in the vacation ordinance and a direction to the Finance ~~Director~~Officer to enter such assessment in the City lien docket. The assessment, together with all costs, shall not exceed the amount of special benefit inuring to the abutting property by reason of such vacation. The owner may make application to pay the assessment of special benefit in installments, in the same manner as provided in the Bancroft Bonding Act and allowed for systems development charges by the City.
- (c) *Recordation of vacation ordinance; notice; effective date.* The City Recorder shall:
- (1) Record and file a copy of the vacation ordinance as required by ORS 271.150; provided, however, that the vacation ordinance shall not be recorded until:
    - (A) All fees and the assessment of special benefit have been paid, or an application to pay the assessment of special benefit in installments has been approved;
    - (B) All required legal documents have been signed, filed, and, if required, recorded; and
    - (C) The petitioners have complied with all conditions attached to the vacation.
  - (2) Mail a certified copy of the vacation ordinance to each public utility that provided responses to the ~~Public Works~~ Director.
  - (3) No vacation shall be effective until the vacation ordinance is filed by the City Recorder with the county clerk, assessor, and county surveyor.
- (d) *Delegation of authority to City Manager.* The City Manager is hereby delegated the authority to sign the consents required by ORS 271.080(2) where the City is the owner of the property abutting the area proposed to be vacated or the property within the affected area.

(Prior Code, § 255.065; Ord. No. 12-12; Ord. No. 31-13)



**CHAPTERS 256—259. RESERVED**

## CHAPTER 260. ANNEXATION PROCEDURES

### **Sec. 260.001. Intent and purpose.**

The intent and purpose of this chapter is to establish procedures relating to the annexation of territory into the City of Salem and to ensure the public has adequate information to consider the merits of a proposed annexation at the time of the election.

(Prior Code, § 260.001; Ord. No. 48-04; Ord. No. 12-12)

### **Sec. 260.005. Definitions.**

~~Except where the context otherwise clearly requires, as used in this chapter the following mean: The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~(a)~~ *Annexation contract* means a contract between the City and a landowner relating to extraterritorial provision of service and consent to eventual annexation of the property of the landowner.

~~(b) ——— Director~~ means the Director of Community Development, or the Director's designee.

~~(c)~~ *Enclave* means territory that is completely surrounded by the corporate boundaries of the City of Salem, or by the corporate boundaries of the City of Salem and a river, stream, lake or other body of water.

~~(d) ——— Health hazard~~ means a condition which is conducive to the propagation of communicable or contagious disease-producing organisms and which presents a reasonably clear possibility that the public generally is being exposed to disease-caused physical suffering or illness, including impure or inadequate domestic water; inadequate installations for the disposal or treatment of sewage, garbage or other contaminated or putrefying waste; or inadequate improvements for drainage of surface water and other fluid substances.

~~(e)~~ *Person* means a natural person, corporation, limited liability company, partnership, joint venture, trust, cooperative, association, or any other entity in law or fact.

(Prior Code, § 260.005; Ord. No. 48-04; Ord. No. 12-12)

### **Sec. 260.010. Initiation of annexations.**

Annexation of territory into the City of Salem may be initiated by the City Council upon its own motion, or by a petition submitted to the City Council by owners of real property in the territory proposed to be annexed.

(Prior Code, § 260.010; Ord. No. 48-04; Ord. No. 12-12)

### **Sec. 260.015. Enclave annexations.**

When a petition for annexation is filed, the Director may include areas adjacent to the territory proposed to be annexed as part of the proposed annexation if the failure to include the additional territory would result in the creation of an enclave and the requirements for consent elections set forth in ORS ch. 222 are met, or if the inclusion of the additional territory would eliminate existing enclaves.

(Prior Code, § 260.015; Ord. No. 48-04; Ord. No. 12-12)

### **Sec. 260.020. Voter approval of annexations; exempt annexations.**

(a) Except as provided in subsection (b) of this section, all annexations shall be submitted to the voters of the City of Salem for their approval.

(b) Annexations made pursuant to annexation contracts effective prior to May 16, 2000, annexations necessitated by failing septic systems or health hazards, or annexations mandated by state law are exempt from voter approval.

(Prior Code, § 260.020; Ord. No. 48-04; Ord. No. 12-12)

### **Sec. 260.025. Annexation elections.**

Annexations may be submitted to the voters at a general election or at a special election.

(Prior Code, § 260.025; Ord. No. 48-04; Ord. No. 12-12)

**Sec. 260.030. Pre-application conference; filing deadline.**

(a) Any person who wishes to petition for the annexation of territory shall participate in a pre-application conference not less than 60 days prior to the deadline for filing the petition. The purpose of the pre-application conference shall be to inform the person of the process for annexing territory into the City.

(b) Unless otherwise allowed by the Director, annexation petitions which propose a change to the comprehensive plan or zone designation for the territory pursuant to SRC 260.045(b) shall be filed not less than 315 days prior to the date of the election when the annexation is proposed to be submitted to the voters. Annexation petition which will have the comprehensive plan and zone designations applied pursuant to SRC 260.045(a) shall be filed not less than 240 days prior to the date of the election when the annexation is proposed to be submitted to the voters.

(Prior Code, § 260.030; Ord. No. 48-04; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 260.035. Annexation petitions; land use determination application; conceptual plan.**

(a) Petitions for annexation and applications for land use designations shall be on forms promulgated by the Director.

(b) A petition for annexation for which voter approval is required shall be accompanied by:

- (1) A legal description of the territory proposed to be annexed, along with documentation of ownership;
- (2) Notarized signatures of the necessary number of landowners and voters residing on the territory proposed for annexation as required by state law;
- (3) Identification of any territory that could be annexed pursuant to a previously executed annexation contract; and
- (4) An application for land use designations shall contain the following:

- (A) A notification list of the owners of all real property which is located within 250 feet of the property proposed to be annexed.
- (B) A county tax assessor's map showing all tax lots located within 250 feet of the property proposed to be annexed.
- (C) A statement demonstrating the availability of water, sewer, drainage, transportation, public safety, park, and school facilities and services needed to serve the proposed development at the maximum density levels allowed or proposed.
- (D) If the petitioner proposes a comprehensive plan or zone designation which is different from the existing or equivalent comprehensive plan designation or equivalent zone designation, as set forth in Table 260-1, the land use designation application shall include:

(i) A conceptual plan, drawn to scale, including:

- (a) The proposed zoning for the territory, and, if more than one zone is proposed for the territory, a legal description for each area with the proposed zoning;
- (b) A site map, showing general circulation patterns, location of land uses by general categories, the anticipated intensity of uses in each category, and approximate acreage for uses in each category. Categories of land uses may be identified by any descriptive system or method generally acceptable by professionals engaged in the production of development master plans;
- (c) The location of all significant trees within the territory as defined in SRC chapter ~~68~~ 808;
- (d) The location and proposed changes to any wells, septic tanks, drain fields, and easements within the territory; and



- (e) The location and proposed changes to creeks, drainage ways and courses, and riparian corridors.
- (ii) Proposed findings demonstrating why comprehensive plan and zone designation criteria are met.
- (5) A consent to the restrictions imposed by City of Salem land use regulations, as defined by Ballot Measure 49, in existence on the date of annexation, and to which the territory becomes subject as a result of the annexation process, along with a waiver for claims under Ballot Measure 49, that could arise out of or result from the enactment or enforcement of any ordinance annexing the territory, or arise out of or result from the application or enforcement of land use regulations in existence upon the date of annexation. If there is more than one “owner,” as defined by Measure 49, of the territory, the consent and waiver shall be executed by all such owners.
- (c) A petition for annexation exempt from voter approval under SRC 260.020(b) shall contain the following:
  - (1) A legal description of the property proposed to be annexed, along with documentation of ownership;
  - (2) The notarized signatures of the landowner or owners;
  - (3) A statement from the Oregon Department of Human Services, the Oregon Department of Environmental Quality or the county health department or sanitarian attesting to the failing septic system or health hazard and which otherwise complies with health hazard abatement law relative to annexation, a copy of the annexation contract, or documentation that the annexation is otherwise mandated by state law; and
  - (4) A consent and waiver of Ballot Measure 49 claims, as set forth under subsection (b)(5) of this section.

(d) If the ~~City~~ Council initiates an annexation at the request of a landowner, and a comprehensive plan or zone designation is proposed which is different from the existing or equivalent comprehensive plan designation or equivalent zone designation, as set forth in Table 260-1, the landowner shall, as a condition of the initiation and within 30 days of the date the ~~City~~ Council initiates the annexation, provide a conceptual plan which complies with subsection (b)(4)(D) of this section. In addition, any annexation initiated upon the request of a landowner shall be specifically conditioned upon the execution of a consent and waiver of Ballot Measure 49 claims, as set forth under subsection (b)(5) of this section.

(Prior Code, § 260.035; Ord. No. 48-04; Ord. No. 30-11; Ord. No. 12-12; Ord. No. 31-13)

#### **Sec. 260.040. Filing fees and election costs.**

(a) *Filing fees.* Any person submitting a petition for annexation shall pay a petitioner’s application fee at the time the petition is filed, and such other fees that are required for processing any land use actions or special district withdrawals associated with the annexation. The petitioner’s application fee shall be set by resolution of the ~~City~~ Council. The fees paid pursuant to this subsection shall be non-refundable.

(b) *Election costs.*

- (1) In addition to the petitioner’s application fee and any land use fees, the petitioner shall deposit with the Director a sum sufficient to cover any and all other costs incurred by the City in submitting the annexation to the voters. The deposit shall be based on the petitioner’s pro rata share of the estimated cost of placing an annexation measure on the ballot, and of publishing notices and other information related to the election. Any unexpended portion of the deposit shall be refunded to the petitioner following the election.
- (2) The deposit shall be made not less than seven business days after the ~~City~~ Council adopts the measure referring the annexation proposal to the voters. If the petitioner fails to make such deposit within seven days, the annexation shall not be referred to the voters.
- (3) The petitioner shall execute a consent to lien form to secure payment of all election costs. If the deposit is insufficient to cover the petitioner’s pro rata share of the actual costs, an additional sum equal to such amount shall be remitted to the Director no later than 15 days after the election date. If such amount is not paid within the 15-day period, the Director shall file an election cost lien in the City lien docket. The election cost lien shall have priority over all other liens, except liens for the payment of taxes, shall bear interest at the legal rate, and shall remain a lien against the property until fully paid or foreclosed, as

provided by law.

- (4) If an annexation is initiated by the ~~City~~ Council upon the request of any landowner, the landowner shall pay all fees, deposits and costs provided by this subsection, and shall execute a consent to lien form to secure payment of all election costs. If the deposit is insufficient to cover the landowner's pro rata share of the actual costs, an additional sum equal to such amount shall be remitted to the Director no later than 15 days after the election date. If such amount is not paid within the 15-day period, the Director shall file an election cost lien in the City lien docket. The election cost lien shall have priority over all other liens, except liens for the payment of taxes, shall bear interest at the legal rate, and shall remain a lien against the property until fully paid or foreclosed, as provided by law.

(Prior Code, § 260.040; Ord. No. 48-04; Ord. No. 12-12)

**Sec. 260.045. Land use designations.**

(a) Territory annexed into the City shall be automatically given the City comprehensive plan designation and zoning designation that is the equivalent to the applicable county zoning designations, as set forth in Table 260-1, unless one or more of the following apply:

- (1) The petitioner requests a new comprehensive plan designation, or zone designation other than the equivalent City designation in Table 260-1, in the petition for annexation;
- (2) The ~~City~~ Council proposes a new comprehensive plan designation, or zone designation other than the equivalent City designation in Table 260-1, in the resolution initiating the annexation; or
- (3) The equivalent City designation in Table 260-1 is inconsistent with the Salem Area Comprehensive Plan.

(b) If the new comprehensive plan designation is proposed, or a zoning designation is proposed for the territory that is different from the equivalent designation set forth in Table 260-1, the Planning Commission shall hold a public hearing to review the proposed designation, and shall make a recommendation to the ~~City~~ Council whether, in light of the conceptual plan, to adopt the proposed designation, the equivalent designation, or a different designation. The Planning Commission's review shall be based the following criteria:

- (1) Whether the comprehensive plan and zone designation provides for the logical urbanization of land;
- (2) Whether the comprehensive plan and zone designation is compatible with development patterns in the nearby vicinity;
- (3) Whether the social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate; and
- (4) Whether it is in the public interest that the proposed change be made.

(Prior Code, § 260.045; Ord. No. 48-04; Ord. No. 12-12)

**Sec. 260.050. Modification of conceptual plan after planning commission recommendation.**

(a) Notwithstanding any other provision of this chapter, if the Planning Commission fails to recommend the comprehensive plan or zone designation proposed by a petitioner or requested by a landowner, the petitioner or landowner may elect to:

- (1) Modify the conceptual plan prior to hearing before the ~~City~~ Council under SRC 260.060, and propose different uses, development standards, or an alternative conceptual plan which conform to the Planning Commission's recommended comprehensive plan and zone designations;
- (2) Choose to proceed with the annexation under the equivalent land use designations set forth in Table 260-1, without a conceptual plan; or
- (3) Present the original conceptual plan to the ~~City~~ Council.

(b) Notice of the election of one of the options set forth in ~~SRC 260.050-subsection~~ (a) of this section shall be provided, in writing, to the Director not less than 60 days prior to the hearing before the ~~City~~ Council. If the petitioner or landowner chooses to modify the conceptual plan or to submit an alternative conceptual plan, a copy of the modified or alternative conceptual plan shall be provided with the notice of election, along with proposed findings demonstrating that the comprehensive plan and zone designation criteria will be met under the modified

or alternative plan.

(Prior Code, § 260.050; Ord. No. 48-04; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 260.055. Fiscal impact statement.**

(a) Not less than 14 days prior to the date of the hearing before the ~~City~~ Council under SRC 260.060, the Director shall prepare a fiscal impact statement, which shall estimate the fiscal impact the proposed annexation would have on the City's general fund. If the proposed annexation includes a conceptual plan, the Director shall base the estimate on the information provided pursuant to SRC 260.035. The methodology for the preparation of the fiscal impact statement shall be adopted by resolution of the ~~City~~ Council.

(b) The Director shall forward the petition to the Salem-Keizer School District for its review, and request that the district submit a report on the fiscal impact of the proposed annexation on the district not less than three weeks prior to the date of the hearing before the ~~City~~ Council under SRC 260.060.

(Prior Code, § 260.055; Ord. No. 48-04; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 260.060. ~~City~~ Council review of proposed annexations.**

(a) *Hearing.* No later than 45 days prior to the date the proposed annexation must be submitted to the county clerk for inclusion on the ballot, the ~~City~~ Council shall hold a public hearing on each annexation proposal, including the proposed zoning and any comprehensive plan designation for the territory to be annexed, if such designation is different than that automatically applicable under SRC 260.045(a).

(b) *Notice of hearing.*

(1) At least ten days before the public hearing, notice of the hearing shall be mailed to persons whose property will become an enclave as a result of the approval of the proposed annexation. The notice shall include a description of the proposed annexation, the city and state laws and regulations applicable to enclaved territory, and shall notify the affected property owners of the potential of their property to become an enclave. Failure of a property owner described in this section to receive notice shall not invalidate the annexation of the territory.

(2) At least ten days before the hearing, notice of the hearing shall be mailed to the person whose property will be annexed, any person who has submitted written or oral evidence or testimony in a timely manner at the Planning Commission evidentiary hearing, any recognized neighborhood organization for the area adjacent to that proposed to be annexed, and persons who requested notice of the Planning Commission's decision.

(c) *Criteria.* The ~~City~~ Council shall determine whether the proposed annexation meets the following criteria:

(1) The proposed land use designations are consistent with the Salem Area Comprehensive Plan and applicable statewide planning goals;

(2) The annexation will result in a boundary in which services can be provided in an orderly, efficient, and timely manner;

(3) The uses and density that will be allowed can be served through the orderly, efficient and timely extension of key urban facilities and services;

(4) The public interest would be furthered by the referral of the annexation to the voters; and

(5) For annexations that propose a change in the comprehensive plan designation or a zoning designation that is different from the equivalent zoning designation set forth in Table 260-1, that:

(A) The comprehensive plan and zone designation provides for the logical urbanization of land;

(B) The comprehensive plan and zone designation is compatible with development patterns in the nearby vicinity;

(C) Social, economic, or demographic patterns of the nearby vicinity have so altered that the current designations are no longer appropriate; and

(D) It is in the public interest that the proposed change be made.

(d) *Decision.* Unless the person whose property would be annexed agrees to a longer time period, the ~~City~~ Council shall adopt a decision, supported by findings, within 21 days of the hearing. If the annexation proposal would change the comprehensive plan designation or result in a zoning designation that is different from the equivalent zoning designation set forth in Table 260-1, the ~~City~~ Council shall adopt, modify or reject the Planning Commission's recommendation for land use designations, and approve or reject the conceptual plan.

(e) *Notice of decision.* Within five days of the decision, the Director shall mail written notice of the decision to the person whose property would be annexed, and to any person who participated in the hearing before the ~~City~~ Council, any person who requested notice of the decision, and any recognized neighborhood organization for any area adjacent to the area proposed to be annexed. The notice shall summarize the decision of the ~~City~~ Council and explain the appeal rights.

(Prior Code, § 260.060; Ord. No. 48-04; Ord. No. 115-07; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 260.065. Special district withdrawal.**

When withdrawal from a special service district is not automatic, the ~~City~~ Council shall decide on withdrawal from those special service districts. The withdrawals shall be made according to applicable state statutes governing the specific withdrawal.

(Prior Code, § 260.065; Ord. No. 48-04; Ord. No. 12-12)

**Sec. 260.070. Referral to voters.**

(a) The ~~City~~ Council may refer a proposed annexation to the voters at the next available election, if it finds that the proposed annexation satisfies the criteria set forth under SRC 260.060(c).

(b) In the event any appeal is filed based on the ~~City~~ Council's decision under SRC 260.060(d), then the annexation may not be referred until the next available election occurring after a final decision is rendered on the appeal.

(c) Any measure submitting a petitioner-initiated annexation or an annexation that was initiated by the ~~City~~ Council at the request of a landowner to the voters shall contain the condition that the annexation is conditioned upon substantial conformance with the conceptual plan approved by the ~~City~~ Council under SRC 260.060(d).

(Prior Code, § 260.070; Ord. No. 48-04; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 260.075. Explanatory statement; fact sheet.**

(a) For any annexation which requires voter approval, the Director shall prepare an explanatory statement, which should include, in addition to any other information required by State of Oregon Elections Law, the following information:

- (1) The location of the territory proposed for annexation;
- (2) The proposed Salem Area Comprehensive Plan designation and zoning for the territory, including the uses permitted and density available under the comprehensive plan, zoning designation, and, if applicable, the conceptual plan; and
- (3) A statement supporting of the adequacy of public facilities to serve the territory and the estimated fiscal impact of the development proposed for territory.

(b) The Director shall prepare a fact sheet for each annexation proposal, to be made available to the voters not less than 20 days prior to the election. This fact sheet shall be approved by the ~~City~~ Council prior to its public distribution, and shall include an easily understandable summary of all relevant information required by SRC 260.035.

(Prior Code, § 260.075; Ord. No. 48-04; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 260.080. Effect of annexation on land use designations.**

The land use designations which are approved as part of the referral process shall be binding for five years after annexation, unless the landowner can show that substantial changes in the social, economic, and demographic patterns of the nearby vicinity have so altered since the date of the annexation that the current designations are no

longer in the public interest, and that such changes could not have been anticipated prior to the time the annexation was referred to the voters.

(Prior Code, § 260.080; Ord. No. 48-04; Ord. No. 12-12)

**Sec. 260.085. Addition of annexed areas to official map.**

When an annexation of territory to the City of Salem becomes final and effective, the Director shall add the property to the official zoning map, along with the zoning and comprehensive plan designations. The official zoning map shall be annotated to the effect that the territory was annexed, and include a citation to the action annexing the property and establishing the designations.

(Prior Code, § 260.085; Ord. No. 48-04; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 260.090. Conceptual plan conformance.**

(a) Except as provided in this section, development of the property shall be in substantial conformance with any conceptual plan approved under SRC 260.035. For the purposes of this section, development is in substantial conformance with a conceptual plan if the development:

- (1) Is consistent with the character and intent of the conceptual plan;
- (2) The impacts from the development, including, but not limited to, noise, vibration, dust, odor, or fumes, detectable at the property line will not exceed the maximums typical for the categories of uses proposed in the conceptual plan;
- (3) The number and types of vehicular trips to and from the site will not exceed the maximums typical for the categories of uses proposed in the conceptual plan; and
- (4) That the amount and types of outside storage, loading, and parking will not exceed the maximums typical for the categories of uses proposed in the conceptual plan.

(b) If proposed development of the property is not in substantial conformance with the conceptual plan approved under SRC 260.035, on application the Director shall approve the substitution of a modified or alternative plan if the landowner demonstrates the plan complies with the land use and development regulations applicable to the property, the plan is consistent with the character of, and development patterns in, the surrounding area and the plan minimizes any reasonably likely adverse impacts on the surrounding area.

(c) The Director may approve changes to a conceptual plan, if such changes are necessary to comply with land use and development regulations in effect at the time development occurs, to comply with conditions of approval imposed as part of a land use decision or to comply with any permit or license required for development to occur, and may impose conditions necessary to minimize reasonably likely adverse impacts resulting from revisions to the conceptual plan, or the substitution of a new conceptual plan.

(d) The Director's decision to approve or deny a modified or alternative conceptual plan shall be appealable to the hearings officer, as provided in SRC chapter 300.

(Prior Code, § 260.090; Ord. No. 48-04; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 260.095. Effect of failure of annexation proposal on conceptual plan.**

A landowner acquires no rights to a conceptual plan, and if the annexation proposal fails to win approval by the voters, any conceptual plan submitted as part of a new proposal to annex the same property shall be treated as a new plan.

(Prior Code, § 260.095; Ord. No. 48-04; Ord. No. 12-12)

<b>POLK COUNTY:</b>		
<b>Polk County/City SACP Designation</b>	<b>Polk County Zone</b>	<b>Equivalent City Zone</b>
Developing residential	SR (Suburban Residential) AR-5 (Acreage Residential - 5 Acres)	RA (Residential Agriculture)
Single family residential	SR (Suburban Residential)	RS (Single Family Residential)
Multifamily residential	SR (Suburban Residential)	RMI (Multiple Family Residential)
Industrial	IP (Industrial Park)	IP (Industrial Park)
<b>MARION COUNTY:</b>		
<b>Marion County/City SACP Designation</b>	<b>Marion County Zone</b>	<b>Equivalent City Zone</b>
Developing residential	UT (Urban Transition) UTF (Urban Transition Farm) UD (Urban Development) RS (Single Family Residential)	RA (Residential Agriculture) RS (Single Family Residential)
Single family residential	RS (Single Family Residential) UD (Urban Development)	RS (Single Family Residential)
Multifamily residential	RL (Limited Multi-Family Residential)	RMI (Multiple Family Residential)
Multifamily residential	RM (Multiple Family Residential)	RMI (Multiple Family Residential) RMII (Multiple Family Residential)
Commercial	CO (Commercial Office)	CO (Commercial Office)
Commercial	CR (Commercial Retail)	CR (Retail Commercial)
Commercial	CG (Commercial General)	CG (General Commercial)
Industrial-commercial	HC (Highway Commercial) IC (Industrial Commercial)	IC (Industrial Commercial)
Industrial	IP (Industrial Park)	IP (Industrial Park)
Industrial	IG (General Industrial)	IG (General Industrial)
Industrial	IH (Heavy Industrial)	II (Intensive Industrial)
Community service parks, open space and outdoor recreation	P (Public)	P (Public Use)

(Prior Code, § 260.095; Ord. No. 48-04)

**CHAPTERS 261—264. RESERVED**

## CHAPTER 265. ZONE CHANGES

### **Sec. 265.001. Purpose.**

Because of normal and anticipated growth of the City, changing development patterns, governmental policy decisions affecting land use, community needs, and other factors whose specific future application cannot be anticipated, the zoning pattern established by the Uniform Development Code cannot remain fixed in perpetuity, and the purpose of this chapter is to establish procedures and criteria to, when appropriate, change zoning designations.

(Prior Code, § 265.001; Ord. No. 12-12)

### **Sec. 265.005. Quasi-judicial zone changes.**

(a) *Applicability.* This section applies to any quasi-judicial zone change, other than a zone change by operation of law under SRC 265.015.

(b) *Standing to initiate quasi-judicial zone change.* A quasi-judicial zone change may be initiated only by the City Council, the Planning Commission, or the owner of the property subject to the proposed zone change, or that owner's agent.

(c) *Procedure type.* A quasi-judicial zone change is processed as a Type III procedure under SRC chapter 300.

(d) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for a quasi-judicial zone change shall include the following:

- (1) An existing conditions plan of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
  - (A) The total site area, dimensions, and orientation relative to north;
  - (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines; and
  - (C) The location of drainage patterns and drainage courses, if applicable;
- (2) A traffic impact analysis, if required, in the format specified, and based on thresholds specified in standards established, by the Director of Public Works.

(e) *Criteria.*

- (1) A quasi-judicial zone change shall be granted if all of the following criteria are met:
  - (A) The zone change is justified based on the existence of one or more of the following:
    - (i) A mistake in the application of a land use designation to the property;
    - (ii) A demonstration that there has been a change in the economic, demographic, or physical character of the vicinity such that the proposed zone would be compatible with the vicinity's development pattern; or
    - (iii) A demonstration that the proposed zone is equally or better suited for the property than the existing zone. A proposed zone is equally or better suited for the property than an existing zone if the physical characteristics of the property are appropriate for the proposed zone and the uses allowed by the proposed zone are logical with the surrounding land uses.
  - (B) If the zone change is City-initiated, and the change is for other than City-owned property, the zone change is in the public interest and would be of general benefit.
  - (C) The zone change complies with the applicable provisions of the Salem Area Comprehensive Plan.
  - (D) The zone change complies with applicable statewide planning goals and applicable administrative



rules adopted by the Department of Land Conservation and Development.

- (E) If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the comprehensive plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the comprehensive plan to address the proposed zone change; or include both the demonstration and an amendment to the comprehensive plan.
  - (F) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.
  - (G) The property is currently served, or is capable of being served, with public facilities and services necessary to support the uses allowed by the proposed zone.
- (2) The greater the impact of the proposed zone change on the area, the greater the burden on the applicant to demonstrate that the criteria are satisfied.

(Prior Code, § 265.005; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 265.010. Legislative zone changes.**

- (a) *Applicability.* This section applies to all legislative zone changes. Legislative zone changes are:
  - (1) Zone changes initiated by the City where there is an identified common public purpose for the change and generally affecting more than one property owner or a large number of individual properties.
  - (2) Zone changes initiated by the City to comply with an order, directive, or recommendation of a governmental body responsible for administering state land use law or to comply with an order of a court having jurisdiction over litigation involving the property that is the subject of the zone change. As used in this section, the term "governmental body responsible for administering state land use law" includes, but is not limited to, the Land Use Board of Appeals, the Land Conservation and Development Commission, and the Department of Land Conservation and Development.
- (b) *Procedure type.* Legislative zone changes are processed according to the legislative procedures under SRC chapter 300.
- (c) *Standing to initiate legislative zone change.* A legislative zone change may be initiated only by the ~~City~~ Council or the Planning Commission.
- (d) *Criteria.* A legislative zone change may be made if the ~~City~~ Council finds that:
  - (1) The zone change is in the best interest of the public health, safety, and welfare of the City.
  - (2) The zone change complies with the Salem Area Comprehensive Plan, applicable statewide planning goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.
  - (3) If the zone change requires a comprehensive plan change from an industrial designation to a non-industrial designation, or a comprehensive plan change from a commercial or employment designation to any other designation, a demonstration that the proposed zone change is consistent with the most recent economic opportunities analysis and the parts of the comprehensive plan which address the provision of land for economic development and employment growth; or be accompanied by an amendment to the comprehensive plan to address the proposed zone change; or include both the demonstration and an amendment to the comprehensive plan.
  - (4) The zone change does not significantly affect a transportation facility, or, if the zone change would significantly affect a transportation facility, the significant effects can be adequately addressed through the measures associated with, or conditions imposed on, the zone change.

(Prior Code, § 265.010; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 265.015. Zone changes by operation of law.**

(a) *Applicability.* A zone change by operation of law is a zone change that occurs automatically upon the satisfaction of certain conditions. There are two types of zone changes by operation of law:

- (1) The application of zoning designations to a territory at the time the territory is annexed into the City; and
- (2) The automatic conversion of property zoned Residential Agricultural (RA) to Single Family Residential (RS) upon either of the following, when the property is subject to an approved tentative subdivision plan or manufactured dwelling park permit:
  - (A) The date of the recording of the final subdivision plat with the county clerk; or
  - (B) Issuance of a final occupancy permit for a manufactured dwelling park permit issued pursuant to SRC chapter 235.

(b) *Procedure type.* Zone changes by operation of law are exempt from SRC chapter 300.

(Prior Code, § 265.015; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 265.020. Conditions of approval.**

(a) Conditions may be imposed on zone changes including limits on use, uses permitted, and any development standards.

(b) Conditions imposed shall be construed and enforced, in all respects, as provisions of this zoning code relating to the use and development of land. Modification of use conditions shall be by zone change, as provided under this chapter. Modification of all other conditions, including full or partial release therefrom, shall be by variance, as provided under SRC chapter 245.

(c) If the dedication of right-of-way or construction of public improvements is required as a condition of approval under this section, the dedication or improvement shall be the obligation of the applicant and must be completed prior to issuance of building permit or certificate of occupancy, whichever is earlier. Upon justification by the applicant, the Director may allow deferral of all or a portion of public improvements required as a condition under this section beyond issuance of building permit or certificate of occupancy until a stated time or until required by Council, whichever is earlier. An applicant seeking deferral under this section shall execute an improvement deferral agreement which specifies the terms of deferral. The agreement shall be in a form approved by the City Attorney and shall be filed in the deed records of the appropriate county.

(Prior Code, § 265.020; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 265.025. When zone change requires comprehensive map amendment.**

A zone change may require an amendment to the comprehensive plan map. A zone change requires an amendment to the comprehensive plan map when the zone proposed with the change requires a different corresponding plan map designation. If an amendment to the comprehensive plan map is required, the zone change and comprehensive plan map amendment shall be consolidated under SRC chapter 300.

(Prior Code, § 265.025; Ord. No. 12-12)

**CHAPTERS 266—269. RESERVED**

## CHAPTER 270. NONCONFORMING SITUATIONS

### **Sec. 270.001. Purpose.**

The purpose of this chapter is to bring nonconforming uses, development, and lots or parcels into compliance with the UDC, and minimize the impacts of such nonconforming status.

(Prior Code, § 270.001; Ord. No. 12-12)

### **Sec. 270.005. Nonconforming uses.**

(a) *Generally.* A nonconforming use is any use on real property that was lawfully established under the applicable City or county land use regulations at the time the use was established, but which is no longer allowed due to the adoption of, or amendment to, the City's land use regulations, or annexation of the property into the City. A nonconforming use is a lawful use, and may be continued on the real property until terminated as provided in subsection (e) of this section.

(b) *Ordinary repairs and maintenance.* Except as otherwise provided in this section, buildings and structures occupied by nonconforming uses may be repaired and maintained.

(c) *Extension, alteration, and expansion or substitutions of nonconforming uses.* If approved pursuant to subsection (d) of this section:

- (1) A nonconforming use in a portion of a building may be extended into other portions of that building.
- (2) A building or structure occupied by a nonconforming use may be structurally altered or enlarged for the benefit of such use.
- (3) One nonconforming use may be substituted for another nonconforming use.
- (d) *Application for extension, alteration, and expansion or substitution of a nonconforming use.*
  - (1) *Applicability.* Except as provided in subsection (c)(2) of this section, a nonconforming use shall not be extended, altered, expanded, or substituted for another nonconforming use without receiving approval as provided in this section.
  - (2) *Procedure type.* An application for extension, alteration, expansion, or substitution of a nonconforming use is processed as a Type III procedure under SRC chapter 300.
  - (3) *Submittal requirements.* In addition to the submittal requirements for a Type III application under SRC chapter 300, an application for extension, alteration, expansion, or substitution of a nonconforming use shall include:
    - (A) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
      - (i) The total site area, property lines with dimensions, and orientation relative to north;
      - (ii) Street names;
      - (iii) Location and distance to property lines of all existing and proposed buildings, structures, fences, driveways, parking areas, and off-street loading areas;
      - (iv) Location of all existing and proposed landscape areas, with an indication of square footage;
      - (v) The location of all trees and vegetation required to be protected pursuant to SRC chapter 808;
      - (vi) The layout of all existing and proposed parking areas, indicating the total number of spaces and the dimensions of the stalls, aisles, driveways, and turnaround areas;
      - (vii) Existing and proposed use of main and accessory buildings;
      - (viii) Buildings or surface features that are to be removed;
      - (ix) Height of proposed and existing structures; and

- (x) Location of any surface features such as vegetation, creeks, drainage fields, topography, railroad tracks, power lines and/or any other information pertinent to the proposal.
- (B) A completed Trip Generation Estimate for the proposed development, on forms provided by the City.
- (4) *Criteria.* An application for the extension, alteration, expansion, or substitution of a nonconforming use shall be approved if the following criteria are met:
  - (A) The proposed extension, alteration, enlargement, or substitution of use is consistent with the general development character of the surrounding area;
  - (B) The degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable at the property line will not be increased by the proposed extension, alteration, enlargement, or substitution of use;
  - (C) The number and kinds of vehicular trips will not exceed the maximums typical for the zoning district within which the nonconforming use is located;
  - (D) The amount and nature of outside storage, loading, and parking will not be increased or altered by the proposed extension, alteration, enlargement, or substitution of use so as to cause further impacts;
  - (E) The hours of operation for the proposed extension, alteration, enlargement, or substitution of use will not be altered or increased beyond those of the existing nonconforming use; and
  - (F) If the proposal includes the alteration or enlargement of a building or structure, the alteration or enlargement complies with the applicable development standards of the UDC and all other applicable laws, ordinances, and regulations.
- (e) *Termination of nonconforming use.*
  - (1) A nonconforming use shall terminate if the building, structure, or land ceases to be occupied for the nonconforming use, or a use approved under SRC 270.005(d), for any reason for a continuous period of one year.
  - (2) A nonconforming use dependent upon a building or structure that is declared a "dangerous building" pursuant to SRC 56.200 through 56.390 shall be deemed terminated upon the date the order declaring the building or structure a dangerous building becomes final.
  - (3) A nonconforming use dependent upon a building or structure that is substantially damaged or destroyed by any cause, to the extent that the cost of repair or restoration would exceed 60 percent of the building or structure replacement cost using new materials and conforming to current building codes, shall be deemed terminated upon the date of such damage or destruction. Cost of repair or restoration, and replacement cost, shall be determined by the Building Official. The Building Official's determination is appealable as provided in SRC 20J.240 through 20J.430 for contested case proceedings.
  - (4) A nonconforming use dependent upon a building or structure that is redeveloped or renovated to the extent that the cost of redevelopment or renovation exceeds 60 percent of the building or structure replacement cost using new materials and conforming to current building codes shall be deemed terminated upon the date such redevelopment or renovation commences. Cost of redevelopment or renovation shall be determined by the Building Official. The Building Official's determination is appealable as provided in SRC 20J.240 through 20J.430 for contested case proceedings.
  - (5) A nonconforming use which has terminated shall not be re-established.

(Prior Code, § 270.005; Ord. No. 12-12; Ord. No. 31-13)

#### **Sec. 270.010. Nonconforming development.**

(a) *Generally.* Nonconforming development is any development which met the applicable City or county development standards imposed at the time the development was constructed, but which no longer complies with development standards due to the adoption of, or amendment to, the City's land use regulations, or annexation of the property into the City. A nonconforming development may be continued until the development's nonconforming status is terminated as provided in subsection (d) of this section.

(b) *Ordinary repairs and maintenance.* Nonconforming development may be repaired and maintained.

(c) *Alteration and enlargement.* Unless the alteration or enlargement is undertaken in connection with a nonconforming use under 270.005(a) nonconforming development may be altered or enlarged provided such new development complies with all applicable development standards of the UDC and all other applicable laws, ordinances, and regulations.

(d) *Termination of nonconforming development.*

- (1) Nonconforming development that is declared a "dangerous building" pursuant to SRC 56.200 to 56.390 shall be deemed terminated upon the date the order declaring the building or structure a dangerous building becomes final.
- (2) Nonconforming development that is redeveloped or renovated to the extent that the cost of redevelopment or renovation exceeds 60 percent of its replacement cost using new materials and conforming to current building codes shall be deemed terminated upon the date that such redevelopment or renovation commences. Cost of redevelopment or renovation shall be determined by the Building Official. The Building Official's determination is appealable as provided in SRC 20J.240—20J.430 for contested case proceedings.
- (3) Nonconforming development that is substantially damaged or destroyed by any cause to the extent that the cost of repair or restoration of the development would exceed 60 percent of its replacement cost using new materials and conforming to current building codes shall be deemed terminated upon the date of such damage or destruction. Cost of repair or restoration, and replacement cost, shall be determined by the Building Official. The Building Official's determination is appealable as provided in SRC 20J.240—20J.430 for contested case proceedings.
- (4) Nonconforming development which has terminated shall be brought into conformity with the applicable development standards or removed.

(Prior Code, § 270.010; Ord. No. 12-12)

**Sec. 270.015. Nonconforming lots or parcels of record.**

(a) Nonconforming lot or parcel of record means any unit of land which met the applicable legal requirements for a land division at the time it was created, but which no longer meets the standards due to the adoption of, or amendment to, the UDC or the annexation of the property into the City.

(b) A nonconforming lot or parcel of record in any residential zone may be used for the construction of a single family dwelling, provided that the development complies with all applicable standards or criteria of the UDC, other than lot standards.

(Prior Code, § 270.015; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 270.020. Nonconforming manufactured dwellings in manufactured dwelling parks.**

Notwithstanding the provisions of SRC 270.005, any nonconforming manufactured dwelling, including associated accessory buildings or structures, in a manufactured dwelling park may be repaired, altered, or replaced provided such repair, alteration, or replacement complies with applicable development standards of the Oregon Manufactured Dwelling and Park Specialty Code, the Oregon Manufactured Dwelling Installation Specialty Code, and all other applicable laws, ordinances, and regulations.

(Prior Code, § 270.020; Ord. No. 12-12; Ord. No. 31-13)

**CHAPTERS 271—299. RESERVED**

## **CHAPTER 300. PROCEDURES FOR LAND USE APPLICATIONS AND LEGISLATIVE LAND USE PROPOSALS**

### **Sec. 300.001. Purpose.**

The purpose of this chapter is to establish uniform procedures for the review and processing of land use applications, and to establish procedures for legislative land use proposals. This chapter is intended to make the land use application review process clear and understandable for applicants; to facilitate timely review of land use applications by the City; and to enable the public to effectively participate in the local land use decision making process.

(Prior Code, § 300.001; Ord. No. 1-10)

### **Sec. 300.010. Scope and applicability.**

This chapter applies to all land use actions and all legislative land use proceedings under the UDC.

(Prior Code, § 300.010; Ord. No. 1-10; Ord. No. 31-13)

### **Sec. 300.020. General rule.**

No person shall engage in or cause development, as defined under SRC chapter 111, to occur without first obtaining the necessary land use approvals required by, and according to the procedures in, this chapter.

(Prior Code, § 300.020; Ord. No. 1-10; Ord. No. 31-13)

### **Secs. 300.030—300.090. Reserved**

## **APPLICATION PROCEDURE TYPES AND REVIEW AUTHORITIES**

### **Sec. 300.100. Procedure types.**

(a) Unless otherwise provided in the UDC, land use actions required under the UDC are classified as one of four procedure types set forth in Table 300-1. The procedure type governs the decision-making process for the specific land use application.

<b>TABLE 300-1. LAND USE PROCEDURE TYPES</b>			
<b>Procedure Type</b>	<b>Decision Process</b>	<b>Decision Type</b>	<b>Process Description</b>
Type I	Ministerial	Permit	Type I procedure is used when there are clear and objective standards and criteria that do not require interpretation or the exercise of policy or legal judgment in their application. Decisions on Type I applications are made by staff. Public notice and hearing are not required.
Type II	Administrative	Limited Land Use	Type II procedure is used when the standards and criteria require limited discretion or legal judgment in their application. Decisions on Type II applications are made by staff. Public notice and opportunity to comment prior to issuance of a decision is provided. A public hearing is not required unless the decision is appealed.



Type III	Quasi-Judicial	Land Use	Type III procedure is used when the standards and criteria require discretion or legal judgment in their application. Decisions on Type III applications are made by the Hearings Officer, Historic Landmarks Commission, or Planning Commission. Public notice and hearing are required. The decision may be appealed.
Type IV	Quasi-Judicial	Land Use	Type IV procedure is used for site-specific land use actions initiated by an applicant, the Historic Landmarks Commission, Planning Commission, or City Council. Type IV applications result in a recommendation from the Planning Commission or Historic Landmarks Commission to the City Council, which then makes the final decision. Public notice and hearings are required for both the initial hearing making recommendation and subsequent hearing taking final action.

(b) The specific procedure type assigned to a land use application is specified in Table 300-2.

(c) When the procedure type for a land use application is not identified in Table 300-2, specified elsewhere in the UDC, or otherwise required by law, the Planning Administrator shall determine the applicable procedure based on the guidelines in this subsection. Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

- (1) Type I procedures shall be used when the land use action will be based on standards and criteria that do not require interpretation or the exercise of policy or legal judgment.
- (2) Type II procedures shall be used when the land use action will be based on standards or criteria that require only limited discretion or legal judgment.
- (3) Type III procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment.
- (4) Type IV procedures shall be used when the land use action will be based on standards and criteria that require the exercise of discretion or legal judgment, and where the land use application must first be referred to an advisory body for review and recommendation to the City Council, which then makes the decision.

(d) Notwithstanding any other provision in this section, and upon payment of the applicable fee, an applicant may choose to process a land use application that would be a Type I procedure as a Type II or Type III procedure, or to process a land use application that would be a Type II procedure as a Type III procedure.

**TABLE 300-2. LAND USE APPLICATIONS BY PROCEDURE TYPE**

			Review Authority			
Application	Procedure Type	Pre-App. Required	Decision	Appeal	City Council Review	Applicable Code Chapter(s)
Adjustment						
Class 1 adjustment	II	N	PA	HO	N	SRC 250
Class 2 adjustment	II	Y	PA	HO	Y	SRC 250

**TABLE 300-2. LAND USE APPLICATIONS BY PROCEDURE TYPE**

			Review Authority			
Application	Procedure Type	Pre-App. Required	Decision	Appeal	City Council Review	Applicable Code Chapter(s)
Airport overlay zone height variance	I	N	PA	-	N	SRC 602
Comprehensive plan map amendment (minor)	III	Y	PC	CC	Y	SRC 64
Conditional use	III	Y	HO	PC	Y	SRC 240
Design review						
Class 1 design review	I	Y	PA	-	N	SRC 225
Class 2 design review	II	Y	PA	PC	N	SRC 225
Class 3 design review	III	Y	PC	CC	Y	SRC 225
Fairview Mixed-Use Zone						
Fairview plan	III	Y	PC	CC	Y	SRC 530
Fairview plan amendment (minor)	II	Y	PA	PC	Y	SRC 530
Fairview plan amendment (major)	III	Y	PC	CC	Y	SRC 530
Refinement plan	III	Y	PC	CC	Y	SRC 530
Refinement plan amendment (minor)	II	Y	PA	PC	Y	SRC 530
Refinement plan amendment (major)	III	Y	PC	CC	Y	SRC 530
Floodplain Overlay Zone						
Floodplain development permit	I	N	BO & PWD	-	N	SRC 601
Class 1 Floodplain Overlay Zone Variance	III	N	HO	CC	Y	SRC 601
Class 2 Floodplain Overlay Zone Variance	III	N	HO	CC	Y	SRC 601
Historic Review						
Minor historic design review	I	N	PA	HLC	N	SRC 230
Major historic design review	III	N	HLC	HO	N	SRC 230
Major historic design review—new construction	III	N	HLC	HO	Y	SRC 230
Historic resource adaptive reuse	III	N	HO	PC	Y	SRC 230
Historic resource demolition	III	N	HLC	CC	Y	SRC 230

**TABLE 300-2. LAND USE APPLICATIONS BY PROCEDURE TYPE**

			Review Authority			
Application	Procedure Type	Pre-App. Required	Decision	Appeal	City Council Review	Applicable Code Chapter(s)
Local historic resource designation	IV	N	HLC – Recommendation; CC – Decision	-	N	SRC 230
Class 1 local historic resource designation removal	I	N	PA	-	N	SRC 230
Class 2 local historic resource designation removal	IV	N	HLC – Recommendation; CC – Decision	-	N	SRC 230
Landslide hazard construction permit	I	N	PWD	HO	N	SRC 810
Manufactured dwelling park permit	II	Y	PA	HO	Y	SRC 235
Neighborhood center master plan						
Class 1 NCMP	III	Y	PC	CC	Y	SRC 215
Class 2 NCMP	III	Y	PC	CC	Y	SRC 215
Class 2 NCMP detailed plan (subsequent phases)	II	N	PA	PC	Y	SRC 215
Class 3 NCMP (first subarea)	III	Y	PC	CC	Y	SRC 215
Class 3 NCMP (subsequent subareas)	III	Y	PC	CC	Y	SRC 215
NCMP amendment (minor)	II	N	PA	PC	Y	SRC 215
NCMP amendment (major)	III	N	PC	CC	Y	SRC 215
Neighborhood plan map amendment	III	Y	PC	CC	Y	SRC 64
Nonconforming use extension, alteration, expansion, or substitution	III	Y	HO	PC	Y	SRC 270
Partition						
Tentative plan	II	N	PA	PC	Y	SRC 205
Final plat	Exempt	N	PA	-	N	SRC 205
Planned unit development						
Tentative plan	III	Y	PC	CC	Y	SRC 210
Final plan	II	N	PA	-	N	SRC 210
Property line adjustment	I	N	PA	-	N	SRC 205

**TABLE 300-2. LAND USE APPLICATIONS BY PROCEDURE TYPE**

			Review Authority			
Application	Procedure Type	Pre-App. Required	Decision	Appeal	City Council Review	Applicable Code Chapter(s)
Property boundary verification	I	N	PA	-	N	SRC 205
Replat						
Tentative plan	II	N	PA	PC	Y	SRC 205
Final plat	Exempt	N	PA	-	N	SRC 205
Signs						
Sign permit	I	N	CDD	-	N	SRC 900
Sign adjustment	II	N	CDD	-	N	SRC 900
Sign conditional use permit	III	N	HO	PC	Y	SRC 900
Sign variance	III	N	HO	PC	Y	SRC 900
Site Plan Review						
Class 1 site plan review	I	N	PA	-	N	SRC 220
Class 2 site plan review	I	N	PA	-	N	SRC 220
Class 3 site plan review	II	N	PA	HO	Y	SRC 220
South Waterfront Mixed-Use Zone						
Development phasing plan	II	N	PA	HO	Y	SRC 531
Subdivision						
Tentative plan	II	N	PA	PC	Y	SRC 205
Phased subdivision tentative plan	II	N	PA	PC	Y	SRC 205
Manufactured dwelling park subdivision tentative plan	II	N	PA	PC	Y	SRC 205
Final plat	Exempt	N	PA	-	N	SRC 205
Temporary Use Permit						
Class 1 temporary use permit	I	N	PA	-	N	SRC 701
Class 2 temporary use permit	II	N	PA	HO	N	SRC 701
Tree & vegetation removal						
Tree Conservation Plan	I	N	PA	HO	N	SRC 808
Tree conservation plan adjustment	I	N	PA	HO	N	SRC 808
Tree & vegetation removal permit	I	N	PA	-	N	SRC 808
Tree variance	II	N	PA	HO	Y	SRC 808

**TABLE 300-2. LAND USE APPLICATIONS BY PROCEDURE TYPE**

			Review Authority			
Application	Procedure Type	Pre-App. Required	Decision	Appeal	City Council Review	Applicable Code Chapter(s)
Urban growth management						
Urban service area amendment	IV	N	CC	-	N	SRC 200
Urban Growth Preliminary Declaration	II	N	PA	CC	Y	SRC 200
Validation of unit of land	III	Y	HO	PC	Y	SRC 205
Variance	III	Y	HO	PC	Y	SRC 245
Willamette Greenway						
Class 1 greenway development permit	II	N	PA	HO	Y	SRC 600
Class 2 greenway development permit	III	Y	HO	PC	Y	SRC 600
Wireless communication facilities						
Temporary siting permit	I	N	PA	-	N	SRC 703
Class 1 siting permit	I	N	PA	-	N	SRC 703
Class 2 siting permit	II	N	PA	HO	Y	SRC 703
Class 3 siting permit	III	Y	HO	PC	Y	SRC 703
Wireless communication facilities adjustment	II	Y	PA	HO	Y	SRC 703
Zone change (quasi-judicial)	III	Y	HO	CC	Y	SRC 265
<b>LEGEND</b> PA – Planning Administrator; BO – Building Official; CDD – Community Development Director; PWD – Public Works Director; HO – Hearings Officer; HLC – Historic Landmarks Commission; PC – Planning Commission; CC – City Council						

(Prior Code, § 300.100; Ord. No. 1-10; Ord. No. 20-11; Ord. No. 4-12; Ord. No. 12-12; Ord. No. 31-13; Ord. No. 32-13)

**Sec. 300.110. Review authorities.**

(a) *Review authorities, generally.* Review authorities are those designated individuals or bodies that make recommendations or decisions regarding land use actions. The applicable Review Authorities for specific land use actions are identified under Table 300-2. The Review Authority shall review an application following the applicable procedure type for the application and according to the applicable approval standards and criteria.

(b) *Review Authority hierarchy.* Review authorities are organized under the following hierarchy, from lowest to highest:

- (1) Staff, including, but not limited to, the Planning Administrator, Community Development Director, Public Works Director, and Building Official;
- (2) Historic Landmarks Commission;

- (3) Hearings Officer;
- (4) Planning Commission;
- (5) ~~City Council~~.

(c) *Historic Landmarks Commission jurisdiction over certain applications.* Notwithstanding any other provision of this section, the Historic Landmarks Commission shall have exclusive jurisdiction over those land use applications under SRC chapter 230 requiring Historic Landmarks Commission review.

(Prior Code, § 300.110; Ord. No. 1-10; Ord. No. 12-12)

### **Sec. 300.120. Procedures for review of multiple applications.**

When multiple land use actions are required or proposed by an applicant, the applications may be processed individually in sequence, concurrently, or through the consolidated procedure provided in this section. The applicant shall elect how the land use applications are to be processed, except where a specific review process or sequence is otherwise required or where the land use applications are subject to the same procedure type and decided upon by the same Review Authority. When multiple land use applications are subject to the same procedure type and decided upon by the same Review Authority, the land use applications shall be consolidated.

- (a) *Applications processed individually in sequence.* Multiple applications processed individually require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and processed sequentially, as follows:
  - (1) Applications with the highest numbered procedure type must be processed first;
  - (2) Notwithstanding any other provision in this subsection, where a particular sequence for the review of land use applications is established by another section of the UDC, the applications shall be processed in that sequence; and
  - (3) Notwithstanding any other provision in this subsection, where one land use application is dependent upon the approval of another land use application (e.g., conditional use permit is subject to prior approval of a zone change), the land use application upon which the other is dependant shall be processed first.
- (b) *Applications processed concurrently.* Multiple applications processed concurrently require the filing of separate applications for each land use action. Each application shall be reviewed separately according to the applicable procedure type and processed simultaneously.
- (c) *Consolidated applications.* When multiple applications are consolidated, a single application is filed for all land use actions. The application shall be accompanied by the information and supporting documentation required for each individual land use action. Review of the application shall be according to the highest numbered procedure type required for any of the land use applications. The Review Authority shall be the highest applicable Review Authority under the highest numbered procedure type required for any of the land use applications. Notwithstanding the provisions of this subsection, where multiple applications that are proposed to be consolidated include an application subject to review by the Historic Landmarks Commission, the application that is subject to Historic Landmarks Commission review shall be processed individually or concurrently.

(Prior Code, § 300.120; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

### **Secs. 300.130—300.190. Reserved**

## **APPLICATION SUBMITTAL AND COMPLETENESS REVIEW**

### **Sec. 300.200. Initiation of applications.**

(a) Type I, Type II, Type III, and Type IV land use applications may be submitted by one or more of the following persons:

- (1) The owner of the subject property;
- (2) The contract purchaser of the subject property, when the application is accompanied by proof of the

purchaser's status as such and by the seller's written consent;

- (3) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or
- (4) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by ~~paragraphs subsection (a)~~(1), (2) or (3) of this subsection, and accompanied by proof of the agent's authority.

- (b) Type IV applications may be initiated by the City.

(Prior Code, § 300.200; Ord. No. 1-10)

### **Sec. 300.210. Application submittal.**

(a) Land use applications shall be submitted on forms prescribed by the Planning Administrator. A land use application shall not be accepted in partial submittals. All of the following must be submitted to initiate completeness review under SRC 300.220. All information supplied on the application form and accompanying the application shall be complete and correct as to the applicable facts.

- (1) A completed application form. The application form shall contain, at a minimum, the following information:
  - (A) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - (B) The address or location of the subject property and its assessor's map and tax lot number;
  - (C) The size of the subject property;
  - (D) The comprehensive plan designation and zoning of the subject property;
  - (E) The type of application(s);
  - (F) A brief description of the proposal; and
  - (G) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).
- (2) Recorded deed/land sales contract with legal description;
- (3) Any information that would give rise to an actual or potential conflict of interest under state or local ethics laws for any member of a Review Authority that will or could make a decision on the application;
- (4) Pre-application conference written summary, if a pre-application conference was required under SRC 300.310(a) and Table 300-400-2; or copy of the approved pre-application conference waiver, if such approval was granted pursuant to SRC 300.310(b);
- (5) A statement as to whether any City-recognized neighborhood associations whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact and who it was with (e.g., phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;
- (6) A statement as to whether the Salem-Keizer Transit District was contacted in advance of filing the application; and if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact, who it was with, and the result;
- (7) A written statement addressing each applicable approval criterion and standard;
- (8) Any additional information required under the UDC for the specific land use action sought;
- (9) Any additional information, as determined by the Planning Administrator, that may be required by another provision, or for any other permit elsewhere, in the UDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;

(10) Payment of the applicable application fee(s) pursuant to SRC 110.090.

(b) The Planning Administrator may waive any submittal requirement if the Planning Administrator determines that the specific requirement would not provide evidence needed to satisfy any of the applicable criteria.

(c) Each application, when received, shall be date-stamped with the date the application was received, and designated with a receipt number and a notation of the staff person who received the application.

(Prior Code, § 300.210; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 300.220. Completeness review.**

(a) Except as otherwise provided under ORS 227.178, the Planning Administrator shall review an application for completeness within 30 days of its receipt.

(b) Determination of completeness shall be based upon the information required under SRC 300.210 and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

(c) If an application is determined to be complete, review of the application shall commence.

(d) If an application is determined to be incomplete, written notice shall be provided to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete upon initial filing shall be deemed complete for purposes of this section upon receipt of:

- (1) All of the missing information;
- (2) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (3) Written notice from the applicant that none of the missing information will be provided.

(e) If an application was complete at the time it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.

(f) An application shall be deemed void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (d) of this section.

(Prior Code, § 300.220; Ord. No. 1-10; Ord. No. 12-12)

**Sec. 300.230. Withdrawal of application.**

(a) An application may be withdrawn by the applicant at any time prior to the issuance of the decision if the owner or contract purchaser consents in writing to withdraw the application; and

(b) If an application is withdrawn after the mailing of public notice, the Planning Administrator shall send written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

(Prior Code, § 300.230; Ord. No. 1-10)

**Secs. 300.240—300.290. Reserved**

**PRE-APPLICATION CONFERENCE**

**Sec. 300.300. Purpose.**

Pre-application conferences are intended to familiarize applicants with the requirements of the UDC; to provide applicants with an opportunity to meet with city staff to discuss proposed projects in detail; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use process, but is not intended to



be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

(Prior Code, § 300.300; Ord. No. 1-10; Ord. No. 31-13)

**Sec. 300.310. Applicability and waiver of pre-application requirement.**

(a) Pre-application conferences are mandatory for those land use actions identified under Table 300-400-2 as requiring a pre-application conference.

(b) Nothing in this section shall preclude an applicant from voluntarily requesting a pre-application conference for any other land use action.

~~(b)~~(c) Notwithstanding the provisions of this section, a mandatory pre-application conference may be waived by the Planning Administrator if the application is relatively simple, and good cause is shown by the applicant. An application for a waiver shall be made on forms provided by the Planning Administrator. The applicant for a waiver shall acknowledge that waiving the pre-application conference increases the risk of an application being rejected or processing delayed due to insufficient, incomplete, or incorrect information being provided. The decision of the Planning Administrator on an application to waive a pre-application conference is not appealable.

(Prior Code, § 300.310; Ord. No. 1-10)

**Sec. 300.320. Pre-application conference procedures.**

(a) *Application requirements.*

(1) *Application form.* Pre-application conference requests shall be made on forms provided by the Planning Administrator.

(2) *Submittal requirements.* Pre-application conference requests shall:

(A) Include a completed application form;

(B) Include payment of the application fee;

(C) Be accompanied by the information required, if any, for the specific pre-application conference sought; and

(D) Be accompanied by any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow city staff to review and comment.

(b) *Scheduling of pre-application conference.* Upon receipt of a complete application, the Planning Administrator shall schedule the pre-application conference. The Planning Administrator shall coordinate the involvement of other city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

(c) *Pre-application conference summary.* Subsequent to the pre-application conference, the Planning Administrator will provide the applicant with a written summary of the conference. The purpose of the written summary is to provide a preliminary assessment of the proposal, but shall not be deemed to be a recommendation by the City or any other outside agency or service provider on the merits of the proposal.

(d) *Validity period for mandatory pre-application conferences; follow-up conferences.* A follow-up conference is required for those mandatory pre-application conferences that have already been held when:

(1) A complete application relating to the proposed development that was the subject of the pre-application conference has not been submitted within 18 months of the pre-application conference;

(2) The proposed use, layout, and/or design of the proposal have significantly changed; or

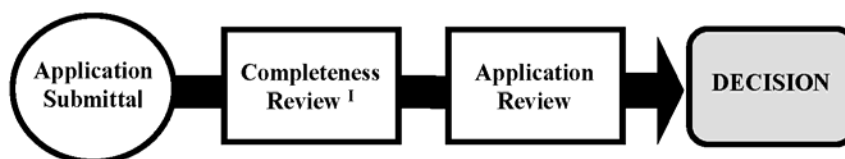
(3) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.

(Prior Code, § 300.320; Ord. No. 1-10)

**Secs. 300.330—300.390. Reserved****TYPE I APPLICATION PROCEDURES****Sec. 300.400. General description.**

Type I applications are ministerial in nature, and involve land use actions governed by clear and objective approval criteria and non-discretionary standards. A Type I application is an administrative review process, where the Review Authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision. The Type I application process is illustrated in Figure 300-1.

(Prior Code, § 300.400; Ord. No. 1-10; Ord. No. 12-12)

**Figure 300-1. Type I Procedure****Figure 300-1 - Type I Procedure**

I Completeness review conducted within 30 days of application submittal.

**Sec. 300.410. Type I applications.**

The following land use actions are Type I applications:

- (a) Those identified in Table 300-2 as Type I applications;
- (b) Those identified in the UDC as Type I applications; and
- (c) Those identified by the Planning Administrator as Type I applications based upon the guidelines for classification of applications under SRC 300.100(c).

(Prior Code, § 300.410; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 300.420. Type I procedure.**

- (a) *Application requirements.*

- (1) *Application form.* Type I applications shall be made on forms provided by the Planning Administrator.

- (2) *Submittal requirements.* Type I applications shall include the information required under SRC 300.210.

- (b) *Public notice and comment period.* Public notice and opportunity for comment is not provided for Type I applications.

- (c) *Decision.* The Review Authority shall approve or deny the application according to the applicable standards and criteria. The decision shall be a written order.

- (d) *Notice of decision.*

- (1) Except as provided under subsection (d)(2) of this section, notice of the decision for Type I applications shall be mailed to the applicant.

- (2) Notice of the decision on a minor historic design review application shall be mailed to:

- (A) The applicant;

- (B) The owner of the subject property;

- (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the

subject property; and

- (D) Property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property.
- (e) *Appeal and review.*
  - (1) Except as otherwise provided in this ~~paragraph-subsection~~, the decision on a Type I application shall be the final decision of the City, may not be appealed, and is not subject to City-Council review under SRC 300.1050.
    - (A) The decision on a minor historic design review application may be appealed, pursuant to SRC 300.1010. Only the applicant, the owner of the subject property, or any person entitled to notice of the decision have standing to appeal the decision on a minor historic design review application. The decision of the Review Authority on appeal of a minor historic design review application shall be the final decision of the City.
    - (B) The decision on a tree conservation plan may be appealed, pursuant to SRC 300.1010. Only the applicant or the owner of the subject property have standing to appeal the decision on a tree conservation plan. The decision of the Review Authority on appeal shall be the final decision of the City.
    - (C) The decision on a tree conservation plan adjustment may be appealed, pursuant to SRC 300.1010. Only the applicant or the owner of the subject property have standing to appeal the decision on a tree conservation plan adjustment. The decision of the Review Authority on appeal shall be the final decision of the City.
    - (D) The decision on a landslide hazard construction permit may be appealed, pursuant to SRC 300.1010. Only the applicant or the owner of the subject property have standing to appeal the decision on a landslide hazard construction permit. The decision of the Review Authority on appeal shall be the final decision of the City.
  - (2) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

(f) *Expiration.* Approval of a Type I application does not expire, unless otherwise provided under SRC 300.850(a) or another provision of the UDC.

(Prior Code, § 300.420; Ord. No. 1-10; Ord. No. 34-10; Ord. No. 12-12; Ord. No. 31-13)

### **Secs. 300.430—300.490. Reserved**

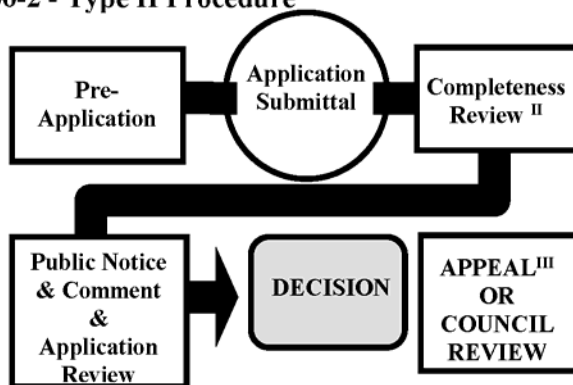
## **TYPE II APPLICATION PROCEDURES**

### **Sec. 300.500. General description.**

Type II applications are administrative in nature, and involve land use actions governed by approval criteria and standards which require the exercise of limited discretion. Impacts on nearby properties associated with the land use action may require imposition of conditions of approval to minimize those impacts or to ensure compliance with the UDC. A Type II application is an administrative review process where the Review Authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision. The Type II process is illustrated in Figure 300-2.

(Prior Code, § 300.500; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

### **Figure 300-2—Type II Procedure**

**Figure 300-2 - Type II Procedure**

I Pre-application conferences required for applications identified under Table 300-2.

II Completeness review conducted within 30 days of application submittal.

III Appeal period of 15 days from decision mailing date.

### **Sec. 300.510. Type II applications.**

The following land use actions are Type II applications:

- (a) Those identified in Table 300-2 as Type II applications;
- (b) Those identified in the UDC as Type II applications; or
- (c) Those identified by the Planning Administrator as Type II applications based upon the guidelines for classification of applications under SRC 300.100(c).

(Prior Code, § 300.510; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

### **Sec. 300.520. Type II procedure.**

- (a) *Application requirements.*

- (1) *Application form.* Type II applications shall be made on forms provided by the Planning Administrator.
- (2) *Submittal requirements.* Type II applications shall include the information required under SRC 300.210.

(b) *Public notice and comment.* Public notice is required for Type II applications. Public notice shall be by first class mail. Posted notice on the subject property is required for subdivisions, Class 2 wireless communications facilities siting, manufactured dwelling park permits, and Class 1 greenway development permits. All Type II applications include a comment period of 14 days from the date notice is mailed.

- (1) *Mailed notice.* Mailed notice shall be provided as follows:

(A) The City shall mail notice of the application within ten days after the application is deemed complete. An affidavit of mailing shall be prepared and made part of the file.

(B) Notice of the application shall be mailed to:

- (i) The applicant(s) and/or the applicant's authorized representative(s);
- (ii) The owner(s) or contract purchaser(s) of record of the subject property;
- (iii) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (iv) Property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property;
- (v) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City; and
- (vi) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City.

## (C) Mailed notice shall include:

- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
- (ii) The type of application and a concise description of the nature of the land use action;
- (iii) The proposed site plan;
- (iv) The street address, or other easily understood geographical reference, for the subject property;
- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the approval criteria by name and code section;
- (vii) A statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost;
- (viii) A brief summary of the decision making process for the application;
- (ix) The place, date, and time that written comments are due, and the person to whom the comments should be addressed;
- (x) A statement that comments received after the close of the public comment period will not be considered;
- (xi) A statement that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and Review Authority to respond to the issue;
- (xii) A statement that subsequent to the closing of the public comment period a decision will be issued and mailed to the applicant, property owner, everyone entitled to the initial notice of the application, anyone who submitted written comments on the application, and to any other persons otherwise legally entitled to notice of the decision; and
- (xiii) The name and contact information for the staff case manager.

(2) *Posted notice.* Posted notice shall be provided, when required, as follows:

- (A) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the end of the 14 day comment period. The notice shall remain in place throughout the comment period. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made a part of the file.
- (B) Notice shall be posted on each street frontage of the subject property, in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.
- (C) Posted notice shall be on signs prepared by the Planning Administrator.
- (D) To replace signs that are lost or damaged to the extent they can no longer be reused, the Planning Administrator shall establish a refundable sign deposit fee required for each sign, to be paid by the applicant at the time signs are issued to the applicant.
- (E) The applicant shall remove the signs from the subject property and return them to the Planning Administrator within seven days after the date the decision is issued. The Planning Administrator shall refund the sign deposit fee if the sign is returned within the required seven days, in an undamaged and reusable condition.

(c) *Application review.* The Review Authority shall review the application, all written comments submitted during the public comment period, and the applicant's response to the comments, if any. Written comments received after the expiration of the public comment period shall not be considered by the Review Authority.

(d) *Decision.* The Review Authority shall approve, conditionally approve, or deny the application based upon the facts contained within the record and according to the applicable standards and criteria. The decision of the Review Authority shall be a written order containing findings that explain the criteria and standards applicable to the decision, stating the facts relied upon in rendering the decision, and explaining the justification for the decision.

(e) *Notice of decision.* Notice of the decision shall be mailed within five days after the decision is signed. An affidavit of mailing shall be prepared and made part of the file.

(1) Notice of the decision shall be mailed to:

- (A) The applicant(s) and/or authorized representative(s);
- (B) The owner(s) or contract purchaser(s) of record of the subject property;
- (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (D) Any group or individual who submitted written comments during the comment period;
- (E) Property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property;
- (F) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted written comments during the comment period; and
- (G) Any community organizations, agencies, or individuals who have submitted written requests to the City for notice of the decision.

(2) Notice of the decision shall include:

- (A) A brief description of the application;
- (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and its comprehensive plan designation and zoning;
- (C) A brief summary of the decision, and conditions of approval, if any;
- (D) A statement of the facts relied upon;
- (E) The date the Review Authority's decision becomes effective, unless appealed;
- (F) The date and time by which an appeal must be filed, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- (G) A statement that all persons entitled to notice of the decision may appeal the decision; and
- (H) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(f) *Appeal and review.*

- (1) Unless appealed pursuant to SRC 300.1010, or review is initiated by the City-Council pursuant to SRC 300.1050, the decision by the Planning Administrator on a Type II application shall be the final decision of the City.
- (2) Only the applicant, persons who provided comments during the public comment period, and persons entitled to notice of the decision have standing to appeal the decision.
- (3) The Review Authorities for appeals are identified under Table 300-2. Except as otherwise provided in ~~subparagraphs-subsections (f)(3)(A) and (B) of this paragraph-section~~, the decision of the Review Authority on appeal, or, if review is initiated by the City-Council, the City-Council on review, shall be the final decision of the City.

(A) Upon receipt of an appeal of a decision on a Class 3 site plan review or a Class 2 adjustment, notice

of the appeal shall be provided to the ~~City~~ Council at its next regular meeting. The Council may, pursuant to SRC 300.1050, assume jurisdiction for review pursuant to SRC 300.1040. If the ~~City~~ Council does not assume jurisdiction, then the decision of the Review Authority is the final decision of the City.

(B) The decision on a Class 1 adjustment or a Class 2 temporary use permit is not subject to Council review. The decision of the Review Authority is the final decision of the City

(4) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

(g) *Expiration of approval.* Approval of a Type II application expires automatically as provided by SRC 300.850(a).

(Prior Code, § 300.520; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 24-13; Ord. No. 31-13)

**Secs. 300.530—300.590. Reserved**

**TYPE III APPLICATION PROCEDURES**

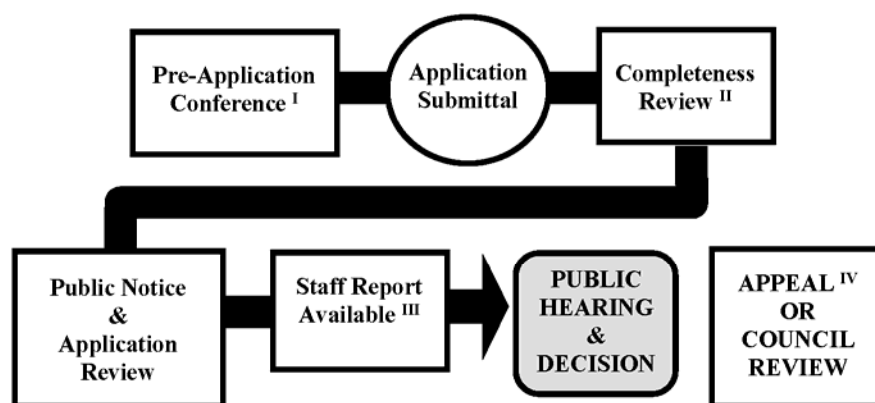
**Sec. 300.600. General description.**

Type III applications are quasi-judicial in nature, and involve land use actions governed by criteria and standards that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with the UDC and Salem Area Comprehensive Plan. A Type III application is a quasi-judicial review process where the Review Authority receives evidence and testimony, reviews the application for conformance with the applicable standards and approval criteria and issues a decision. The Type III application process is illustrated in Figure 300-3.

(Prior Code, § 300.600; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

**Figure 300-3—Type III Procedure**

**Figure 300-3 - Type III Procedure**



I Pre-application conferences required for applications identified under Table 300.100-2.

II Completeness review conducted within 30 days of application submittal.

III Staff report available 7 days prior to public hearing.

IV Appeal period of 15 days from decision mailing date.

**Sec. 300.610. Type III applications.**

The following land use actions are Type III applications:

- (a) Those identified in Table 300-100-2 as Type III applications;
- (b) Those identified in the UDC as Type III applications; or
- (c) Those identified by the Planning Administrator as Type III applications based upon the guidelines for classification of applications under SRC 300.100(c).

(Prior Code, § 300.610; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 300.620. Type III procedure.**

(a) *Application requirements.*

- (1) *Application form.* Type III applications shall be made on forms provided by the Planning Administrator.
- (2) *Submittal requirements.* Type III applications shall include the information required under SRC 300.210.

(b) *Public notice.* Public notice is required for Type III applications. Public notice shall be by first class mail and by posting on the subject property.

- (1) *Oregon Department of Land Conservation and Development notice.* Notice to the Oregon Department of Land Conservation and Development is required for certain Type III applications, pursuant to ORS 197.610. Notice to the Oregon Department of Land Conservation and Development is provided as follows:

- (A) The City shall provide notice of the application to the Oregon Department of Land Conservation and Development no later than the minimum number of days required by ORS ch. 197. An affidavit of mailing shall be prepared and made part of the file.
- (B) Notice to the Oregon Department of Land Conservation and Development shall be made on forms provided by the Oregon Department of Land Conservation and Development. Notice shall be accompanied by information of sufficient detail to convey the nature and effect of the application, and a certificate of mailing.

- (2) *Mailed notice.* Mailed notice shall be provided as follows:

- (A) The City shall mail notice of the public hearing not less than 20 days prior to the public hearing. An affidavit of mailing shall be prepared and made part of the file.
- (B) Notice of public hearing shall be mailed to:
  - (i) The applicant(s) and/or authorized representative(s);
  - (ii) The owner(s) or contract purchaser(s) of record of the subject property;
  - (iii) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
  - (iv) Property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property;
  - (v) Any governmental agency entitled to notice by law or under an intergovernmental agreement with the City;
  - (vi) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
  - (vii) The tenants of a manufactured home or mobile home park, for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park; and
  - (viii) All property owners within the historic district, for major historic design review applications within a historic district and historic resource demolition applications.

- (C) Mailed notice shall include:



- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
  - (ii) The type of application and a concise description of the nature of the request;
  - (iii) The proposed site plan, if any;
  - (iv) The street address or other easily understood geographical reference to the subject property;
  - (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
  - (vi) A list of the applicable criteria by name and code section;
  - (vii) The date, time, and place of the public hearing;
  - (viii) A statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost;
  - (ix) A brief summary of the decision making process for the application;
  - (x) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
  - (xi) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony; and that only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision;
  - (xii) A statement that failure to raise an issue prior to the close of the public hearing, in person or in writing, or failure to provide statements or evidence with sufficient specificity to afford the applicant and Review Authority to respond to the issue precludes an appeal to the Oregon Land Use Board of Appeals on that issue;
  - (xiii) A statement that a copy of the staff report with recommendation to the Review Authority will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at a reasonable cost;
  - (xiv) A statement that after the close of the public hearing a decision shall be made that will be mailed to the applicant, property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision; and
  - (xv) The name and contact information for the staff case manager.
- (3) *Posted notice.* Posted notice shall be provided as follows:
- (A) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the public hearing. The notice shall remain in place through the day of the public hearing. The applicant shall file an affidavit of posting with the City no later than five days after the date of the original posting. The affidavit shall be made a part of the file.
  - (B) Notice shall be posted on each street frontage of the subject property in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.
  - (C) Posted notice shall be on signs prepared by the Planning Administrator.
  - (D) To replace signs that are lost or damaged to the extent they can no longer be reused, the Planning Administrator shall establish a sign deposit fee required for each sign, to be paid by the applicant at the time signs are issued to the applicant.
  - (E) The applicant shall remove the signs from the subject property and return them to the Planning Administrator within seven days after the close of the public hearing. The Planning Administrator shall refund the sign deposit fee if the sign is returned within the required seven days in an

undamaged and reusable condition.

(c) *Application review and staff report.* Staff shall review the application, written comments, and evidence submitted prior to the public hearing and prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and making a recommendation to the Review Authority. The staff report shall be made available to the public for review a minimum of seven days prior to the hearing.

(d) *Public hearing.* A public hearing shall be held before the Review Authority for the purpose of receiving evidence and testimony regarding the application. The hearing shall be conducted in accordance with the public hearing procedures established under SRC 300.900. The Review Authority shall consider in its review the application, all evidence and testimony submitted for the record, and the recommendation of staff.

(e) *Decision.* The Review Authority shall approve, conditionally approve, or deny the application based upon the facts contained within the record and according to the applicable standards and criteria. The decision shall be a written order and include:

- (1) A list of the approval criteria by section number;
- (2) A statement of facts upon which the Review Authority relied to find the application does or does not comply with each approval criterion and to justify any conditions of approval. The Review Authority may direct the party whose position is adopted to prepare the statement of facts, and may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order;
- (3) A statement of conclusions based on the statement of facts; and
- (4) An order approving, approving with conditions, or denying the application.

(f) *Notice of decision.* Notice of the decision shall be mailed within seven days from the date the Review Authority adopts the written order. An affidavit of mailing shall be prepared and made part of the file.

(1) Notice of decision shall be mailed to:

- (A) The applicant(s) and/or authorized representative(s);
- (B) The owner(s) or contract purchaser(s) of record of the subject property;
- (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (D) Any group or individual who submitted testimony for the record prior to the close of the public hearing;
- (E) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency that submitted testimony prior to the close of the public hearing;
- (F) Any community organizations, agencies, or individuals who submitted written requests for notice of the decision to the City; and
- (G) The Oregon Department of Land Conservation and Development, for decisions which required notice to the Oregon Department of Land Conservation and Development.

(2) Notice of decision shall include:

- (A) A brief description of the application;
- (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and its comprehensive plan designation and zoning;
- (C) A brief summary of the decision, and conditions of approval, if any;
- (D) A statement of the facts relied upon;
- (E) The date the Review Authority's decision becomes effective, unless appealed;
- (F) The date, time, and place by which an appeal must be filed, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;

(G) A statement that all persons who presented evidence or testimony as part of the hearing may appeal the decision; and

(H) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(g) *Appeal and review.*

(1) Unless appealed pursuant to SRC 300.1010 or review is initiated by the ~~City~~ Council pursuant to SRC 300.1050, the decision by the Review Authority on a Type III application shall be the final decision of the City.

(2) Only the applicant and persons who provided evidence or testimony prior to the close of the public hearing have standing to appeal a Type III application.

(3) The Review Authorities for appeals are identified under Table 300-2. Except as otherwise provided in ~~paragraph~~ subsection (g)(4) of this subsection, the decision of the Review Authority on appeal, or, if review is initiated by the ~~City~~ Council, the ~~City~~ Council on review, shall be the final decision of the City.

(4) Except for new construction, as defined under SRC chapter 230, the decision on a Major Historic Design Review application is not subject to ~~City~~ Council review. The decision on a Major Historic Design review application for new construction, as defined under SRC chapter 230, shall be subject to ~~City~~ Council review.

(5) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

(h) *Expiration of approval.* Approval of a Type III application expires automatically as provided under SRC 300.850(a).

(Prior Code, § 300.620; Ord. No. 1-10; Ord. No. 34-10; Ord. No. 9-12; Ord. No. 12-12; Ord. No. 31-13; Ord. No. 32-13)

**Secs. 300.630—300.690. Reserved**

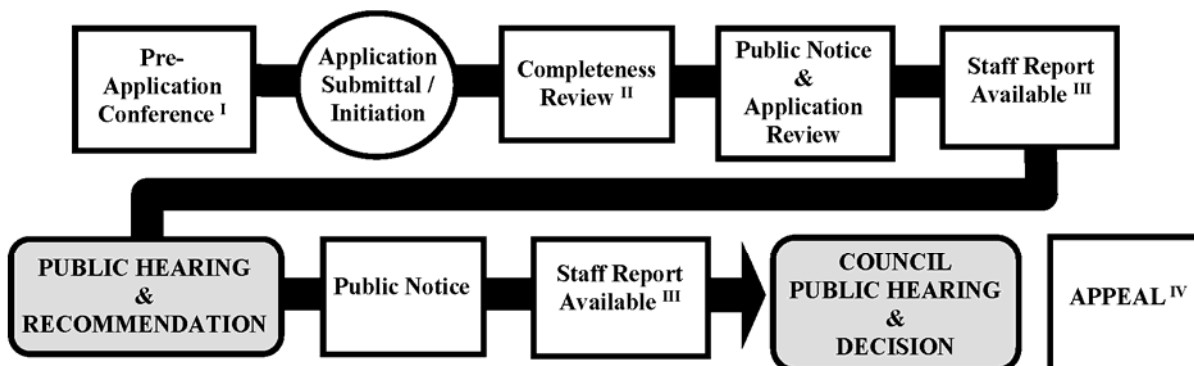
**TYPE IV APPLICATION PROCEDURES**

**Sec. 300.700. General description.**

Type IV applications are quasi-judicial in nature, and involve land use actions governed by criteria that require the use of discretion and judgment. Type IV applications may be applicant-initiated or City-initiated. The Type IV application procedure is a quasi-judicial review process where Historic Landmarks Commission or Planning Commission makes recommendation to the ~~City~~ Council for final decision. The Type IV application process is illustrated in Figure 300-4.

(Prior Code, § 300.700; Ord. No. 1-10; Ord. No. 12-12)

**Figure 300-4—Type IV Procedure**

**Figure 300-4 - Type IV Procedure**

- I Pre-application conferences required for applications identified under Table 300-400-2. Does not apply to City initiated applications.
- II Completeness review conducted within 30 days of application submittal. Does not apply to City initiated applications.
- III Staff report available 7 days prior to public hearing.
- IV Appeal to the Oregon Land Use Board of Appeals. Appeal period of 21 days from decision mailing date.

### **Sec. 300.710. Type IV applications.**

The following land use actions are Type IV applications:

- (a) Those identified in Table 300-2 as Type IV applications;
- (b) Those identified in the UDC as Type IV applications; or
- (c) Those identified by the Planning Administrator as Type IV applications based upon the guidelines for classification of applications by procedure under SRC 300.100(c).

(Prior Code, § 300.710; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

### **Sec. 300.720. Type IV procedure.**

- (a) *Application requirements.*

- (1) *Applicant initiated.* If the Type IV application is applicant initiated, the following shall apply.

- (A) *Application form.* Type IV applications shall be made on forms provided by the Planning Administrator.
- (B) *Submittal requirements.* Type IV applications shall include the information required under SRC 300.210.

- (2) *City initiated.* If the Type IV application is City initiated, the application shall be initiated by resolution of the City Council, Planning Commission, or Historic Landmarks Commission.

(b) *Public notice.* Public notice is required for Type IV applications. Because Type IV applications require evidentiary public hearings before the initial Review Authority and before the City Council, public notice is required for each hearing. Public notice shall be mailed and posted on the subject property.

- (1) *Oregon Department of Land Conservation and Development notice.* Notice to the Oregon Department of Land Conservation and Development is required for certain Type IV applications, pursuant to ORS 197.610. Notice to the Oregon Department of Land Conservation and Development shall be provided as follows:

- (A) The City shall provide notice of the application to the Oregon Department of Land Conservation and Development no later than the minimum number of days required by ORS ch. 197. An affidavit of mailing shall be prepared and made part of the file.
- (B) Notice to the Oregon Department of Land Conservation and Development shall be provided on

forms provided by the Oregon Department of Land Conservation and Development. The notice shall be accompanied by information of sufficient detail to convey the nature and effect of the application and approval being sought, and the certificate of mailing of the notice.

(2) *Mailed notice.* Mailed notice shall be provided as follows:

(A) *Applicant initiated applications.*

- (i) *Initial public hearing.* When a Type IV application is applicant initiated, the City shall mail notice of the initial evidentiary hearing a minimum of 20 days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of the initial public hearing shall be mailed to:
  - (aa) The applicant(s) and/or authorized representative(s);
  - (bb) The owner(s) or contract purchaser(s) of record of the subject property, if different from the applicant;
  - (cc) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
  - (dd) Property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property;
  - (ee) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;
  - (ff) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City; and
  - (gg) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park.
- (ii) *Subsequent public hearings.* The City shall mail notice of a subsequent public hearing, including, but not limited to, a final hearing, a minimum of ten days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of any subsequent public hearing shall be mailed to:
  - (aa) The applicant(s) and/or authorized representative(s);
  - (bb) The owner(s) or contract purchaser(s) of record of the subject property, if different from the applicant;
  - (cc) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
  - (dd) Property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property;
  - (ee) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;
  - (ff) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
  - (gg) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park;
  - (hh) Any group or individual who submitted testimony for the record prior to the close of the initial public hearing; and
  - (ii) Any group or individual who requested notice of the initial decision of the Review Authority making recommendation to the ~~City~~ Council.

(B) *City initiated applications.*

- (i) *Initial public hearing.* When a Type IV application is City initiated, the City shall mail notice of the initial evidentiary hearing a minimum of 20 days prior to the hearing. The City shall mail notice of the final public hearing a minimum of ten days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of the initial public hearing shall be mailed to:
  - (aa) The owner(s) or contract purchaser(s) of record of the subject property;
  - (bb) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
  - (cc) Property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property;
  - (dd) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;
  - (ee) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
  - (ff) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park.
- (ii) *Subsequent public hearings.* The City shall mail notice of any subsequent public hearing, including, but not limited to, a final public hearing, a minimum of ten days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of any subsequent public hearing shall be mailed to:
  - (aa) The owner(s) or contract purchaser(s) of record of the subject property;
  - (bb) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
  - (cc) Property owners of record, as shown on the most recent property tax assessment roll, within 250 feet of the subject property;
  - (dd) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;
  - (ee) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
  - (ff) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park;
  - (gg) Any group or individual who submitted testimony for the record prior to the close of the initial public hearing; and
  - (hh) Any group or individual who requested notice of the initial decision of the Review Authority making recommendation to the City-Council.

(C) *Contents.* Mailed notice of each public hearing on a Type IV application shall include:

- (i) The names of the applicant(s) and any representative(s) of the applicant, if applicable, and the owner(s) of the subject property;
- (ii) The type of application and a concise description of the nature of the request;
- (iii) Site plan, if applicable;
- (iv) The street address or other easily understood geographical reference to the subject property;

- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the approval criteria by name and code section;
- (vii) The date, time, and place of the public hearing;
- (viii) A statement that the application and/or all documents and evidence submitted are available for review, and that copies can be obtained at a reasonable cost;
- (ix) A brief summary of the decision making process for the application;
- (x) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- (xi) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony and that only those participating at the hearing, or in writing, shall be entitled to appeal;
- (xii) A statement that failure to raise an issue prior to the close of the public hearing, in person or in writing, or failure to provide statements or evidence with sufficient specificity to afford the applicant and Review Authority to respond to the issue precludes an appeal to the Oregon Land Use Board of Appeals on that issue;
- (xiii) A statement that a copy of the staff report with recommendation to the Review Authority will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at a reasonable cost;
- (xiv) For the initial public hearing, a statement that subsequent to the close of the hearing a recommendation will be forwarded to the ~~City Council~~; and for the final public hearing a statement that subsequent to the close of the hearing notice of the decision will be mailed to the applicant, if applicable, the property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested notice of the decision; and
- (xv) The name and contact information for the staff case manager.

(3) *Posted notice.* Posted notice is required for Type IV applications. Posted notice shall be provided for each public hearing as follows:

- (A) The applicant, or City, if application is City-initiated, shall post notice on the subject property no earlier than 14 and no later than ten days prior to the public hearing. The notice shall remain in place through the day of the public hearing. An affidavit of posting shall be filed no later than five days after the date of the original posting.
- (B) Notice shall be posted on each street frontage of the subject property in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.
- (C) Posted notice shall be on signs prepared by the Planning Administrator.
- (D) To replace signs that are lost or damaged to the extent they can no longer be reused, the Planning Administrator shall establish a sign deposit fee required for each sign, to be paid by the applicant at the time signs are issued to the applicant.
- (E) The applicant shall remove the signs from the subject property and return them to the Planning Administrator within seven days after the close of the public hearing. The Planning Administrator shall refund the sign deposit fee if the sign is returned within the required seven days in an undamaged and reusable condition.

(c) *Application review and staff report.* Staff shall review the application, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the application, comments received

to-date, and the relevant issues associated with the application. Each staff report shall make a recommendation to the Review Authority. The staff reports shall be made available to the public for review a minimum of seven days prior to each public hearing.

(d) *Public hearings.* An initial evidentiary public hearing shall be held before the applicable Review Authority. The purpose of the initial evidentiary public hearing is for the Review Authority to receive evidence and testimony on the application and to forward a recommendation to the ~~City~~ Council. A final public hearing shall be held before the ~~City~~ Council. The purpose of the final public hearing before the ~~City~~ Council is to receive additional evidence and testimony and the recommendations of the Review Authority and staff and to make a final decision on the application. Each hearing shall be conducted as provided in SRC 300.900.

(e) *Recommendation.* Subsequent to the close of the initial public hearing, the Review Authority shall make a recommendation to approve, approve with conditions, or deny the application, based upon the facts contained in the record and according to the applicable standards and criteria. The recommendation of the Review Authority shall be a written order that shall include:

- (1) A list of the approval criteria by section number;
- (2) A statement of the facts relied upon by the Review Authority in making its recommendation. The Review Authority may direct the party whose position is adopted to prepare the statement of facts, or adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order;
- (3) A statement of conclusions based on the statement of facts; and
- (4) The recommendation of the Review Authority.

(f) *Notice of recommendation.* Notice of the recommendation shall be mailed within seven days from the date the Review Authority adopts its order. An affidavit of mailing shall be prepared and made part of the file.

- (1) Notice of recommendation shall be mailed to:
  - (A) The applicant(s) and/or authorized representative(s), if applicable;
  - (B) The owner(s) or contract purchaser(s) of record of the subject property;
  - (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to the subject property;
  - (D) Any group or individual who submitted testimony prior to the close of the public hearing;
  - (E) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted testimony prior to the close of the public hearing; and
  - (F) Any community organizations, agencies, or individuals who submitted written requests for notice of the recommendation.
- (2) Notice of recommendation shall include:
  - (A) A brief description of the application;
  - (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and the comprehensive plan designation, and zoning;
  - (C) A brief summary of the recommendation;
  - (D) A statement of the facts relied upon by the Review Authority in making its recommendation;
  - (E) A brief statement explaining the next steps in the Type IV application process; and
  - (F) A statement that the complete case file is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(g) *Decision.* Subsequent to the close of the final public hearing, the ~~City~~ Council shall approve, approve with conditions, or deny the application, taking into consideration the recommendations of the Review Authority



and staff; and based upon the facts contained within the record and according to the applicable standards and criteria; or refer the matter back to the Review Authority for further consideration. The decision of the ~~City~~ Council shall be a written order that shall include:

- (1) A list of the applicable approval criteria by section number;
- (2) A statement of the facts relied upon by the ~~City~~ Council in making its decision. The ~~City~~ Council may direct the party whose position is adopted to prepare the statement of facts, or adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order;
- (3) A statement of conclusions based on the statement of facts; and
- (4) An order approving, approving with conditions, or denying the application.

(h) *Notice of decision.* Notice of the decision shall be mailed within seven days from the date the ~~City~~ Council adopts its written order. An affidavit of mailing shall be prepared and made part of the file.

- (1) Notice of decision shall be mailed to:
  - (A) The applicant(s) and/or authorized representative(s), if applicable;
  - (B) The owner(s) or contract purchaser(s) of record of the subject property;
  - (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to the subject property;
  - (D) Any group or individual who submitted testimony for the record prior to the close of the public hearing;
  - (E) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted testimony prior to the close of the public hearing;
  - (F) Any community organizations, agencies, or individuals who submitted written requests for notice of the decision to the City; and
  - (G) The Oregon Department of Land Conservation and Development for decisions which required initial notice to the Oregon Department of Land Conservation and Development.

- (2) Notice of decision shall include:
  - (A) A brief description of the application;
  - (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and the comprehensive plan designation and zoning;
  - (C) A brief summary of the decision, and conditions of approval, if any;
  - (D) A statement of the facts relied upon by the ~~City~~ Council in making its decision;
  - (E) The date the ~~City~~ Council's decision becomes the City's final decision;
  - (F) The date, time, and place by which an appeal must be filed and where further information may be obtained concerning the appeal process; and
  - (G) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(i) *Appeals.* The decision of the ~~City~~ Council on a Type IV application shall be the final decision of the City. Appeals of Type IV applications are to the Oregon Land Use Board of Appeals.

(j) *Expiration of approval.* Approval of a Type IV application does not expire.

(Prior Code, § 300.720; Ord. No. 1-10; Ord. No. 34-10; Ord. No. 17-11; Ord. No. 9-12; Ord. No. 12-12)

**Secs. 300.730—300.790. Reserved****GENERAL PROVISIONS****Sec. 300.800. Public notice compliance; waiver of notice.**

Notice of land use approval under the procedures of this chapter shall be deemed to have been satisfied as follows:

- (a) *Compliance.* The requirements for notice shall be deemed satisfied for any person who, prior to the public hearing and in any manner, obtains actual knowledge of the date, time, place, and subject matter of the hearing. Requirements for the provision of mailed, posted or published public hearing notice shall be deemed satisfied as follows:
  - (1) *Mailed notice.* Mailed notice shall be deemed to have been provided upon the date the notice is deposited in the mail. Failure of the addressee to receive such notice shall not invalidate the proceedings if it can be demonstrated by affidavit that such notice was deposited in the mail.
  - (2) *Posted notice.* Posted notice shall be deemed to have been provided upon the date when the sign is first posted. Subsequent removal of or damage to the sign by anyone other than the applicant or an officer of the City shall not invalidate the proceeding.
  - (3) *Published notice.* Published notice shall be deemed to have been provided upon the date when the notice appears within a newspaper of general circulation within the City of Salem.
- (b) *Waiver of notice.* The appearance or provision of testimony or comments on an application by any person subsequent to the initiation of the application or prior to the close of the record after a public hearing shall be deemed a waiver of such person to any claim of defect in the provision of notice.

(Prior Code, § 300.800; Ord. No. 1-10; Ord. No. 31-13)

**Sec. 300.810. 120-day rule.**

The City shall take final action on land use actions subject to ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete pursuant to SRC 300.220, unless the applicant provides written request or consent to an extension of such period pursuant to ORS 227.178(5).

(Prior Code, § 300.810; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 300.820. Conditions of approval.**

(a) *Imposition of conditions.* The Review Authority may impose conditions on land use actions to the extent allowed by law in order to protect the public and adjacent property owners from adverse impacts resulting from the proposed development, to fulfill an identified need for public services or infrastructure caused by or required for the proposed development, or to ensure conformance with the applicable development standards and criteria in the UDC. A condition of approval shall be valid and enforceable from and after the date the decision becomes effective.

- (1) Conditions of approval should be stated in clear and unambiguous terms; be reasonably related to the public health, safety, and welfare; and be designed to reasonably effectuate the intended purpose.
- (2) The Review Authority shall not impose any permanent condition which would limit use of the subject property to one particular owner, tenant, or business. Permanent conditions may limit the subject property as to use, but shall not be so restrictive that other occupants who might devote the property to the same or substantially similar use would be unable to reasonably comply with the conditions.

(b) *Effect of conditions.* Conditions of approval shall be construed and enforced, in all respects, as provisions of the UDC relating to the use and development of land.

(Prior Code, § 300.820; Ord. No. 1-10; Ord. No. 31-13)

**Sec. 300.830. Amended decisions.**

(a) After notice of a decision on a land use action has been provided, an amended decision may be issued correcting typographical errors, rectifying inadvertent omissions, and/or making other minor changes that do not materially alter the decision if the amended decision is issued prior to the expiration of the appeal period of the

original decision, but in no event beyond the 120-day period set forth under ORS 227.178 unless the applicant otherwise agrees to and requests an extension pursuant to ORS 227.178(5).

(b) Notice of an amended decision shall be given using the same mailing and distribution list as for the original notice of the decision.

(c) A new appeal period equal to that of the original decision shall be provided from the date of mailing the amended decision.

(Prior Code, § 300.830; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 300.840. Issuance; effective date.**

(a) Each decision shall be specific as to the approval granted and shall be subject to the standards and conditions set forth in UDC, including any variances or conditions authorized pursuant to the UDC.

(b) Decisions on land use actions become effective on:

- (1) The day the decision is issued, if no appeal is allowed;
- (2) The day after the appeal period expires, if an appeal is allowed, but no notice of appeal is timely filed;  
~~or~~
- (3) The day the decision is issued by the final appeal body, if an appeal is allowed and notice of appeal is timely filed; or
- (4) The day the decision is issued by the ~~City~~ Council, if the decision is called up for review by the ~~City~~ Council pursuant to SRC 300.1050.

(Prior Code, § 300.840; Ord. No. 1-10; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 300.850. Expiration and extensions.**

(a) *Approval expiration and termination.*

- (1) Unless a different period of time is established in the UDC or in the decision, all approvals of land use actions shall expire automatically upon the dates set forth in Table 300-3 unless one of the following has occurred:
  - (A) Development has commenced in compliance with the land use approval;
  - (B) An extension has been granted pursuant to SRC 300.850(b); or
  - (C) The land use approval has been revoked as provided under SRC 300.860 or is otherwise invalidated by an administrative board or court of competent jurisdiction.
- (2) Where the decision involves work for which a building permit is required, no exercise of the rights granted under the land use action shall be deemed to have commenced until a building permit has been issued. Unless otherwise extended, the approval of the land use action shall automatically expire if the approval has expired as set forth in Table 300-3, and all required building permits issued for the land use action have expired.

(b) *Extensions.*

- (1) Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended for the times set forth in Table 300-3 through filing an application for extension prior to the expiration date.
- (2) *Classes.*
  - (A) *Class 1 extension.* A Class 1 extension is an extension that applies when there have been no changes to the standards and criteria used to approve the original application.
  - (B) *Class 2 extension.* A Class 2 extension is an extension that applies when there have been changes to the standards and criteria used to approve the original application, but such changes to the standards and criteria would not require modification of the original approval.
- (3) *Procedure type.*

- (A) A Class 1 extension is processed as a Type I procedure under SRC chapter 300.
- (B) A Class 2 extension is processed as a Type II procedure under SRC chapter 300.
- (4) Criteria.
- (A) A Class 1 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application.
- (B) A Class 2 extension shall be granted if there have been no changes to the standards and criteria used to approve the original application that would require modification of the original approval.
- (5) Appeal and review.
- (A) The decision on a Class 1 extension may not be appealed, and is not subject to City Council review.
- (B) The decision on a Class 2 extension may be appealed, and is subject to City Council review pursuant to SRC 300.1050. The Review Authority for an appeal of a Class 2 extension shall be the Hearings Officer.
- (6) While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending.
- (7) The decision granting an extension shall revive all rights under the original approval as they existed prior to the expiration of the original approval period.

#### ATION AND EXTENSION OF APPROVALS

	Extensions Allowed	Maximum Period for Each Extension 2	Limitations & Qualifications	
	2	2 Years		
	2	2 Years		
s	1	90 Days		
	1	90 Days		
	None	N/A	If a valid building permit application is submitted, the site plan review approval shall remain valid until either the building permit or the site plan review approval expires, whichever occurs later.	
n	N/A	N/A		
	4	2 Years		
	4	2 Years		
	4	2 Years		

**ATION AND EXTENSION OF APPROVALS**

	Extensions Allowed	Maximum Period for Each Extension 2	Limitations & Qualifications	
	None	N/A		
	None	N/A	If a valid building permit application is submitted, the site plan review approval shall remain valid until either the building permit or the site plan review approval expires, whichever occurs later.	
	2	2 Years		
	N/A	N/A		
	4	2 Years		
	2	2 Years		
	N/A	N/A		
The effective date of the decision on the land use action or permit. If no final jurisdiction, the expiration period shall be tolled until a final decision is made.				
The date of expiration of the approval.				

(Prior Code, § 300.850; Ord. No. 1-10; Ord. No. 34-10; Ord. No. 4-13; Ord. No. 12-12; Ord. No. 31-13)

**Sec. 300.860. Revocation of approval.**

(a) Unless otherwise provided under the UDC, the Director may revoke a permit or approval issued pursuant to the UDC when:

- (1) The permit or approval was issued on the basis erroneous or misleading information, or a material misrepresentation;
- (2) The development authorized under the permit or approval violates other applicable law;
- (3) The development violates the permit or approval, the UDC, or other applicable law;
- (4) The permittee failed to pay an administrative penalty for violations relating to the development authorized under the permit or approval;
- (5) The work is, or threatens to become, an imminent hazard to property or public safety; or
- (6) Prior to the development obtaining vested rights or nonconforming status, a change in the UDC, or the Salem Area Comprehensive Plan, has made the approved development unlawful or not permitted.

(b) Revocation of a permit or approval shall follow a Type I procedure

(c) Notice of revocation shall be given, in writing, to the applicant or the applicant's assigns or successors in interest, stating the grounds for revocation, the date upon which the revocation becomes effective, and the right to appeal.

(d) Any person entitled to notice under subsection (c) of this section may appeal the revocation to the Hearings Officer by filing written notice of appeal with the Planning Administrator within ten days of the date the notice of revocation was mailed.

(e) Revocation shall be effective immediately upon the mailing of notice. Unless otherwise provided in the notice, revocation terminates all rights to continue the use or development under the approval of the land use action. It is unlawful to continue any use or development for which approval has been revoked.

(f) Revocation of approval of a land use action on the basis of false, inaccurate, or incomplete statements of material fact in the application shall not bar, nor otherwise prejudice the right of the applicant to resubmit a new application containing accurate and complete statements of material fact. Revocation on any other grounds shall be treated as a basis for denial of the application on its merits and resubmission of application shall be made as provided in SRC 300.870.

(g) Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

(Prior Code, § 300.860; Ord. No. 1-10; Ord. No. 31-13)

#### **Sec. 300.870. Resubmission following denial.**

Denial of an application shall bar refileing of the same or substantially similar application for a period of one year from the date of the decision. An exception may be granted by the original Review Authority if, upon a showing of good cause, the application is so amended that the substantive basis for denial no longer exists; the proposal has been so mitigated that a new application should be given consideration; or there has been a substantial change in the facts or a change in City policy which would change the outcome.

(Prior Code, § 300.870; Ord. No. 1-10; Ord. No. 31-13)

#### **Secs. 300.880, 300.890. Reserved**

### **PUBLIC HEARINGS**

#### **Sec. 300.900. Public hearings, generally.**

The provisions of SRC 300.900 through 300.990 apply to all public hearings held pursuant to this chapter. Where the provisions of SRC 300.900 through 300.990 conflict with other sections of the Salem Revised Code the provisions of SRC 300.900 through 300.990 shall control.

(Prior Code, § 300.900; Ord. No. 1-10)

#### **Sec. 300.910. Responsibilities of the Planning Administrator.**

For all public hearings held pursuant to this chapter, the Planning Administrator shall:

- (a) Schedule the public hearing before the applicable Review Authority.
- (b) Provide public notice of the hearing.
- (c) Prepare and make available to the public a staff report summarizing the proposal, the relevant issues, and any comments received as of the date of the report; and making recommendation based upon the proposal's conformance, or lack thereof, with the standards and criteria.
- (d) Mail notice of the decision to those entitled to notice under this chapter.
- (e) Maintain and prepare the record of the proceedings as required under SRC 300.980.

(Prior Code, § 300.910; Ord. No. 1-10)

#### **Sec. 300.920. Rules of procedure.**

Public hearings shall be conducted in accordance with the provisions of this section and rules of procedure adopted by the Review Authority.

- (a) Any party may speak in person, through an attorney, or elect to have a representative from an officially recognized neighborhood association present the party's case.
- (b) A copy of any written testimony or physical evidence which a party desires to have introduced into the record at the time of hearing shall be submitted to the clerk of the Review Authority prior to, or at the time the party makes his or her presentation. If the testimony or evidence is not submitted to the secretary, it shall not be included in the record for the proceeding.
- (c) No person may speak more than once without obtaining permission from the Review Authority.
- (d) Upon being recognized by the presiding officer of the Review Authority, any member of the Review Authority, city staff or the City Attorney may question any person who testifies.
- (e) Testimony shall be directed towards the applicable standards and criteria which apply to the proposal.
- (f) The Review Authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the Review Authority may call for those in favor and those in opposition to rise, and the secretary of the Review Authority shall note the numbers of such persons for the record in the minutes.

(Prior Code, § 300.920; Ord. No. 1-10)

**Sec. 300.930. Conflicts of interest; ex parte contact; challenges to impartiality; and abstention or disqualification.**

- (a) A member shall not participate in the discussion or vote in a quasi-judicial land use matter if:
  - (1) The member has an actual conflict of interest as defined by SRC 12.015(1), ORS 244.020(1), or ORS 244.120 or is prohibited from participating under section 62 of the Salem City Charter;
  - (2) The member was not present during the public hearing; provided, however, the member may participate if the member has reviewed the evidence, including recordings of the hearing, and declares such fact for the record.

(b) Members shall reveal any ex parte contacts with regard to the proceeding at the commencement of the hearing, or any continuance thereof, of any quasi-judicial land use matter. If such contacts impair the member's impartiality, the member shall state this fact, and abstain from participation in the matter.

(c) Upon a challenge to the qualifications or impartiality of a member of a Review Authority, the challenged member shall be given an opportunity to respond orally or in writing to the challenge. The challenge and response shall be included in the record of the proceeding.

(d) An abstaining or disqualified member of a Review Authority shall be counted for purposes of forming a quorum. A member who represents a personal interest at a hearing may do so only by making full disclosure to the Review Authority, abstaining from voting on the proposal, vacating the seat on the Review Authority, and physically joining the audience. A member representing a personal interest at a hearing shall not be counted for purposes of forming a quorum.

(Prior Code, § 300.930; Ord. No. 1-10)

**Sec. 300.940. Burden of proof.**

(a) The proponent has the burden of proof on all elements of the proposal, and the proposal must be supported by proof that it conforms to all applicable standards and criteria.

(b) The decision shall be based on the applicable standards and criteria set forth in the UDC, the Salem Area Comprehensive Plan, and, if applicable, any other land use standards imposed by state law or administrative rule.

(c) The applicant and any opponents may submit to the Review Authority a set of written findings or statements of factual information which are intended to demonstrate the proposal complies or fails to comply with any or all applicable standards and criteria.

(Prior Code, § 300.940; Ord. No. 1-10; Ord. No. 31-13)

**Sec. 300.950. Evidence; witnesses; site visits; official notice.**

(a) The technical rules relating to evidence and witnesses set forth in the Oregon Evidence Code shall not apply in hearings under this chapter, and any relevant evidence may be received by the Review Authority. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the land use approval more or less probable than it would without the evidence.

(b) For hearings under this chapter, evidence shall be anything offered for the record in the form of written or oral communication; or offered into the record as a representation or illustration of a fact or idea. The Review Authority shall be the exclusive judge as to what evidence may be received.

(c) Witnesses shall not be sworn, provided that evidence of a factual nature in the form of a sworn affidavit may be given greater weight than unsworn contradictory evidence.

(d) No decision shall be deemed invalid on the basis that any evidence was excluded, except where such exclusion was in error and caused harm to the substantive rights of the person offering the evidence.

(e) Members of the Review Authority may inspect the subject property, provided that the date, time and place of the inspection are disclosed at the commencement of the hearing, along with the material facts observed during the inspection.

(f) The Review Authority may take official notice either before or after the hearing, of official records, statutes, administrative rules and regulations, and ordinance. Any party may request on the record that official notice be taken of general, technical and scientific facts within the knowledge of the reviewing body. Any such general, technical and scientific facts need not be established by evidence and may be considered by the Review Authority in the determination of the matters. All other parties shall be given the opportunity to present rebuttal evidence for any general, technical or scientific fact for which official notice is requested.

(Prior Code, § 300.950; Ord. No. 1-10)

**Sec. 300.960. Order of proceedings.**

The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted rules of procedure of the Review Authority as appropriate:

- (a) *General.* Before receiving the staff report, testimony or evidence on the proposal, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the Review Authority has the discretion to proceed or terminate the hearing.
- (b) *Land use hearing disclosure statement.* The secretary of the Review Authority shall read the land use disclosure statement, which shall include:
  - (1) A list of the applicable criteria;
  - (2) A statement that testimony, arguments and evidence must be directed toward the applicable criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision;
  - (3) A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals based on that issue; and
  - (4) If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
- (c) *Call for ex parte contacts.* The presiding officer of the Review Authority should inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact.
- (d) *Call for abstentions.* The presiding officer of the Review Authority should inquire whether any member must abstain from participation in the hearing due to conflicts of interest or due to any of the circumstances set forth in the Salem City Charter, section 62. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote



is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises.

- (e) *Staff summary.* City staff shall present a summary and recommendation concerning the proposal.
- (f) *Presentation of the case.*
  - (1) Applicant's case.
  - (2) Persons in favor.
  - (3) Neighborhood associations. Appearance by a representative from any officially recognized neighborhood association which includes the affected area to present the association's position on the proposal.
  - (4) Persons opposed.
  - (5) Other interested persons.
  - (6) Rebuttal and surrebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters which were introduced during the hearing. If new evidence is submitted by the applicant during rebuttal, all other persons shall have the opportunity for surrebuttal.
- (g) *Close of hearing.* No further information shall be received after the close of the hearing, except for specific questions directed to staff. If the response to any such questions requires the introduction of new factual evidence, all parties shall be afforded an opportunity to respond to the new factual evidence.
- (h) *Reopened hearings.* The hearing may be reopened by the Review Authority, upon majority vote, prior to decision, to receive additional testimony, evidence or argument. Notice shall be provided to the same persons who received notice of the original hearing.
- (i) *Deliberations and decision.* Deliberations shall immediately follow the hearing, except that the Review Authority may delay deliberations to a subsequent date and time certain.
- (j) *Findings and order.* The Review Authority may approve, approve with conditions, or deny an application. The Review Authority shall adopt findings to support its decision. The Review Authority may incorporate findings proposed by the applicant, an opponent, staff, the hearings officer or the planning commission in its decision, or may direct the prevailing party to prepare draft findings for consideration by the Review Authority.

(Prior Code, § 300.960; Ord. No. 1-10)

**Sec. 300.970. Continued hearing; extension of the record.**

(a) *Procedure when hearing does not constitute the first evidentiary hearing.* If additional evidence or documents are provided by any party after the date the staff report is made available to the public, the Review Authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the date for closing the record requested by an applicant shall result in a corresponding extension of the 120-day time limitations set forth under ORS 227.178—227.179.

(b) *Procedure when hearing constitutes the first evidentiary hearing.* Prior to the conclusion of a quasi-judicial land use proceeding which constitutes the first evidentiary hearing on the matter, any party may request an opportunity to present additional evidence, arguments or testimony regarding the proposal. Upon such request, the Review Authority shall either continue the hearing or hold the record open as provided in this subsection.

- (c) *Continuances.*
  - (1) If the Review Authority grants a continuance, the hearing shall be continued to a time certain at least seven days after the date of the hearing. The continued hearing shall provide an opportunity for persons to present and rebut new evidence, arguments and testimony.
  - (2) If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written

evidence.

- (3) Only one continuance is available of right under this subsection; provided, however, nothing in this subsection shall restrict the Review Authority, in its discretion, from granting additional continuances.

(d) *Holding the record open.*

- (1) If the Review Authority holds the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days after the close of the hearing.
- (2) Any participant may file a written request with the City Recorder for an opportunity to respond to any new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is held open. If such a request is filed, the Review Authority shall reopen the record.

(e) *Reopening the record.* If the record is reopened, any person may submit additional evidence, arguments or testimony to respond to the new evidence or new testimony submitted during the period the record was left open, or raise new issues or make new arguments which relate to the new evidence, new arguments or new testimony. Notice of the reopened record shall be provided to any person who presented evidence or testimony in the proceedings prior to the date the record was reopened.

(f) *Presentation of final written argument.* Prior to the close of the record, the applicant may, in writing, request an opportunity to submit final written argument. If an applicant makes such a request, as provided in this subsection, the applicant shall have at least seven days after the record is closed to all other parties to submit final written argument in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. A failure by an applicant to make a request to submit final written argument, as provided by this subsection, shall be deemed a waiver by the applicant of this right.

(g) *Effect on 120-day rule.* Any continuance of the hearing or extension of the date for closing the record which is agreed to or requested by the proponent shall result in a corresponding extension of the 120-day time limitations imposed by ORS 227.178—227.179. A seven-day period for submittal of final written argument provided to the proponent shall likewise result in a corresponding extension of the 120-day time limitations. Any other continuance or extension shall be subject to the 120-day time limitations.

(h) *Definitions. As used in this subsection: The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:*

(1) *Argument* means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent of a decision. Argument does not include facts.

(2) *Evidence* means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by the proponent to be relevant to the proposal.

(Prior Code, § 300.970; Ord. No. 1-10; Ord. No. 12-12)

**Sec. 300.980. Record of proceedings.**

(a) *Record content.* A record of the proceedings shall be prepared and maintained for all public hearings. The record of proceedings is comprised of:

- (1) The Charter of the City of Salem, the Salem Area Comprehensive Plan, and the Salem Revised Code, all of which shall be automatically incorporated into the record by virtue of this subsection;
- (2) The application, resolution, or other action which initiated the proceeding;
- (3) All testimony, evidence, and exhibits submitted prior to the close of the record of the proceeding. Where practicable, exhibits submitted shall be marked to show the identity of the person offering the item and whether the person is in favor, or opposed to, the application;
- (4) Any staff reports submitted prior to and after the hearing;
- (5) An electronic recording of the hearing;
- (6) Minutes of the hearing;

- (7) Minutes of any public meeting after the close of the hearing at which the proceeding is discussed or acted upon by the hearing body; and
- (8) The written decision.

(b) *Access to record.* Access to the record shall be made available to the public at a reasonable time and place; any person may obtain copies of the record at the person's own expense.

(Prior Code, § 300.980; Ord. No. 1-10)

#### **Sec. 300.990. Withdrawal.**

At any point prior to the issuance of the written decision, the applicant may submit a notice of withdrawal of the application. Upon receipt of a notice of withdrawal, the application shall be deemed dismissed without further action by the Review Authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A new application, upon payment of a new fee, may be filed unless the filing is barred by another provision of the UDC. Withdrawals under this subsection cannot be appealed.

(Prior Code, § 300.990; Ord. No. 1-10; Ord. No. 31-13)

### **APPEALS AND REVIEW**

#### **Sec. 300.1000. General.**

SRC 300.1000—300.1090 apply to all appeals, and to review by ~~City Council~~, of land use actions under this chapter. Table 300-100-2 identifies those land use actions that may be appealed and the applicable Review Authority for appeals. SRC 300.1050 identifies those land use actions subject to review by the ~~City Council~~.

(Prior Code, § 300.1000; Ord. No. 1-10)

#### **Sec. 300.1010. Appeal filing.**

A decision on a land use action may be appealed by a person or entity with standing to appeal by filing a notice of appeal with the Planning Administrator within 15 days of the date notice of the decision is mailed.

(Prior Code, § 300.1010; Ord. No. 1-10; Ord. No. 12-12)

#### **Sec. 300.1020. Notice of appeal.**

Notice of appeal shall be made on forms provided by the Planning Administrator and shall be accompanied by the appeal fee. The notice of appeal shall contain:

- (a) Identification of the decision sought to be appealed, including its assigned case number, the title or caption of the decision, and the decision date.
- (b) The name and mailing address of the appellant and a statement establishing the appellant's standing to appeal the decision as provided under SRC 300.1010.

(Prior Code, § 300.1020; Ord. No. 1-10)

#### **Sec. 300.1030. Proper filing of notice of appeal to be jurisdictional.**

The timely and complete filing of the notice of appeal and payment of the appeal fee are jurisdictional, and the Planning Administrator shall not accept a notice of appeal that does not comply with this section. The Planning Administrator's determination that an appellant has failed to comply with this section shall be final.

(Prior Code, § 300.1030; Ord. No. 1-10)

#### **Sec. 300.1040. Appeal procedures; scope.**

Appeals shall be conducted in accordance with the procedures set forth in this section.

- (a) *Appeal hearing.* Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower level Review Authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record. For purposes of this subsection, the record consists of:

- (1) All staff reports, exhibits, materials, pleading, memoranda, stipulations, and motions submitted by any party and reviewed or considered in reaching the original decision that is being appealed.
  - (2) An electronic recording or transcript of the original hearing.
- (b) *Public notice.*
- (1) *Mailed notice.* The City shall mail notice of a public hearing to all persons who had standing to appeal the decision not less than 20 days prior to the hearing. An affidavit of mailing shall be prepared and made part of the file. Mailed notice shall include:
    - (A) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
    - (B) The type of land use action, and concise description of the nature of the land use action;
    - (C) The proposed site plan, if any;
    - (D) The street address or other easily understood geographical reference to the subject property;
    - (E) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
    - (F) A list of the approval criteria by name and code section;
    - (G) The specific issues raised by the appellant;
    - (H) The date, time, and place of the hearing;
    - (I) A statement that the application and all documents and evidence submitted as part of the original proceeding, and any new documents and evidence, are available for review, and that copies can be obtained at a reasonable cost;
    - (J) A brief summary of the decision making process for the appeal;
    - (K) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
    - (L) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony and that only those participating at the appeal hearing, or in writing, shall be entitled to appeal the decision to the Oregon Land Use Board of Appeals;
    - (M) A statement that failure to raise an issue prior to the close of the public hearing, in person or in writing, or failure to provide statements or evidence with sufficient specificity to afford the applicant and Review Authority to respond to the issue precludes an appeal to the Oregon Land Use Board of Appeals on that issue;
    - (N) A statement that a copy of the staff report with recommendation to the Review Authority will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at a reasonable cost;
    - (O) A statement that subsequent to the close of the public hearing a copy of the decision will be mailed to the appellant, the applicant, if other than the appellant, the property owner, affected neighborhood associations, anyone who participated in the appeal hearing, either in person or in writing, and anyone who requested to receive notice of the decision; and
    - (P) The name and contact information for the staff case manager.
  - (2) *Posted notice.* The City shall post notice of the appeal hearing on the subject property no earlier than 14 days, but not later than ten days, prior to the public hearing. The notice shall remain in place through the day of the public hearing. An affidavit of posting shall be made part of the file. Posted notice shall:
    - (A) Be posted on each street frontage of the subject property in a conspicuous place so as to be visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in such a manner to be readily seen by the

public.

(B) Be provided on signs prepared by the Planning Administrator.

- (c) *Staff report.* The Planning Administrator shall prepare a staff report and make it available a minimum of seven days prior to the appeal hearing.
- (d) *Continuances.* The appeal body may continue the hearing to a date, time, and location certain. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing. Actions by the appeal body holding the record open or continuing the hearing shall be consistent with ORS 197.763.
- (e) *Decision.*
  - (1) The appeal body may affirm the decision, affirm the decision with additional conditions or modifications, remand the decision to the lower level Review Authority for further action, or reverse the decision.
  - (2) The appeal body shall adopt a written order, which shall be signed, dated, and mailed to the appellant, the applicant, if other than the appellant, the property owner, affected neighborhood associations, anyone who appeared either orally or in writing before the close of the public record on the appeal, and anyone who requested to receive notice of the decision. The order shall contain:
    - (A) A statement of facts relied upon by the appeal body in reaching its decision.
    - (B) Conclusions of how the standards or criteria are satisfied based on the statement of facts.
    - (C) An order affirming, modifying, remanding or reversing the decision of the lower body.
  - (3) The appeal body may direct the party whose position prevails in the appeal to prepare the order, or any part thereof, for its consideration and adoption.
  - (4) The decision upon appeal shall become final on the date when written notice of the decision is mailed to persons entitled to notice of the decision. Any further appeal shall be to the Oregon Land Use Board of Appeals.

(Prior Code, § 300.1040; Ord. No. 1-10; Ord. No. 34-10; Ord. No. 12-12)

#### **Sec. 300.1050. Review by the City-Council.**

(a) Whether or not an appeal is filed pursuant to SRC 300.1010, and unless otherwise provided in this chapter, the ~~City~~-Council may, by majority vote, initiate the review of a Type II application or a Type III application, or any other land use application where ~~City~~-Council review pursuant to this section is specifically authorized.

(b) ~~City~~-Council review shall be de novo, and shall follow the procedures set forth in SRC 300.1040 and ~~SRC~~ 300.1050. In de novo review before the ~~City~~-Council, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower level Review Authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony.

(c) ~~City~~-Council review shall be initiated prior to the adjournment of the first regular ~~City~~-Council meeting following ~~City~~-Council notification of the land use approval.

(d) Unless subsequently discontinued by majority vote, ~~City~~-Council review pursuant to this section shall replace any appeal filed under SRC 300.1010.

(e) The decision upon ~~City~~-Council review shall become final on the date when written notice of the decision is mailed to persons entitled to notice of the decision. Any further appeal shall be to the Oregon Land Use Board of Appeals.

(Prior Code, § 300.1050; Ord. No. 1-10)

#### **Sec. 300.1060. Effect of appeal or review by City-Council.**

The filing of a notice of appeal under SRC 300.1010, or initiation of review by the ~~City~~-Council under SRC 300.1050, shall stay the decision until the decision on appeal or review has become final. No right or benefit

accorded by the original decision may be exercised until the decision on appeal or review has become final.

(Prior Code, § 300.1060; Ord. No. 1-10)

**Sec. 300.1070. Effect of judicial or administrative review.**

Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the City shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any building permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by the City Attorney, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.

(Prior Code, § 300.1070; Ord. No. 1-10)

**Sec. 300.1080. Remand from the land use board of appeals.**

The City shall take final action on quasi-judicial decisions remanded by the Oregon Land Use Board of Appeals within 90 ~~120~~ days of the effective date of the final order, pursuant to ORS 227.181.

(Prior Code, § 300.1080; Ord. No. 1-10; Ord. No. 12-12)

**Sec. 300.1090. Reserved**

## **LEGISLATIVE PROCEDURES**

**Sec. 300.1100. General description.**

Legislative land use proceedings include proposals to amend the Salem Area Comprehensive Plan, the City's land use regulations, and large scale changes to the Salem Area Comprehensive Plan and zoning maps, and involve the creation, revision, or implementation of broad public policy generally affecting more than one property owner or a large number of individual properties. The final decision in a legislative land use proceeding is an ordinance enacted by the ~~City~~ Council.

(Prior Code, § 300.1100; Ord. No. 1-10; Ord. No. 17-11)

**Sec. 300.1110. Legislative procedure.**

(a) *Initiation.* Legislative land use proceedings may be initiated by the ~~City~~ Council, Planning Commission, Historic Landmarks Commission, or staff.

- (1) The ~~City~~ Council may initiate a legislative land use proceeding by the adoption of a resolution, which shall state whether the matter is to be referred to another Review Authority for public hearing and recommendation.
- (2) The Planning Commission or Historic Landmarks Commission may initiate a legislative land use proceeding by the adoption of a resolution referring the matter to public hearing for review and recommendation to the ~~City~~ Council.
- (3) Staff may initiate a legislative land use proceeding by preparing an ordinance bill and placing the ordinance on the ~~City~~ Council agenda for first reading. The ~~City~~ Council may schedule a public hearing on the ordinance bill, may refer the ordinance bill to public hearing before the Planning Commission or Historic Landmarks Commission, as applicable, for its review and recommendation, may refer the ordinance to a subcommittee for further review, prior to holding a public hearing, or may decline to advance the ordinance to second reading.

(b) *Public hearings; when required.*

- (1) Except as provided in ~~paragraph~~ subsection (b)(2) of this subsection, at least one hearing shall be held for the purpose of receiving evidence and testimony in a legislative land use proceeding. The hearing may be held by the Planning Commission, the Historic Landmarks Commission, or the ~~City~~ Council.

- (2) No public hearing is required in a legislative land use proceeding if the purpose of the amendment is to conform to new requirements in state land use statutes, statewide land use planning goals, or administrative rules of the Oregon Land Conservation and Development Commission implementing state land use statutes or statewide land use planning goals, if the Oregon Department of Land Conservation and Development confirms in writing that the only effect of the proposed change is to conform the Salem Area Comprehensive Plan or City's land use regulations to the new state requirements. The ~~City Council~~, may, in its discretion, hold a public hearing although none is required under this section, in which case the hearing procedures in this section shall be followed.

(c) *Concurrency requirement.* The comprehensive plan requires concurrent review and action on certain legislative land use proceedings initiated by one jurisdiction sharing the Salem/Keizer Urban Growth Boundary be coordinated with one or more of the other regional jurisdictions. The regional jurisdictions within the Salem/Keizer Urban Growth Boundary include the City of Salem, the City of Keizer, Marion County, and Polk County. Land use decisions identified by the Salem Area Comprehensive Plan as requiring concurrence are defined as "Regional Planning Actions" and "Non-Regional Planning Actions." The review of regional and non-regional planning actions shall be conducted as provided in the Salem Area Comprehensive Plan.

(d) *Oregon Department of Land Conservation and Development pre-adoption notice.* Notice to the Oregon Department of Land Conservation and Development is required for legislative land use proceedings, unless state land use statutes, statewide planning goals, or administrative rules of the Oregon Land Conservation and Development Commission implementing state land use statutes or statewide land use planning goals do not apply to the legislative land use proceeding, in which case no notice is required. Where notice of a legislative land use proceeding is required, the City shall provide notice to the Oregon Department of Land Conservation and Development no later than the minimum number of days required by ORS 197.610. An affidavit of submission or affidavit mailing shall be prepared and made part of the file. Notice shall be on forms provided by the Oregon Department of Land Conservation and Development and be accompanied by the information required by ORS 197.610.

(e) *Public notice.* Public notice is required for public hearings in legislative land use proceedings. The purpose of this notice is to provide citizens, affected property owners, and other interested parties with the opportunity to submit written comments concerning the proposal and to invite participation in the public hearing process.

(1) *Mailed notice.*

- (A) *First evidentiary hearing.* The City shall mail notice of the first evidentiary public hearing in a legislative land use proceeding not more than 40 days, but not less than 20 days, prior to the first evidentiary hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of the first evidentiary public hearing shall be mailed to:
- (i) The Boards of Commissioners of Marion and Polk Counties;
  - (ii) All City-recognized neighborhood associations;
  - (iii) The owner(s) or contract purchasers) of record of each property that will be rezoned, as defined by ORS 227.186(9), in order to comply with the proposal, if adopted;
  - (iv) The Oregon State Department of Parks and Recreation for all comprehensive plan and zone code text amendments relating to the goals and policies of the Willamette River Greenway and the Willamette Greenway Zone; and for all proposed modifications to the boundaries of such zone;
  - (v) The Oregon State Department of Geology and Mineral Resources for all zone code text amendments relating to mining, quarry operations, or mineral aggregate extraction;
  - (vi) The Capitol Planning Commission for every zone code text amendment relating to a Public zone;
  - (vii) The Federal Insurance Administration, U.S. Department of Housing and Urban Development, for all zone code text amendments relating to the Floodplain Overlay Zones; and for all

proposed modifications to the boundaries of such zones;

- (viii) The tenants of manufactured home or mobile home parks for comprehensive plan map and/or zone changes affecting all or part of a manufactured home or mobile home park;
  - (ix) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City; and
  - (x) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification of legislative land use proceedings.
- (B) *Subsequent public hearings.* The City shall mail notice of each subsequent evidentiary public hearing in a legislative land use proceeding a minimum of ten days prior to the evidentiary hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of each subsequent evidentiary hearing shall be mailed to:
- (i) Any group or individual who submitted testimony prior to the close of first evidentiary hearing.
  - (ii) All City-recognized neighborhood associations;
  - (iii) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City; and
  - (iv) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification of subsequent evidentiary hearings.
- (C) To be included. Mailed notice of a public hearing shall include:
- (i) A concise description of the proposal;
  - (ii) A map identifying the property affected by the proposal, if applicable, in relation to major streets or other landmarks;
  - (iii) A list of the applicable standards or criteria;
  - (iv) The date, time, and location of the public hearing;
  - (v) A brief summary of the decision making process;
  - (vi) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
  - (vii) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony and that only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision;
  - (viii) The information required under ORS 227.186, if the hearing is the first evidentiary hearing and the final decision by the ~~City~~-Council would require the rezoning of land, as defined by ORS 227.186.
  - (ix) If the hearing is the first evidentiary hearing, and such hearing will be held before the Planning Commission or the Historic Landmarks Commission, a statement that subsequent to the close of the hearing a recommendation will be forwarded to the ~~City~~-Council;
  - (x) For the final public hearing before the ~~City~~-Council, if held, a statement that subsequent to the close of the hearing notice of a decision adopting a new land use regulation will be mailed to all neighborhood associations, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice; and
  - (xi) The name and contact information for the staff case manager.
- (2) *Published notice.* The City shall cause notice of each hearing in a legislative land use proceeding to be published in a newspaper of general circulation within the City at least once a week for two consecutive weeks prior to the hearing, with the second notice to be published at least two days immediately preceding the hearing. An affidavit of publication from the newspaper shall be obtained and made part



of the file.

(f) *Staff report.* Staff shall prepare a staff report summarizing the legislative land use proposal, any comments received, and the relevant issues associated with the proposal; and making recommendation on the proposal.

(g) *Recommendation.* If the proposal has been referred to the Planning Commission or Historic Landmarks Commission for review and recommendation, the Planning Commission or Historic Landmarks Commission, as the case may be, shall, within any time frame set by the ~~City Council~~, make a recommendation to adopt, to adopt with modifications, or to not adopt the proposal based upon the facts in the record and according to applicable standards or criteria. The recommendation shall be a written order and include:

- (1) A list of the applicable standards or criteria;
- (2) A statement of facts relied upon in making the recommendation. The order may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order; and
- (3) The recommendation.

(h) *Notice of recommendation.* Notice of the recommendation shall be mailed within seven days from the date the Planning Commission or Historic Landmarks Commission adopts its written order. An affidavit of mailing shall be prepared and made part of the file.

- (1) Notice of recommendation shall be mailed to:

- (A) Any group or individual who submitted testimony prior to the close of the public hearing;
- (B) All City-recognized neighborhood associations;
- (C) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted testimony for the record prior to the close of the public hearing; and
- (D) Any community organizations, agencies, or individuals who submitted written requests for notice of the recommendation to the City.

- (2) Notice of recommendation shall include:

- (A) A brief description of the proposal;
- (B) A brief summary of the recommendation;
- (C) A brief statement explaining the next steps in the review process; and
- (D) A statement that the complete case file is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(i) *Decision.* ~~City Council~~ action on legislative land use proposals shall, in addition to the requirements of this chapter, conform to the Salem City Charter and ~~City Council~~ Rules.

- (1) Subsequent to receiving a recommendation, the ~~City Council~~ may in its sole discretion:

- (A) Proceed with enactment of an ordinance;
- (B) Refer the proposal back to the Planning Commission or Historic Landmarks Commission for additional deliberation;
- (C) Abandon the proposal; or
- (D) Hold a public hearing on the proposal, and, after the hearing, proceed as provided in ~~subparagraphs~~ subsections (i)(1)(A) through (C) of this paragraph-section.

- (2) Decisions in legislative land use proceedings may be accompanied by findings demonstrating the proposal's conformance with any applicable standards or criteria.

(j) *Notice of decision.* Notice of final decision in a legislative land use proceeding shall be mailed within 20 days from the date the ordinance is enacted. An affidavit of mailing shall be prepared and made part of the file.

Notice of the final decision shall be provided as follows:

- (1) Notice of final decision shall be mailed to:
  - (A) Any group or individual who submitted testimony prior to the close of the public hearing;
  - (B) All City-recognized neighborhood associations;
  - (C) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted testimony prior to the close of the public hearing;
  - (D) Any community organizations, agencies, or individuals who submitted written requests for notice of the decision; and
  - (E) The Oregon Department of Land Conservation and Development, on forms provided by the Oregon Department of Land Conservation and Development.
- (2) Notice of final decision shall include:
  - (A) A brief description of the proposal;
  - (B) A brief summary of the final decision and any modifications to the proposal;
  - (C) The date, time, and place by which an appeal must be filed and where further information may be obtained concerning the appeal process; and
  - (D) A statement that the complete case file, including findings, conclusions, modifications, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(k) *Appeals.* Appeals of final decisions in legislative land use proceedings are to the Oregon Land Use Board of Appeals and must be filed with the Oregon Land Use Board of Appeals within 21 days of the mailing date of the notice of enactment of the ordinance as provided pursuant to subsection (j) of this section.

(Prior Code, § 300.1110; Ord. No. 1-10; Ord. No. 17-11; Ord. No. 9-12; Ord. No. 12-12; Ord. No. 31-13)

**CHAPTERS 301—399. RESERVED**

## CHAPTER 400. USE CLASSIFICATIONS

### **Sec. 400.001. Purpose.**

The purpose of this chapter is to establish a framework for the classification of land uses based upon common functional, product, or physical characteristics, and to provide the basis for assignment of land uses to zones and overlay zones.

(Prior Code, § 400.001; Ord. No. 31-13)

### **Sec. 400.005. Organization.**

The organizational framework for the classification of uses under this chapter is described in Table 400-1.

<b>TABLE 400-1. ORGANIZATION OF USES</b>		
<b>Classification</b>	<b>Category</b>	<b>Use</b>
Residential	Household Living	Single family
		Two family
		Multiple family
	Group Living	Room and board
		Residential care
		Nursing care
Commercial	Lodging	Short-term commercial lodging
		Long-term commercial lodging
		Nonprofit shelters
	Retail Sales and Service	Eating and drinking establishments
		Retail sales
		Personal services
		Postal services and retail financial services
	Business and Professional Services	Office
		Audio/visual media production
		Laboratory research and testing
	Motor Vehicle, Trailer, and Manufactured Dwelling Sales and Services	Motor vehicle and manufactured dwelling and trailer sales
		Motor vehicle services
		Commercial parking
		Park-and-ride facilities
		Taxicabs and car services
		Heavy vehicle and trailer sales
		Heavy vehicle and trailer service and storage
Public Services	Recreation, Entertainment, and	Commercial entertainment—indoor

**TABLE 400-1. ORGANIZATION OF USES**

<b>Classification</b>	<b>Category</b>	<b>Use</b>
	Cultural Services and Facilities	Commercial entertainment—outdoor
		Major event entertainment
		Recreational and cultural community services
		Parks and open space
		Nonprofit membership assembly
		Religious assembly
	Health Services	Medical centers/hospitals
		Outpatient medical services and laboratories
	Education Services	Day care
		Basic education
		Post-secondary and adult education
	Civic Services	Governmental services
		Social services
		Governmental maintenance services and construction
	Public Safety	Emergency services
		Detention facilities
		Military installations
	Funeral and Related Services	Cemeteries
		Funeral and cremation services
Industrial	Construction Contracting, Repair, Maintenance, and Industrial Services	General repair services
		Building and grounds services and construction contracting
		Cleaning plants
		Industrial services
	Wholesale Sales, Storage, and Distribution	General wholesaling
		Heavy wholesaling
		Warehousing and distribution
		Self-service storage
	Manufacturing	General manufacturing
		Heavy manufacturing
		Printing
Infrastructure and Utilities	Transportation Facilities	Aviation facilities
		Passenger ground transportation facilities
		Marine facilities

**TABLE 400-1. ORGANIZATION OF USES**

Classification	Category	Use
	Utilities	Basic utilities
		Wireless communication facilities
		Drinking water treatment facilities
		Power generation facilities
		Data center facilities
		Fuel dealers
		Waste-related facilities
Natural Resources	Mining and Natural Resource Extraction	Petroleum and natural gas production
		Surface mining
	Farming, Forestry, and Animal Services	Agriculture
		Forestry
		Agriculture and forestry services
		Keeping of livestock and other animals
		Animal services

(Prior Code, § 400.005; Ord. No. 31-13)

**Sec. 400.010. Uses.**

Each use described within this chapter includes identified characteristics and examples, and may also include exceptions. The purpose of characteristics, examples, and exceptions is as follows:

- (a) *Characteristics.* The “characteristics” define and describe the necessary qualities and attributes, essential features, nature of operation, and impacts generally associated with a specific use.
- (b) *Examples.* The “examples” provide a list of activities that fall within a specific use. The list of examples is not exhaustive and is intended to illustrate typical activities that possess the characteristics of the use.
- (c) *Exceptions.* The “exceptions” identify specific activities that possess some of the characteristics of one use but more appropriately fall within another use. The list of exceptions is exhaustive and is not intended to illustrate typical activities.

(Prior Code, § 400.010; Ord. No. 31-13)

**Sec. 400.015. Classification of uses.**

(a) *Use.* The principal activity, or principal activities, that occur upon a property establish the use. A principal activity falls within a specific use when the principal activity possesses the characteristics of the use, and the broader use category the use falls within.

(b) *Accessory uses.* Accessory activities that are clearly incidental, subordinate to, dependent upon, and conducted in support of one or more principal activities on a property are accessory uses. Accessory uses must be located on the same lot, and must be operated under the same ownership, as the principle activity. To determine whether an activity is clearly incidental, subordinate to, dependent upon, and conducted in support of another activity, the following factors shall be considered:

- (1) The location and arrangement of the activity on the site, and/or its arrangement within a building, in comparison to other activities on the property;
- (2) The relative amount of site or floor space and equipment devoted to the activity in comparison to other activities on the site and/or in the building;

- (3) The relative amounts of sales from the activity in comparison to other activities on the property;
- (4) The relative number of employees for the activity in comparison to other activities on the property;
- (5) Whether the activity would likely be found independent of the other activities on the property;
- (6) Whether the activity aids or contributes to other activities on the property or carries on the function of other activities on the property;
- (7) The relative number of vehicle trips generated by the activity in comparison to other activities on the property;
- (8) Whether the activity will have its own signage;
- (9) How the activity advertises itself in comparison to other activities on the property; and
- (10) The hours of operation of the activity in comparison to other activities on the property.

(c) *Application of regulations.* When there are multiple uses on a property, each use must comply with the regulations that are specific to that use. Unless otherwise provided under the UDC, accessory uses are considered part of the use and are subject to the same regulations as the use.

(d) *Similar use determination.*

- (1) *Purpose.* The purpose of a similar use determination is to provide a process to classify an activity as falling within a particular use when that activity cannot be readily classified as falling within a particular use, or when that activity possesses characteristics of two or more uses.
- (2) *Procedure.* In-lieu of the procedures set forth in SRC chapter 300, similar use determinations shall follow the procedures set forth in this subsection.
- (3) *The Planning Administrator may make similar use determinations.* Requests for similar use determinations shall be submitted on a form provided by the Planning Administrator. The applicant for a similar use determination shall provide a written explanation why the applicant believes the activity falls within a particular use.
  - (A) The Planning Administrator shall issue a written determination identifying the use the proposed activity falls within. Within ten business days after the Planning Administrator has provided notice to the applicant of the adoption of the similar use determination, the applicant may submit a request for review of the Planning Administrator's decision. The review shall be by the Hearings Officer. The Hearings Officer's review shall be based on the application, the written explanation provided by the applicant, and any other material submitted by the applicant to the Planning Administrator. The Hearings Officer may endorse or refute the Planning Administrator's decision. If the Hearings Officer refutes the Planning Administrator's decision, the Hearings Officer shall identify which use the activity falls under. The Hearings Officer's decision shall be issued no later than 15 business days after the request for review was submitted to the Planning Administrator. The Hearings Officer's decision upon review shall be the final decision for the City.
  - (B) In lieu of issuing a determination under ~~subparagraph-subsection (d)(3)(A)~~ of this ~~paragraph~~ section, the Planning Administrator may refer the request for similar use determination to the Hearings Officer, in which case the Hearings Officer shall make a written determination identifying the use the proposed activity falls within.
- (4) *Notice.* Notice of adoption of a similar use determination shall be provided within ten days of the date a similar use determination is issued. Notice shall be:
  - (A) Provided to the applicant, all City-recognized neighborhood associations, and anyone who has submitted a written request to receive notification of formal interpretations; and
  - (B) Posted on the City's website.
- (5) *Record of similar use determinations.* The Planning Administrator shall keep a registry of all similar use determinations. The registry shall be available to the public and shall set forth:
  - (A) The street address or other easily understood geographic reference to the property subject to the

similar use determination;

(B) A description of the decision made; and

(C) The date of the decision.

(e) *Activities within public right-of-way.* Unless otherwise provided in this chapter, activities allowed within the public right-of-way are not considered a “use” for purposes of classification under this chapter.

(Prior Code, § 400.015; Ord. No. 31-13)

**Sec. 400.020. Change of use.**

(a) A change of use occurs when a proposed activity is in a different use than the current activity on the property. Examples of change of use through change of activity are provided in Table 400-2.

<b>TABLE 400-2. CHANGE OF USE THROUGH CHANGE OF ACTIVITY</b>			
<b>Activity</b>		<b>Use</b>	<b>Change of Use</b>
Current	Single family dwelling	Single family	Yes
Proposed	Multiple family	Multiple family	
Current	Single family dwelling	Single family	No
Proposed	Residential home		
Current	Book store	Retail sales	Yes
Proposed	Restaurant	Eating and drinking establishments	
Current	Engineering firm	Office	No
Proposed	Real estate office		
Current	Laundromat	Personal services	Yes
Proposed	Appliance repair shop	General repair services	

(b) A change of use, or a change from one activity to another activity within a use, may result in the use or activity being required to comply with different development standards. Examples of different development standards changing as a result of a change of use or activity are provided in Table 400-3.

<b>TABLE 400-3. CHANGE OF DEVELOPMENT STANDARDS THROUGH CHANGE OF USE OR ACTIVITY</b>			
<b>Activity</b>		<b>Use</b>	<b>Development Standard (Off-Street Parking)</b>
Current	Elementary school	Basic education	Min. 2 spaces per classroom
Proposed	High school		Min. 1 space per 6 students
Current	Beauty salon	Personal services	Min. 1 space per 350 sq. ft.
Proposed	Restaurant	Eating and drinking establishments	Min. 1 space per 250 sq. ft.

(Prior Code, § 400.020; Ord. No. 31-13)



**Sec. 400.025. Use types.**

Within the UDC, uses are designated as follows:

- (a) *Permitted use.* A permitted use (P) is a use that is allowed outright in the zone, subject to all generally applicable provisions of the UDC.
- (b) *Special use.* A special use (S) is a use that is allowed outright in the zone, but is subject to additional special requirements, exceptions, or restrictions particular to that use under SRC chapter 700.
- (c) *Conditional use.* A conditional use (C) is a use that is not allowed outright in the zone, but which may be allowed through discretionary approval of a conditional use permit made pursuant to SRC chapter 240. A conditional use is subject to all generally applicable provisions of the UDC, and to any conditions imposed as part of the discretionary approval of the conditional use permit by the Review Authority.
- (d) *Prohibited use.* A prohibited use (N) is a use that is not allowed in the zone under any circumstances, unless the use has non-conforming status under SRC chapter 270.

(Prior Code, § 400.025; Ord. No. 31-13)

**Sec. 400.030. Household living.**

Household living consists of the residential occupancy of an owner-occupied or rented dwelling unit on a wholly or primarily non-transient, long-term basis, typically 30 days or more, by a family.

- (a) *Single family.*
  - (1) *Characteristics.* Single family is characterized by the residential occupancy of a single dwelling unit on an individual lot or space by a family. Single family dwelling units can be detached, attached at the common side lot line, or built contiguous with one side lot line.
  - (2) *Examples.* Single family detached dwelling; zero side yard dwelling; townhouse; manufactured dwelling; manufactured dwelling park; residential home, as defined under ORS 197.660; secondary dwelling.
- (b) *Two family.*
  - (1) *Characteristics.* Two family is characterized by the residential occupancy of two dwelling units on an individual lot by two families.
  - (2) *Examples.* Duplex; two family shared dwelling; two dwellings units on one lot.
  - (3) ~~*Exceptions.* An accessory dwelling unit on the same lot as a single family detached dwelling unit, manufactured home, or zero side yard dwelling. An accessory dwelling unit is an accessory use to a single family detached dwelling, manufactured home, or zero side yard dwelling.~~
- (c) *Multiple family.*
  - (1) *Characteristics.* Multiple family is characterized by the residential occupancy of three or more dwelling units on an individual lot by three or more families.
  - (2) *Examples.* Apartments; court apartments; three or more dwelling units on one lot.

(Prior Code, § 400.030; Ord. No. 31-13; Ord. No. 5-17, § 22(400.030), 6-12-2017; Ord. No. 10-17, § 4, 7-10-2017)

**Sec. 400.035. Group living.**

Group living consists of the residential occupancy of a structure on a wholly or primarily non-transient, long term basis, typically 30 days or more, by a group of people not meeting the characteristics of household living, either because the structure does not provide self-contained dwelling units or because the structure is occupied by a group of people who do not meet the definition of family, or both. Group living facilities generally include common facilities that are shared by residents, including, but not limited to, facilities for dining, social and recreational activities, and laundry.

- (a) *Room and board.*
  - (1) *Characteristics.* Room and board is characterized by group living facilities where no personal care,

training, and/or treatment requiring a license from the State of Oregon is provided.

- (2) *Examples.* Boarding houses; communes; dormitories; fraternities and sororities; monasteries and convents; single-room occupancy housing for long-term residency where self-contained dwelling units are not provided.
  - (3) *Exceptions.* Lodging where tenancy is typically arranged for less than 28 days is included in lodging.
- (b) *Residential care.*
- (1) *Characteristics.* Residential care is characterized by group living facilities where any combination of personal care, training, or treatment is provided to children, the elderly, or individuals with disabilities or limits on their ability for self-care, but where medical care is not a major element.
  - (2) *Examples.* Assisted living facilities; group foster homes for six or more individuals; homes for the deaf or blind; orphanages; residential facilities, as defined under ORS 197.660; permanent supportive housing facilities where self-contained dwelling units are not provided.
  - (3) *Exceptions.*
    - (A) Residential homes, as defined under ORS 197.660, are included in household living: single family.
    - (B) Homeless shelters are included in lodging: nonprofit shelters.
    - (C) Facilities for people who are under judicial detainment with 24-hour supervision and are included in public safety: detention facilities.
    - (D) In-patient rehabilitation and recuperative care provided in a hospital setting is included in health services: medical centers/hospitals.
- (c) *Nursing care.*
- (1) *Characteristics.* Nursing care is characterized by group living facilities that are licensed by the state to provide nursing and rehabilitative care to individuals. Patients in these facilities require varying degrees of nursing, rehabilitative, and personal care, including, but not limited to, the administration of medications and treatments or the supervision of self-administered medications in accordance with a physician's orders.
  - (2) *Examples.* Convalescent homes; hospice care; in-patient rehabilitation and recuperative care; nursing homes; rest homes.
  - (3) *Exception.*
    - (A) Residential facilities, as defined under ORS 197.660, are included in group living: residential care.
    - (B) In-patient rehabilitation and recuperative care provided in a hospital setting is included in health services: medical centers/hospitals.

(Prior Code, § 400.035; Ord. No. 31-13; Ord. No. 5-17, § 23(400.035), 6-12-2017)

#### **Sec. 400.040. Lodging.**

Lodging consists of the occupancy of living or sleeping accommodations on a temporary basis.

- (a) *Short-term commercial lodging.*
- (1) *Characteristics.* Short-term commercial lodging is characterized by lodging establishments that provide overnight accommodations to guests for compensation for periods typically less than 30 days.
  - (2) *Examples.* Hostels; hotels; inns; motels; short-term rentals.
  - (3) *Exceptions.*
    - (A) Accessory short-term rentals are considered accessory to household living.

(b) *Long-term commercial lodging.*

- (1) *Characteristics.* Long-term commercial lodging is characterized by lodging establishments that provide living accommodations to guests for compensation for periods typically 30 days or more, but which are not intended to be permanent places of abode.
- (2) *Examples.* Residential hotel; studio hotel.

(c) *Nonprofit shelters.*

- (1) *Characteristics.* Nonprofit shelters are characterized by lodging establishments operated by nonprofit organizations that provide overnight accommodations and temporary shelter for the homeless and other vulnerable populations. Individual bath and cooking facilities may or may not be provided.
- (2) *Examples.* Homeless shelters; congregate shelters.
- (3) *Exceptions.*
  - (A) Facilities for people who are under judicial detainment with 24-hour supervision are included in public safety: detention facilities.

(Prior Code, § 400.040; Ord. No. 31-13; Ord. No. 5-17, § 24(400.040), 6-12-2017)

**Sec. 400.045. Retail sales and service.**

Retail sales and service consists of the sale, lease, or rental of products or services to the general public for personal or household use. Customers typically come to the site to obtain goods or services. Some delivery or shipping may also be included.

(a) *Eating and drinking establishments.*

- (1) *Characteristics.* Eating and drinking establishments are characterized by the preparation and sale of food and/or non-alcoholic beverages for consumption on the premises and/or take-away/delivery service, and/or the sale of alcoholic beverages for on-site consumption.
- (2) *Examples.* Brew pubs; cafes; coffee shops; delicatessens; mobile food units; restaurants; drive-up or drive-through fast food restaurants; taverns and bars.
- (3) *Exceptions.*
  - (A) Breweries, wineries, distilleries, and cider houses where on-site food and/or beverage consumption is not the primary activity are included in manufacturing: general manufacturing.
  - (B) Night clubs are included in recreation, entertainment, and cultural services and facilities: commercial entertainment—indoor.
  - (C) Commercial or industrial catering kitchens where food is prepared and delivered off-site are included in manufacturing: general manufacturing.
  - (D) Bars and restaurants owned and operated by civic, social, or fraternal organizations for use by their members are included in recreation, entertainment, and cultural services and facilities: nonprofit membership assembly.

(b) *Retail sales.*

- (1) *Characteristics.* Retail sales is characterized by the sale, lease, or rental of products directly to final consumers, but may include the sale, lease, or rental of products to contractors. Visits by customers are generally not scheduled. Stores are typically open to the general public.
- (2) *Examples.* Appliance stores; auto supply stores; bicycle shops; book stores; candy stores; catering establishments; clothing, footwear, and apparel stores; commercial art galleries; consignment shops; convenience stores; copy shops; costume or formal wear rental; department stores; drug stores; electronics stores; fruit and vegetable markets; furniture, lighting, and home furnishing stores; furniture rental; grocery stores; hardware stores; health and beauty stores; lawn and garden

supply stores; liquor stores; lumber and building materials stores; meat and seafood markets; paint stores; pawn shops; pet stores and pet supply stores; retail bakeries; retail nurseries; photocopying and blueprinting; sporting goods stores; tobacco stores; video rental.

(3) *Exceptions.*

- (A) Gasoline stations are included in motor vehicle, trailer, and manufactured dwelling sales and services: motor vehicle services.
- (B) Truck stops are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service and storage.
- (C) Sales, leasing, and rental of new and used vehicles, including, but not limited to, automobiles, trucks, motorcycles, boats, and recreational vehicles, are included in motor vehicle, trailer, and manufactured dwelling sales and services: motor vehicle and manufactured dwelling and trailers sales.
- (D) Lumber yards and other building material businesses that sell only to contractors are included in wholesale sales, storage, and distribution.
- (E) Sales, rental, and leasing of heavy trucks and trailers are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer sales.

(c) *Personal services.*

- (1) *Characteristics.* Personal services are characterized by establishments that provide non-medical services to individuals involving the intellectual or manual personal labor of the server, rather than a saleable product of the server's skill. Services may be performed on a customer's person or personal items. Services may include repair, maintenance, or cleaning of clothing and/or accessories and/or non-medical aesthetic or personal care treatments to individuals. These services typically are provided directly to consumers.
- (2) *Examples.* Barber shops; beauty salons; garment alteration; jewelry and watch repair; laundromats; laundry and dry cleaning establishments where customers typically bring items to the site for cleaning; photograph portrait studios; shoe repair; spas; tailors and seamstresses; tattoo/piercing parlors.

(3) *Exceptions.*

- (A) Industrial laundries and dry cleaning plants where customers do not typically come to the site, and linen and diaper services where items are generally delivered to the customer off-site, are included in construction contracting, repair, maintenance, and industrial services: cleaning plants.
- (B) Repair of personal and household items other than clothing and accessories is included in construction contracting, repair, maintenance, and industrial services: general repair services.
- (C) Establishments providing day time supervision for persons of any age are included in education services: day care.
- (D) Pet grooming and other animal care services are included in farming, forestry, and animal services: animal services.

(d) *Postal services and retail financial services.*

- (1) *Characteristics.* Postal and retail financial services are characterized by establishments that provide postal or financial services directly to clients or customers on the site. Services may also be provided remotely, without direct face-to-face customer interaction. Physical products are generally not sold on the site, except for incidental sale of supplies directly related to postal or financial services.

- (2) *Examples.* Banks; credit agencies engaging in lending transactions with consumers; credit unions; customer-oriented post offices; customer-oriented private mail or package delivery service locations; money transfer and check cashing.
- (3) *Exceptions.*
  - (A) Bank headquarters and corporate offices of financial services companies where customers do not typically come to the site are included in business and professional services: office.
  - (B) Postal distribution centers are included in wholesale sales, storage, and distribution: warehousing and distribution.
  - (C) Pawn shops and consignment stores are included in retail sales and service: retail sales.

(Prior Code, § 400.045; Ord. No. 31-13; Ord. No. 11-14)

#### **Sec. 400.050. Business and professional services.**

Business and professional services consists of establishments that generally provide professional services or produce intellectual property, rather than physical goods. While intellectual property produced may be recorded onto physical media such as paper or electronic storage, the production of the content is the primary activity, rather than the transfer of the content onto the physical media. Business and professional services uses generally do not sell, rent, lease, or provide repair or maintenance services for physical products to customers. While customers or clients may come to the site on occasion, generally by appointment, the customer or client does not need to be present on the site in order to receive services.

##### **(a) Office.**

- (1) *Characteristics.* Office is characterized by establishments that provide business and professional services to individuals, public or nonprofit entities, and/or businesses in an enclosed building, generally in an office environment. There are few visits by the general public, and little walk-in traffic. Those who come to the site are mostly employees, and, to a lesser extent, clients. Laboratory research is not a major component of the activities on-site.
- (2) *Examples.* Accountants and tax services; advertising agencies; architects; bank offices and headquarters; business associations; call centers; commercial photography studios; computer system design and computer programming; corporate offices and headquarters; data processing; distance education and distance learning; engineers; financial businesses such as lenders and holding and investment offices; graphic and industrial design; insurance carriers, agents, and brokers; landscape architects; lawyers; lobbyists; planners; post-production and distribution services for audio-visual media where not associated with production/filming/broadcasting; professional membership organizations; real estate agents; scientific and technical services; software and internet content development and publishing; telemarketing or customer support centers; temporary employment agencies; title companies; travel agencies.
- (3) *Exceptions.*
  - (A) Branch banks, credit unions, and other similar financial institutions where customers come to the site on a regular basis are included in retail sales and service: postal services and retail financial services.
  - (B) Producing and recording audio or visual media is included in business and professional services: audio/visual media production.
  - (C) Commercial and non-commercial research and testing conducted in a laboratory environment is included in business and professional services: laboratory research and testing.
  - (D) Facilities dedicated to data storage and transmission where employees are not regularly present on site are included in utilities: data center facilities.

##### **(b) Audio/visual media production.**

- (1) *Characteristics.* Audio/visual media production is characterized by business and professional

services related to the recording, production, and/or broadcasting of audio and/or visual media. Audio/visual media production typically involves a studio and/or set where production is staged. Productions may be recorded or broadcast live. In most cases, the public does not come to the site, although some studios may provide for a live audience.

- (2) *Examples.* Movie production facilities; music recording studios; television and radio recording and broadcast studios.

- (3) *Exceptions.*

- (A) Film and tape distribution associated with television, recording, or movie production and post-production editing of audio and/or visual content that is separate from the production or recording of that content is included in business and professional services: office.
- (B) AM and FM antennae, TV antennae, and broadcast towers are included in utilities: basic utilities.
- (C) Wireless telecommunication facilities, structures, equipment, and appurtenances are included in utilities: wireless communication facilities.

- (c) *Laboratory research and testing.*

- (1) *Characteristics.* Laboratory research and testing is characterized by business services related to commercial and non-commercial research and testing conducted in a laboratory environment. Primary data is generated on-site.

- (2) *Examples.* Biological, physical, or chemical research; engineering laboratory research; food testing; materials testing; product testing; water quality testing.

- (3) *Exceptions.*

- (A) Testing of cars and trucks, including pollution testing, safety tests, and aerodynamic testing, is included in motor vehicle, trailer, and manufactured dwelling sales and services: motor vehicle services.
- (B) Medical laboratories are included in health services: outpatient medical services and laboratories.

(Prior Code, § 400.050; Ord. No. 31-13)

**Sec. 400.055. Motor vehicle, trailer, and manufactured dwelling sales and services.**

Motor vehicle, trailer, and manufactured dwelling sales and services consists of the sale, rental, and leasing of motor vehicles, trailers, and manufactured dwellings; the servicing and non-accessory storage of motor vehicles; and vehicles for hire with drivers. Motor vehicles include automobiles, trucks, motorcycles, boats, recreational vehicles, other personal transportation vehicles, buses, motorized non-road vehicles, and heavy vehicles.

- (a) *Motor vehicle and manufactured dwelling and trailer sales.*

- (1) *Characteristics.* Motor vehicle and manufactured dwelling and trailer sales is characterized by the sales, leasing, and rental of new and used motor vehicles, other than heavy vehicles and heavy equipment, and the sales, leasing, and rental of manufactured dwellings and trailers. Motor vehicle and manufactured dwelling and trailer sales typically requires extensive indoor and/or outdoor display or storage areas. Customers typically come to the site to view, select, purchase, and/or pick up the vehicles, manufactured dwellings, or trailers.

- (2) *Examples.* Sales, leasing, and rental of new and used motor vehicles including automobiles, trucks, motorcycles, motorized boats, recreational vehicles, and other personal transportation vehicles; car rental agencies; manufactured dwelling and pre-fabricated structure sales and display sites; sales, leasing, or rental of trailers.

- (3) *Exceptions.*

- (A) Heavy vehicle and heavy equipment sales, leasing, and rental are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer sales.

- (B) Auto supply stores are included in retail sales and services: retail sales.
  - (C) Sales of used motor vehicle parts is included in wholesale sales, storage, and distribution: heavy wholesaling.
  - (D) Wholesale sales of motor vehicles, manufactured dwellings, and trailers is included in wholesale sales, storage, and distribution: heavy wholesaling or general wholesaling, dependent upon whether the activity occurs entirely within an enclosed building.
  - (E) Temporary motor vehicle and recreational vehicle sales are included in temporary uses.
- (b) *Motor vehicle services.*
- (1) *Characteristics.* Motor vehicle services are characterized by establishments providing repair, service, testing, maintenance, cleaning, and other services for motor vehicles, other than heavy vehicles and heavy equipment. Vehicles may be brought to the site by customers or by a towing service. If motor vehicle parts are sold, they are typically installed on-site.
  - (2) *Examples.* Auto body shops; auto glass repair; automotive paint shops; automotive repair shops; car washes; gasoline stations and unattended card-key stations; motorcycle repair shops; quick lubrication services; testing of cars and trucks, including pollution and safety testing; tire sales and installation shops; towing services; vehicle engine, transmission and muffler repair shops; vehicle upholstery and detailing shops.
  - (3) *Exceptions.*
    - (A) Truck stops are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service and storage.
    - (B) Heavy vehicle and heavy equipment repair and service are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service, and storage.
    - (C) Vehicle salvage and wrecking is included in wholesale sales, storage, and distribution: heavy wholesaling.
- (c) *Commercial parking.*
- (1) *Characteristics.* Commercial parking is characterized by parking facilities contained within structures or on surface lots, where such parking is not exclusively accessory to a specific use, or uses, on the same lot. A fee may or may not be charged.
  - (2) *Examples.* Commercial shuttle parking; parking structures/garages; public garages; short and long term fee parking garages and surface parking lots; facilities that provide parking accessory to a specific use, or uses, on another lot.
  - (3) *Exceptions.*
    - (A) Parking facilities that are accessory to a use, but which charge the public to park for occasional events nearby are not considered commercial parking facilities.
    - (B) Park-and-ride facilities are included in motor vehicle, trailer, and manufactured dwelling sales and services: park-and-ride facilities.
    - (C) Joint use of parking areas, allowed under SRC chapter 806, serving two or more uses are considered accessory to those uses.
- (d) *Park-and-ride facilities.*
- (1) *Characteristics.* Park-and-ride facilities are characterized by parking spaces owned or leased by a public agency for use by transit riders or ride-share participants. park-and-ride facilities may be located on their own lot or may consist of shared parking spaces associated with another use.
  - (2) *Examples.* Parking spaces leased to or shared with a public agency for the exclusive or shared use by transit patrons or ride-share participants; parking lots for the exclusive use of transit riders or ride-share participants.

(e) *Taxicabs and car services.*

- (1) *Characteristics.* Taxicabs and car services are characterized by establishments providing light and medium duty vehicles for hire with drivers. On-site activities are generally limited to storage and maintenance of fleet vehicles, dispatch, and administration. Customers rarely, if ever, come to the site, but typically are picked up from and driven to locations off-site. Services may or may not be scheduled. Services may be provided to the general public or to employees, customers, or clients of one or more businesses or institutions.
- (2) *Examples.* Airport shuttle services; armored car services; companies operating small shuttle busses; dispatch facilities for dial-a-ride and other demand-responsive shuttle services operated by public agencies using light and medium duty vehicles; storage and dispatch facilities for shuttle services serving one or more businesses or institutions where such storage and dispatch takes place on a separate site from the use(s) served; taxicab operators; town car, chauffer, and limousine services.
- (3) *Exceptions.*
  - (A) Facilities for the maintenance, storage, and/or dispatch of vehicles requiring a commercial driver license, including school buses, are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service and storage.
  - (B) Shuttle bus, taxicab, or town car services that serve a particular use, and are located on the same site as the use, are considered accessory to that use.
  - (C) Taxi stands where passengers are picked up or dropped off by taxicabs and car services are considered accessory to the primary use.

(f) *Heavy vehicle and trailer sales.*

- (1) *Characteristics.* Heavy vehicle and trailer sales is characterized by establishments providing for the sales, rental, or leasing of heavy vehicles, heavy-duty trailers, and heavy equipment. In most cases, the general public rarely, if ever, come to the site. Heavy vehicles, heavy-duty trailers, and heavy equipment are often stored on-site, often outside.
- (2) *Examples.* Heavy truck rental and leasing; moving truck rental, with or without drivers; sales, rental, and leasing of heavy trucks and heavy equipment, tractors, vehicles requiring a commercial driver license, and heavy-duty trailers
- (3) *Exceptions.*
  - (A) Sales of industrial and farm equipment is included in wholesale sales, storage, and distribution: heavy wholesaling.

(g) *Heavy vehicle and trailer service and storage.*

- (1) *Characteristics.* Heavy vehicle and trailer service and storage is characterized by establishments providing repair, service, testing, maintenance, cleaning, storage, and other services for heavy vehicles, heavy-duty trailers, and heavy equipment. In most cases, the general public rarely, if ever, comes to the site. Heavy vehicles, heavy-duty trailers, and heavy equipment are often stored on-site, often outside.
- (2) *Examples.* Storage and maintenance facilities for buses, including those owned and operated by public transit agencies and school transportation service providers; storage and maintenance facilities for establishments that collect solid waste; repair and maintenance of tractors; repair and maintenance services for heavy vehicles and heavy equipment; truck driving and heavy equipment operation training schools; truck stops.
- (3) *Exceptions.*
  - (A) Repair and maintenance of industrial and farm equipment is included in construction contracting, repair, maintenance, and industrial services: industrial services.



**Sec. 400.060. Recreation, entertainment, and cultural services and facilities.**

Recreation, entertainment, and cultural services and facilities consists of facilities providing recreation, entertainment, and/or cultural enrichment services. These services and facilities may be either participant-oriented, with spectators incidental and present on a non-recurring basis, or event-oriented, drawing people to observe specific meetings, events, or shows. In both cases customers come to the site to partake in the activities. Food and beverage sales, if present, are incidental.

(a) *Commercial entertainment—indoor.*

- (1) *Characteristics.* Commercial entertainment—indoor is characterized by the provision of sports, entertainment, or recreational activities in an enclosed facility by a for-profit business.
- (2) *Examples.* Bowling alleys; concert halls, theaters, and other music and performing arts venues; dance halls; dance studios and dance schools; indoor courts or other facilities for team sports other than those primarily used for spectator-oriented competition; indoor firing ranges; indoor paintball or laser tag facilities; indoor pools other than those primarily used for spectator-oriented competition; indoor skating rinks; martial arts studios/schools; membership sports and recreation clubs; movie theaters; physical fitness facilities, health clubs, yoga studios, and gymnasiums; small rentable event spaces; nightclubs; video arcades.
- (3) *Exceptions.*
  - (A) Performance, meeting, and conference venues designed to accommodate 300 or more people are included in recreation, entertainment, and cultural services and facilities: major event entertainment.

(b) *Commercial entertainment—outdoor.*

- (1) *Characteristics.* Commercial entertainment—outdoor is characterized by the provision of sports, entertainment, or recreational activities primarily by and for participants in an open, outdoor facility, operated by a for-profit business. Spectators are incidental and present on a nonrecurring basis.
- (2) *Examples.* Amusement parks; campgrounds; drive-in movie theaters; driving ranges; golf courses; membership sports and recreation clubs; miniature golf courses; outdoor swimming pools; recreational vehicle parks; skateboard parks; sports fields other than those primarily used for spectator-oriented competition; tennis courts.
- (3) *Exceptions.*
  - (A) Outdoor facilities that are minimally developed with structures and not generally staffed, such as nature parks, recreational trails, and arboreta, are included in recreation, entertainment, and cultural services and facilities: parks and open space.
  - (B) Outdoor participant-oriented recreational facilities of a public or nonprofit nature are included in recreation, entertainment, and cultural services and facilities: recreational and cultural community services.

(c) *Major event entertainment.*

- (1) *Characteristics.* Major event entertainment is characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature. Events may be live or previously recorded, and may take place in an enclosed structure, a partially-enclosed structure, or entirely outdoors. The number of people who come to the site as spectators, audience, or attendees is greater than the number there to produce the event. The facilities receive little or no use for other than scheduled events other than for practice or rehearsal purposes.
- (2) *Examples.* Athletic and sports stadiums; exposition centers; facilities for major athletic competitions; fairgrounds; major conventions and exhibitions; performance, meeting, and conference venues designed to accommodate 300 or more people; race tracks.
- (3) *Exceptions.*

- (A) Banquet halls that are part of hotels or restaurants are considered accessory to those uses.
  - (B) Movie theaters are included in recreation, entertainment, and cultural services and facilities: commercial entertainment—indoor.
  - (C) Drive-in movie theaters are included in recreation, entertainment, and cultural services and facilities: commercial entertainment—outdoor.
  - (D) Concert halls, theaters, and other music and performing arts venues are included in commercial entertainment—indoor.
  - (E) Performance, meeting, and conference venues designed to accommodate fewer than 300 people are included in recreation, entertainment, and cultural services and facilities: commercial entertainment—indoor.
- (d) *Recreational and cultural community services.*
- (1) *Characteristics.* Recreational and cultural community services are characterized by indoor and outdoor services and facilities typically of a public or nonprofit nature providing a range of on-going on-site recreational and cultural services to the public. Services or activities are generally provided on an on-going basis, not just for special events. Recreational and cultural community services generally have employees on-site during open hours.
  - (2) *Examples.* Aquariums; art museums; community centers; golf courses; indoor and outdoor swimming pools, spectator-oriented ball fields, and tennis courts designed to accommodate less than 300 spectators, when operated by the City or a nonprofit community club or association; libraries; museums; nature/interpretive centers; senior centers; youth clubs; zoological gardens.
  - (3) *Exceptions.*
    - (A) For-profit recreational enterprises, such as amusement parks and membership sports and recreation clubs, are included in recreation, entertainment, and cultural services and facilities: commercial entertainment—indoor or commercial entertainment—outdoor.
    - (B) Large-scale event-oriented uses are included in recreation, entertainment, and cultural services and facilities: major event entertainment.
- (e) *Parks and open space.*
- (1) *Characteristics.* Parks and open space is characterized by publicly owned land and outdoor facilities that provide for recreation, or land that provides for the preservation of natural resources.
  - (2) *Examples.* Arboreta; ball fields; botanical gardens; community gardens; nature parks and preserves; outdoor tennis courts; parks; playgrounds; recreational trails.
  - (3) *Exceptions.*
    - (A) Land used for the burial of the dead is included in funeral and related services: cemeteries.
    - (B) Outdoor performance or event structures designed to host major events are included in recreation, entertainment, and cultural services and facilities: major event entertainment.
- (f) *Nonprofit membership assembly.*
- (1) *Characteristics.* Nonprofit membership assembly is characterized by facilities for the assembly of members of civic, social, fraternal, or other nonprofit membership groups. Activities on-site often include membership meetings as well as social, philanthropic, and/or recreational functions and activities primarily for members of the organization.
  - (2) *Examples.* Bars and restaurants owned and operated by civic, social, or fraternal organizations for use by their members; grange halls; meeting places for civic clubs, fraternal, or veteran organizations.
- (g) *Religious assembly.*
- (1) *Characteristics.* Religious assembly is characterized by facilities for worship services. Religious

Assemblies typically are designed to provide for the assembly of persons for the purpose of religious exercise.

(2) *Examples.* Churches; mosques; synagogues; temples.

(3) *Exceptions.*

(A) Schools operated by religious organizations are included in education services: basic education.

(B) Child care services operated by religious organizations, other than those provided for congregants during worship services and church activities, are included in education services: day care.

(Prior Code, § 400.060; Ord. No. 31-13)

#### **Sec. 400.065. Health services.**

Health services consists of prevention, diagnosis, treatment, and rehabilitation services provided by physicians, dentists, nurses, and other health care personnel. Except for medical and dental laboratories, which may have little direct contact with patients, patients typically come to the site to receive health and/or dental services from licensed professionals.

(a) *Medical centers/hospitals.*

(1) *Characteristics.* Medical centers/hospitals are characterized by facilities that provide health services to inpatients and the specialized accommodation services required by inpatients. Medical centers/hospitals may also provide outpatient services as a secondary activity. Institutions that fall within this category are accredited by state and national agencies. Emergency services are generally included.

(2) *Examples.* Freestanding inpatient hospitals; hospitals or medical centers associated with a university or medical school; medical complexes that include inpatient hospitals; psychiatric and substance abuse hospitals primarily engaged in providing diagnostic, medical treatment, and monitoring services for inpatients who suffer from mental illness or substance abuse disorders.

(3) *Exceptions.*

(A) Freestanding medical clinics without inpatient services are included in health services: outpatient medical services and laboratories.

(B) Medical office buildings that provide outpatient care and urgent medical care, and which are not located on a medical center campus, are included in health services: outpatient medical services and laboratories.

(b) *Outpatient medical services and laboratories.*

(1) *Characteristics.* Outpatient medical services and laboratories are characterized by prevention, diagnosis, treatment, and rehabilitation services provided by physicians, dentists, nurses, and other health care professionals that are provided on an out-patient basis. Outpatient medical services and laboratories also include medical testing and analysis services. Patients generally do not spend more than 24 hours at a time. Emergency services are generally not provided, although urgent care may be included.

(2) *Examples.* Blood banks; kidney dialysis centers; medical and dental laboratories; offices of doctors, nurses, physicians' assistants, dentists, chiropractors, optometrists, podiatrists, audiologists, dieticians, midwives, naturopaths, occupational and physical therapists, psychologists, psychiatrists, speech therapists, osteopathic doctors, and acupuncturists; orthotic and prosthetic services; outpatient drug or alcohol treatment clinics; outpatient urgent care facilities; rehabilitation centers.

(3) *Exceptions.*

(A) Skilled nursing care facilities are included in group living: nursing care.

- (B) Hospitals are included in health services: medical centers/hospitals.
- (C) Cosmetology services are included in retail sales and service: personal services.
- (D) Home health care services provided to individuals in their own homes is considered accessory to household living.

(Prior Code, § 400.065; Ord. No. 31-13)

**Sec. 400.070. Education services.**

Education services consists of educational instruction and/or daytime supervision of people of any age. Services are primarily provided to students or those supervised coming to the site.

(a) *Day care.*

- (1) *Characteristics.* Day care is characterized by the day or evening care or supervision of children and/or adults who need care, supervision, or assistance outside of the individual's home or that of a family member. Educational services may or may not be included. A fee is generally charged for services. Individuals supervised come to the site, but do not stay overnight.
- (2) *Examples.* Adult day care centers; adult day care homes; child day care centers; child day care homes; nursery schools; preschools; registered head start programs.
- (3) *Exceptions.*
  - (A) Babysitting, and care given by an individual's parents, guardians, or relatives, are considered accessory to household living.

(b) *Basic education.*

- (1) *Characteristics.* Basic education is characterized by institutions that are licensed by the State to provide comprehensive state-mandated basic education primarily to minors. Students generally come to the site to receive instruction, although some distance learning may be included. Instruction generally takes place within one or more enclosed buildings.
- (2) *Examples.* Alternative education schools and programs approved by the school district; charter schools; public and private primary, elementary, middle, and high schools; state-recognized secondary school career and technical education programs, such as vocational high schools.
- (3) *Exceptions.*
  - (A) Head start programs are included in education services: day care.
  - (B) Adult basic education programs leading to a General Equivalency Diploma (GED) are included in education services: post-secondary and adult education.

(c) *Post-secondary and adult education.*

- (1) *Characteristics.* Post-secondary and adult education is characterized by institutions offering advanced education and training to adults. Basic primary and secondary education is not provided, except instruction for adults seeking a General Equivalency Diploma (GED). Post-secondary and adult education institutions generally provide instruction leading to a degree, certificate, or license, but may also provide non-degree programs. Instruction generally takes place on-site within one or more enclosed buildings; however, some distance learning and/or outdoor instruction may also be included.
- (2) *Examples.* Adult basic education programs leading to a General Equivalency Diploma (GED); community colleges; language schools; liberal arts colleges; medical and nursing schools not associated with a medical center; seminaries; universities.
- (3) *Exceptions.*
  - (A) Post-secondary and adult education institutions that are entirely distance learning based are included in business and professional services: office.

- (B) Trade schools providing training in the operation of heavy equipment or vehicles requiring a commercial driver's license are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service and storage.
- (C) Aviation schools are included in transportation facilities: aviation facilities.

(Prior Code, § 400.070; Ord. No. 31-13)

**Sec. 400.075. Civic services.**

Civic services consists of governmental or nonprofit entities providing services related to the administration of the government or providing social assistance.

(a) *Governmental services.*

- (1) *Characteristics.* Governmental services are characterized by the administration of the government, typically provided by a public body.
- (2) *Examples.* City hall; courts; other government offices.
- (3) *Exceptions.*
  - (A) The provision of emergency services for police protection and fire and life safety are included in public safety: emergency services.
  - (B) Government functions related to the detention and correction of offenders are included in public safety: detention facilities.
  - (C) Libraries, community centers, and other recreational and cultural enrichment services provided by public or nonprofit agencies are included in recreation, entertainment, and cultural services and facilities: recreational and cultural community services.
  - (D) Government offices involved with the direct delivery of social services to clients or the general public, including, but not limited to, issuing of welfare aid, rent supplements, food stamps, and eligibility casework, are included in civic services: social services.
  - (E) Schools and educational services provided by public or nonprofit agencies are included in educational services.
  - (F) Facilities supporting off-site property and building improvement, construction, or maintenance of public assets are included in civic services: governmental maintenance services and construction.

(b) *Social services.*

- (1) *Characteristics.* Social services are characterized by the provision of on-going social services to clients or the general public on-site by organizations or agencies of a public or nonprofit nature. Clients or those seeking services typically go to the site to receive aid. Services are generally targeted to one or more vulnerable populations and are often provided free of charge.
- (2) *Examples.* Facilities providing daytime shelter for the homeless and at-risk populations; government and nonprofit offices issuing welfare aid, rent supplements, and food stamps, and providing case management for such programs; individual and family counseling services; job training, vocational rehabilitation, and habilitation services for the unemployed, the underemployed, and the disabled; meal delivery programs; organizations providing legal and supportive services for immigrants; probation and parole offices; referral services for those in need.
- (3) *Exceptions.*
  - (A) Administrative offices of social service organizations or agencies and offices of nonprofit organizations where direct interaction with clients generally does not take place on-site are classified as business and professional services: office.
  - (B) Community, senior, and youth centers serving the general population are included in recreation, entertainment, and cultural services and facilities: recreational and cultural

community services.

- (C) Adult day care and child day care centers and homes are included in education services: day care.
- (D) Homeless shelters providing overnight lodging are included in lodging: nonprofit shelters.
- (E) On-going free health clinics serving at-risk populations where provision of medical services is the primary activity on-site are included in health services: outpatient medical services and laboratories.

(c) *Governmental maintenance services and construction.*

- (1) *Characteristics.* Governmental maintenance services and construction is characterized by facilities supporting off-site property and building improvement, construction, or maintenance of public assets. On-site activities are generally limited to administration, dispatch, indoor or outdoor storage of equipment and supplies, fleet vehicle storage, minor assembly or preparation of materials, repair and maintenance of machinery and heavy equipment, and other services primarily related to management of public assets.
- (2) *Examples.* Government motor pools; shops facilities; storage yards.

(Prior Code, § 400.075; Ord. No. 31-13)

**Sec. 400.080. Public safety.**

Public safety consists of facilities that provide for the safety and security of the general public through emergency and disaster response, national defense, or detention for law enforcement purposes.

(a) *Emergency services.*

- (1) *Characteristics.* Emergency services is characterized by services and facilities that provide police protection and fire and life safety to residents of the community. Emergency response vehicles and personnel are typically dispatched from these facilities and stationed on-site when not responding to a call. Facilities may be staffed 24 hours a day and may provide sleeping and eating facilities, as well as office space for employees on duty.
- (2) *Examples.* Ambulance stations and ambulance service facilities; fire stations; highway patrol facilities; Marshals' offices; police stations; Sheriffs' offices; State police facilities.

(b) *Detention facilities.*

- (1) *Characteristics.* Detention facilities are characterized by facilities for the confinement of persons within the criminal justice system where inmates and detainees are under 24-hour supervision.
- (2) *Examples.* Correctional boot camps; facilities for people who are under judicial detainment with 24-hour supervision; holding cells, jails, and prisons; juvenile detention homes and reformatories; state penitentiaries.

(c) *Military installations.*

- (1) *Characteristics.* Military installations are characterized by facilities for the operations of the armed forces, including facilities to house, equip, and train enlisted members of the armed forces. Military installations are operated by a division of the Oregon Military Department or the United States Department of Defense.
- (2) *Examples.* Armories and training centers for the Oregon National Guard; U.S. Army, Navy, Air Force, and Marine bases.
- (3) *Exceptions.*
  - (A) Recruitment centers for the armed forces where no training, weapons storage, or troop housing takes place on site are included in civic services: governmental services.
  - (B) Administrative offices related to the armed forces or the U.S. Army Corps of Engineers where little interaction with the public takes place and where no troop training, troop housing, or

weapons storage takes place on site are included in civic services: governmental services.

- (C) Aeronautics facilities associated with the military are included in transportation facilities: aviation facilities.

(Prior Code, § 400.080; Ord. No. 31-13)

**Sec. 400.085. Funeral and related services.**

Funeral and related services consists of services and facilities engaged in preparing the dead for burial; conducting funerals, cremations, and burials; and providing land for the permanent disposition of remains.

(a) *Cemeteries.*

- (1) *Characteristics.* Cemeteries are characterized by the provision of land for the permanent disposition of human or animal remains.
- (2) *Examples.* Animal cemeteries; cemeteries; columbaria; mausoleums.

(b) *Funeral and cremation services.*

- (1) *Characteristics.* Funeral and cremation services are characterized by establishments engaged in preparing the remains of the dead for permanent disposition, and arranging, managing, and conducting funerals, wakes, and burials.
- (2) *Examples.* Crematories; funeral homes or parlors; taxidermists.

(Prior Code, § 400.085; Ord. No. 31-13)

**Sec. 400.090. Construction contracting, repair, maintenance, and industrial services.**

Construction contracting, repair, maintenance, and industrial services consists of construction and maintenance of buildings and grounds and the repair and maintenance of consumer, business, and industrial products and equipment other than the repair of motor vehicles and trailers. Services are generally provided by traveling to the customer or by the delivery of items to the site for repair.

(a) *General repair services.*

- (1) *Characteristics.* General repair services are characterized by the repair and maintenance of light business equipment, consumer products, and personal and household items, other than clothing and accessories. Repair and maintenance activities may take place on the subject site or may take place at the customer's location.
- (2) *Examples.* Appliance repair; bicycle and other sporting goods repair and service; copier, computer, printer, telephone, fax machine, and other office equipment repair and service; furniture re-upholstery and repair; locksmith; musical instrument repair; repair services for consumer electronics.
- (3) *Exceptions.*
  - (A) Motor vehicle repair is included in motor vehicle, trailer, and manufactured dwelling sales and services: motor vehicle services.
  - (B) Watch and jewelry repair and clothing alteration and repair are included in retail sales and services: personal services.

(b) *Building and grounds services and construction contracting.*

- (1) *Characteristics.* Building and grounds services and construction contracting is characterized by establishments engaged in off-site property and building improvement, construction, or maintenance; or the provision public utilities. On-site activities are generally limited to administration, dispatch, indoor or outdoor storage of equipment and supplies, fleet vehicle storage, and minor assembly or preparation of materials.
- (2) *Examples.* Construction contractors; excavation and demolition services; janitorial services; landscape, lawn, and garden services; pest control services; portable toilet rental and leasing;

service and storage yards for public utility companies; specialty trade contractors including glass and glazing contractors, plumbing, electrical, carpentry, painting and paper hanging, heating, ventilation, air conditioning, roofing, siding, sheet metal work, masonry, stone, tile work, flooring, plastering, drywall, insulation, and concrete work; upholstery and carpet cleaning; water well drilling; window cleaning services.

(3) *Exceptions.*

- (A) Building and grounds maintenance services conducted on the same site where services are provided are considered accessory to the primary use.
- (B) Sites used primarily for the storage of heavy equipment are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service and storage.
- (C) Building and grounds services and construction contracting uses conducted entirely in an office environment without outdoor storage are included in business and professional services: office.

(c) *Cleaning plants.*

- (1) *Characteristics.* Cleaning plants are characterized by dry cleaning and laundry service facilities that clean items transported to and from the site by the company or a third party, rather than by the customer. Customers rarely, if ever, come to the site.
- (2) *Examples.* Diaper services; dry cleaning plants; industrial laundries; linen supply services.
- (3) *Exceptions.*
  - (A) Laundry and dry cleaning service establishments that provide for customer drop off and/or pick up on-site and serve the general public are included in retail sales and service: personal services.

(d) *Industrial services.*

- (1) *Characteristics.* Industrial services are characterized by establishments providing repair and maintenance of industrial machinery and equipment and other services primarily to industrial businesses.
- (2) *Examples.* Commercial and industrial machinery and equipment repair and maintenance, except automotive and electronic; industrial fan rebuilding and repair; precision machinery component repair; welding repair.
- (3) *Exceptions.*
  - (A) Repair of heavy vehicles and trailers is included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service and storage.

(Prior Code, § 400.090; Ord. No. 31-13)

**Sec. 400.095. Wholesale sales, storage, and distribution.**

Wholesale sales, storage, and distribution consists of facilities for the storage, transfer, distribution, repackaging, or wholesale sales of physical goods or personal property other than live animals.

(a) *General wholesaling.*

- (1) *Characteristics.* General wholesaling is characterized by sales of physical products primarily to customers other than the general public, including retailers, other wholesalers, and industrial, commercial, institutional, farm, or business users. The general public rarely comes to the site. Products are generally stored on-site, and may also be assembled, sorted, graded and/or re-packaged on-site. For establishments primarily engaged in sales to industrial, commercial, institutional, farm, or business users, activities on the site may also include on-site sales or order taking display areas. Products may be picked up on-site or delivered to the purchaser. General wholesaling takes place primarily within an enclosed building, and does not include the sale of dangerous, toxic, or potentially contaminating products.



- (2) *Examples.* Wholesale sales of supplies, light-duty equipment, and store fixtures; wholesale sales of products that are not dangerous, toxic, or potentially contaminating; wholesale sales of automobiles and other motor vehicles, manufactured dwellings, and trailers, when stored inside.
  - (3) *Exceptions.*
    - (A) Wholesale sales of dangerous, toxic, or potentially contaminating products, and those requiring outdoor storage, are included in wholesale sales, storage, and distribution: heavy wholesaling.
    - (B) Establishments primarily storing and distributing goods with little on-site business activity are included in wholesale sales, storage, and distribution: warehousing and distribution.
- (b) *Heavy wholesaling.*
- (1) *Characteristics.* Heavy wholesaling is characterized by sales of physical products that are dangerous, toxic, or potentially contaminating, or that require outdoor storage, primarily to customers, other than the general public, including retailers, other wholesalers, and industrial, commercial, institutional, farm, or business users. The general public rarely comes to the site. Products are generally stored on-site, and may also be assembled, sorted, graded and/or re-packaged on-site. Activities on the site may also include on-site sales or display areas. Products may be picked up on-site or delivered to the purchaser.
  - (2) *Examples.* Wholesale sales of automobiles and other motor vehicles, manufactured dwellings, and trailers, where stored outside; wholesale sales of monuments and grave markers; wholesale sales of metals, coal, and other minerals and ores; wholesale sales of ammunition and firearms; wholesale sales of petroleum and petroleum products; wholesale sales of chemicals; wholesale sales of logs, timber products, wood, wood chips, nursery stock, and lumber and construction materials requiring outdoor storage; grain elevators for the wholesale sale of agricultural products; recovery and wholesale sales of used motor vehicle parts, including junkyards and vehicle salvage; processing and wholesale sales of scrap and waste materials, including wrecking yards and scrap dealers; industrial equipment.
  - (3) *Exceptions.*
    - (A) Establishments primarily storing and distributing goods with little on-site business activity are included in wholesale sales, storage, and distribution: warehousing and distribution.
    - (B) Sales of heavy vehicles, heavy-duty trailers, and heavy equipment is included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer sales.
- (c) *Warehousing and distribution.*
- (1) *Characteristics.* Warehousing and distribution is characterized by the storage and/or distribution of goods or personal property. Goods are generally delivered to other firms or the final consumer. Except for some will-call pickups, there is little on-site sales.
  - (2) *Examples.* Catalog and mail order houses; cold storage plants and frozen food lockers; distribution centers; distribution facilities for internet retailers; free standing warehouses associated with retail stores such as furniture or appliance stores; grain terminals; major post offices and postal distribution centers; repossession service; stockpiling of sand, gravel, bark dust, or other aggregate and landscaping materials; truck or rail freight terminals.
  - (3) *Exceptions.*
    - (A) Uses that involve the transfer or storage of solid or liquid wastes are included in utilities: waste-related facilities.
    - (B) Oil and gasoline storage caverns and petroleum and chemical bulk stations and terminals are included in wholesale sales, storage, and distribution: heavy wholesaling.
- (d) *Self-service storage.*

- (1) *Characteristics.* Self-service storage is characterized by facilities that lease space to individuals, usually storing household or personal goods, or to businesses, usually storing excess inventory, supplies, or archived records. The storage areas are designed to allow private access by the tenant for storing or removing personal property. Generally, few, if any, employees work at a the site.
- (2) *Examples.* Single story and multistory facilities that provide individual storage areas for rent.
- (3) *Exceptions.*
  - (A) On-site storage units provided to owners or tenants of a residential or office building are considered accessory to the primary use.
  - (B) A transfer and storage business where there are no individual storage areas, or where employees are the primary movers of the goods to be stored, is included in wholesale sales, storage, and distribution: warehousing and distribution.

(Prior Code, § 400.095; Ord. No. 31-13)

#### **Sec. 400.100. Manufacturing.**

Manufacturing consists of the production, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used in the manufacturing process. Products may be finished or semi-finished, and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to a manufacturing site.

##### *(a) General manufacturing.*

- (1) *Characteristics.* General manufacturing is characterized by the production, processing, fabrication, assembly, or packaging of primarily finished products for entry into the stream of commerce for ultimate sale to the end user. Materials used generally include semi-finished products produced in heavy manufacturing industries; and may include some small amounts of natural and/or raw materials. Products produced can be of any size, but are generally smaller than those produced in heavy manufacturing. Production does not involve significant impacts on adjacent properties due to noise, vibration, dust, smoke, fumes, or noxious odors; and is not dangerous or polluting. General manufacturing uses may require large, medium, or small scale facilities, and the work, and storage of product, may be conducted either inside or outside. Products are generally not displayed or sold on site, but if so, they are a subordinate part of sales.
- (2) *Examples.* Breweries, wineries, distilleries, and cider houses where on-site food and/or beverage consumption is not the primary activity; chemical products manufacturing that does not involve, or that does not have, significant impacts on adjacent properties due to noxious odors, noises, dust, smoke vibrations, or potential danger; commercial or industrial catering kitchens where food is prepared and delivered off-site; manufacturing of apparel; manufacturing of computer and electronic products; manufacturing of food, beverage and related products; manufacturing of pharmaceuticals; manufacturing of signs; manufacturing of wood, plastic, metal, ceramic, rubber, textile, and leather products; production or assembly of equipment, machinery, and fabricated products.
- (3) *Exceptions.*
  - (A) The production of printed materials is included in manufacturing: printing.
  - (B) Wineries, breweries, distilleries, or cider houses that are accessory to establishments for on-site retail food and/or beverage consumption are classified under retail sales and services: eating and drinking establishments.
  - (C) Cafeteria food service contractors that prepare food for on-site consumption in a cafeteria primarily for use by employees of another company are considered accessory to the use.
  - (D) The small scale production of artisanal handcrafted goods to be sold primarily on-site and to the general public is included in retail sales and services: retail sales.

- (E) The manufacture and production of products from composting organic material is included in utilities: waste-related facilities.

(b) *Heavy manufacturing.*

- (1) *Characteristics.* Heavy manufacturing is characterized by the production or processing of finished or semi-finished products that are generally made for the wholesale market or for the transfer to other plants to be used in the further manufacturing of other more complex products. Materials used generally include large amounts of natural and/or raw materials obtained from extractive industries or agricultural/forestry production; or materials that are potentially hazardous or explosive. Products produced are typically heavy in weight and large in size or volume. Production may involve significant impacts on adjacent properties due to noise, vibration, dust, smoke, fumes, or noxious odors; and may be dangerous or polluting. Heavy manufacturing uses typically require large-scale facilities and a substantial portion of the work, and storage of product, may be conducted outside. Products are generally not displayed or sold on site, but if so, they are a subordinate part of sales.
- (2) *Examples.* Leather tanning; manufacturing of chemical products; manufacturing of explosives, ordnance, small arms, and ammunition; manufacturing of petroleum and coal products; manufacturing of primary metals; manufacturing of starch and vegetable fats and oils; meat processing and packing; production of asphalt, cement, and concrete products; production of lime, gypsum, and other nonmetallic mineral products; pulp, paper, and paperboard mills; sawmills.

(c) *Printing.*

- (1) *Characteristics.* Printing is characterized by the production of printed material for wholesale distribution. Printing physically takes place on site. Customers generally do not come to the site.
- (2) *Examples.* Book binding; commercial printing; newspaper, magazine and book publishing and printing; printing maps, directories, calendars, and blank books.
- (3) *Exceptions.*
  - (A) Publishing activities without physical printing on site are included in business and professional services: office.
  - (B) Photocopying and blueprinting services are included in retail sales and services: retail sales.

(Prior Code, § 400.100; Ord. No. 31-13)

**Sec. 400.105. Transportation facilities.**

Transportation facilities consist of terminals, stations, and on-site support facilities primarily concerned with the movement of people and goods at the point of which the people and/or goods embark, disembark, or transfer.

(a) *Aviation facilities.*

- (1) *Characteristics.* Aviation facilities are characterized by terminals and support facilities for passenger and freight air transportation, and the operation of airplanes, jets, helicopters, gliders, and other aircraft. The airside portion of such facilities may be improved or unimproved, and air transportation services may be scheduled or unscheduled. Aviation facilities may be for commercial carriers or for shared use by private aircraft. Support facilities may include hangars, aircraft maintenance and refueling facilities, and accommodations for passengers and cargo. Associated activities may include aircraft sales/rental and aviation training and instruction.
- (2) *Examples.* Air passenger and air freight services and facilities/terminals; airports; air strips, aviation schools; glider facilities; hangars; helicopter landing facilities.

(b) *Passenger ground transportation facilities.*

- (1) *Characteristics.* Passenger ground transportation facilities are characterized by terminals, stations, and support facilities for passenger ground transportation, including, but not limited to, bus or rail, serving a local, suburban, intercity, or regional market area. Passenger ground transportation

facilities serve as a point of access for passengers to ground transportation services, and are generally located along, or at the terminus of, a particular route. Support facilities, such as shelters, ticket offices, waiting rooms, and benches, may be provided to help ensure passenger comfort.

(2) *Examples.* Multi-modal passenger facilities; train or bus stations, stops, or terminals; transit centers.

(3) *Exceptions.*

(A) Storage yards and maintenance facilities for buses and other large passenger transportation vehicles are included in motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service and storage.

(B) Transportation facilities dedicated to the movement of freight rather than passengers are included in wholesale sales, storage, and distribution: warehousing and distribution.

(C) Park-and-ride facilities owned or leased by a public agency for use by transit riders or ride-share participants are included in motor vehicle, trailer, and manufactured dwelling sales and services: park-and-ride facilities.

(c) *Marine facilities.*

(1) *Characteristics.* Marine facilities are characterized by terminals, stations, and support facilities for passenger and freight marine transportation, as well as docks, moorings, storage, and other water-dependent facilities for boats. Facilities may be present to allow passengers to safely access transportation. Support facilities, such as shelters, ticket offices, waiting rooms, and benches, may be provided to help ensure passenger comfort.

(2) *Examples.* Boat houses; ferry landings; landings and landing piers; marinas; marine freight services and facilities/terminals; ports.

(Prior Code, § 400.105; Ord. No. 31-13)

#### **Sec. 400.110. Utilities.**

Utilities consists of physical facilities providing utility services, including, but not limited to, water; wastewater; stormwater facilities; natural gas; electricity; telephone, internet, and other electronic data or communication services; wireless communication facilities; cable television; and solid waste.

(a) *Basic utilities.*

(1) *Characteristics.* Basic utilities are characterized by physical infrastructure providing utility services, including, but not limited to, water; wastewater; stormwater management; natural gas; electricity; telephone, internet, and other electronic data or communication services; and cable television. Such facilities are not regularly occupied by employees, and generally do not include parking areas or storage areas for vehicles, equipment, or materials.

(2) *Examples.* Electric substations; pump stations; reservoirs; substations; utility transmission lines; utility transmission and service poles; un-staffed water filtration equipment; underground transmission facilities; AM and FM antennae and TV antennae.

(3) *Exceptions.*

(A) Power generation facilities and equipment are included in utilities: power generation facilities.

(B) Drinking water treatment plants are included in utilities: drinking water treatment.

(C) Wastewater treatment plants are included in utilities: waste-related facilities.

(D) Service and storage yards for public utility companies are included in construction, contracting, repair, maintenance, and industrial services: building and grounds services and construction contracting.

(E) Utility offices, other than those associated with power generation, sewer treatment, or drinking water treatment, conducted entirely within an office environment without storage of materials and equipment are included in business and professional services: office.

(b) *Wireless communication facilities.*

- (1) *Characteristics.* Wireless communication facilities are characterized by any unstaffed facility for the transmission and/or reception of radio frequency signals for commercial wireless communications purposes, including, but not limited to, auxiliary support equipment; support towers or support structures, or utility structures used to achieve the necessary elevation for the antenna; transmission and reception cabling and devices; and all antennas or arrays.
- (2) *Examples.* Cell towers; collocated antennas on existing buildings or structures; collocated antennas on utility structures; auxiliary support equipment.
- (3) *Exceptions.*
  - (A) Wireless communication facilities used exclusively for public health or safety purposes, and wireless communication facilities used exclusively by utilities for internal communications of an operational nature, are included in utilities: basic utilities.
  - (B) AM and FM antennae, TV antennae, and broadcast towers are included in utilities: basic utilities.

(c) *Drinking water treatment.*

- (1) *Characteristics.* Drinking water treatment is characterized by facilities that filter and/or treat water for public distribution and consumption. Such facilities are typically staffed on a regular basis.
- (2) *Examples.* Drinking water treatment plants.
- (3) *Exceptions.*
  - (A) Water filtration facilities that are not staffed, such as those associated with emergency water sources, are included in utilities: basic utilities.

(d) *Power generation facilities.*

- (1) *Characteristics.* Power generation facilities are characterized by the commercial conversion of energy, such as hydroelectric, solar, geothermal, fossil fuel, and nuclear, into electrical energy and/or heat. Power generation facilities produce electrical energy and supply electricity to transmission systems or to electric power distribution systems. Power generation facilities may also produce thermal energy to fuel mechanical processes or to heat buildings or water.
- (2) *Examples.* Co-generation plants; hydroelectric power plants; large-scale photovoltaic power stations; power plants that burn fossil fuels.
- (3) *Exceptions.*
  - (A) Establishments primarily engaged in operating trash incinerators that also generate electricity are included in utilities: waste related facilities.
  - (B) Small-scale private power generation equipment, such as roof-top solar and emergency generators, that is sized to meet the needs of the primary use is considered accessory to the primary use.

(e) *Data center facilities*

- (1) *Characteristics.* Data center facilities are characterized by facilities that physically house computer systems and associated equipment dedicated to data storage and/or transmission. Data Center facilities serve users beyond those present on the site. Facilities may or may not be regularly staffed by employees on-site. Facilities often include redundant or backup power supplies; redundant data communications connections; environmental controls, such as air conditioning and fire suppression; and security devices.
- (2) *Examples.* Carrier hotel; co-located server hosting facilities; co-location facilities; computer centers; data farms; data storage and hosting facilities; data warehouses; server farms; telecommunication hotels; telecommunications carriers.

- (3) *Exceptions.*
  - (A) Data storage and transmission facilities serving an individual use on-site is considered accessory to that use.
- (f) *Fuel dealers.*
  - (1) *Characteristics.* Fuel dealers are characterized by establishments that provide delivery of fuels and lubricants to the direct customer.
  - (2) *Examples.* Heating oil; lubricants.
  - (3) *Exceptions.*
    - (A) Vehicle fuel dealers are included in motor vehicle, trailer, and manufactured dwelling sales and services: motor vehicle services, or motor vehicle, trailer, and manufactured dwelling sales and services: heavy vehicle and trailer service and storage.
- (g) *Waste-related facilities.*
  - (1) *Characteristics.* Waste-related facilities are characterized by establishments that receive solid or liquid wastes from others for disposal on site, transfer to another location, or processing for re-use; provide for the treatment of wastewater; collect sanitary wastes; or manufacture or produce goods or energy from the biological decomposition of organic material.
  - (2) *Examples.* Energy recovery plants; hazardous waste collection facilities; limited use landfills; materials recovery facilities; recycling depots; sanitary landfills; solid waste transfer stations; waste composting; wastewater treatment plants.
  - (3) *Exceptions.*
    - (A) Disposal of clean fill is not considered a use.
    - (B) Sewer pump stations and sewer lines outside of the public right-of-way are included in utilities: basic utilities.
    - (C) Structures maintained solely to provide shelter for recyclable material, such as paper, tin cans, and bottles, deposited by members of the public and collected at regular intervals for further transfer or processing elsewhere are considered accessory to the use.
    - (D) Scrap dealers and establishments primarily engaged in salvage and/or wrecking of automobiles, trucks, machinery, or similar items are included in wholesale sales, storage, and distribution: heavy wholesaling.

(Prior Code, § 400.110; Ord. No. 31-13)

#### **Sec. 400.115. Mining and natural resource extraction.**

Mining and natural resource extraction consists of the extraction of natural resources from the earth.

- (a) *Petroleum and natural gas production.*
  - (1) *Characteristics.* Petroleum and natural gas production is characterized by the operation of oil and gas field properties. Petroleum and natural gas production includes the production of oil through mining and extraction of oil from oil shale and oil sands, and the production of gas and hydrocarbon liquids through gasification, liquid fraction, and pyrolysis of coal at the mine site; the operation of oil and gas wells for others on a contract or fee basis; and the provision of oil field services for operators on a contract or fee basis.
  - (2) *Examples.* Drilling, completing, and equipping wells; exploration for crude petroleum and natural gas; operation of separators, emulsion breakers, desilting equipment, and field gathering lines for crude petroleum; spudding in, drilling in, re-drilling, and directional drilling; all other activities in the preparation of oil and gas up to the point of shipment from the producing property.
- (b) *Surface mining.*

- (1) *Characteristics.* Surface mining is characterized by all or any part of the process of mining minerals by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method by which more than 5,000 cubic yards of minerals are extracted, or by which at least one acre of land is affected within a period of 12 consecutive calendar months.
- (2) *Examples.* Auger mining operations; construction of adjacent or off-site borrow pits, except those constructed for use as access roads; gravel mining operations; open-pit mining operations; production of surface mining refuse; surface impacts of underground mining.
- (3) *Exceptions.*
  - (A) Excavations of sand, gravel, clay, rock, or other similar materials conducted by the landowner or tenant for the primary purpose of construction, reconstruction, or maintenance of access roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel that is being excavated is considered accessory to the use.
  - (B) Excavation or grading reasonably necessary for farming are considered accessory to that use.
  - (C) Removal of rock, gravel, sand, silt, or other similar substances removed from the beds or banks of any waters of the State pursuant to a permit issued under ORS 196.800 through ORS 196.900 is not considered a use.

(Prior Code, § 400.0115; Ord. No. 31-13)

**Sec. 400.120. Farming, forestry, and animal services.**

Farming, forestry, and animal services consists of the propagation, cultivation, and/or harvesting of plants; and animal husbandry, breeding, boarding, grooming, and care.

(a) *Agriculture.*

- (1) *Characteristics.* Agriculture is characterized by the growing, producing, or keeping of plants for commercial purposes. Agriculture may include activity taking place in a greenhouse, frame, cloth house, lath house, or outdoors.
- (2) *Examples.* Crop production; growing cultured Christmas trees, as defined in ORS 215.203; orchards; propagation of ornamental plants and other nursery products, such as bulbs, florists' greens, flowers, shrubbery, flower and vegetable seeds and plants, and sod; truck gardening; wholesale plant nurseries; marijuana production.
- (3) *Exceptions.*
  - (A) Plant nurseries that are oriented to retail sales are included in retail sales and service: retail sales.

(b) *Forestry.*

- (1) *Characteristics.* Forestry is characterized by the propagation or harvesting of timber and forest products.
- (2) *Examples.* Gathering of forest products, such as bark, cones, seeds, or fungi; timber tracts and forest nurseries.
- (3) *Exceptions.*
  - (A) Growing cultured Christmas trees, as defined in ORS 215.203, is included in farming, forestry, and animal services: agriculture.

(c) *Agriculture and forestry services.*

- (1) *Characteristics.* Agriculture and forestry services are characterized by establishments providing management and services to the agricultural and forestry industries. Services are generally provided off-site by traveling to the customer's property. On-site activities are generally limited to administration, dispatch, indoor or outdoor storage of equipment and supplies, fleet vehicle storage, and minor assembly or preparation of materials.

- (2) *Examples.* Crop planting, cultivating, and harvesting; farm labor and farm management services; forest firefighting, forest fire prevention, forest pest control, and reforestation services; preparation of crops for market, such as cleaning, grading, shelling, and drying; soil preparation services.
- (d) *Keeping of livestock and other animals.*
  - (1) *Characteristics.* Keeping of livestock and other animals is characterized by the keeping, breeding, boarding, grazing, or feeding of dogs, equines, cattle, swine, sheep, goats, poultry, and other animals; and the propagation, cultivation, maintenance, and harvesting of aquatic species. Keeping of livestock and other animals may be conducted for commercial purposes or for private non-commercial use. For purposes of this subsection, the term “commercial purposes” means conduct of the activity to obtain a profit.
  - (2) *Examples.* Animal shelters; breeding and boarding kennels; dairies; egg production facilities, broiler facilities, poultry hatcheries, and apiaries; feedlots; ranches; riding stables.
  - (3) *Exceptions.*
    - (A) The keeping of household pets is considered accessory to residential use.
    - (B) The keeping of goats for the sole purpose of targeted grazing of vegetation is an accessory use to the primary use on a unit of land. The term “targeted grazing” as used in this section means the application of goats to accomplish a defined vegetation or landscape goal. The duration of targeted grazing is limited to no more than 21 consecutive days on any one property one-half acre or less in area. On properties greater than one half acre in area, the duration of targeted grazing is limited to no more than 21 consecutive days in any one penned area of one-half acre or more in size. Goats may not return to a treated area for 30 days following a targeted grazing treatment. No more than three targeted grazing treatments per calendar year may occur on any one property one-half acre or less in size or on any one penned area in the case of properties greater than one-half acre in size.
- (e) *Animal services.*
  - (1) *Characteristics.* Animal services is characterized by veterinary, grooming, and other services for pets, livestock, and other animals.
  - (2) *Examples.* Animal day care; animal grooming; veterinary services; wildlife rehabilitation facilities.
  - (3) *Exceptions.*
    - (A) Pet stores are included in Retail Sales and Services: Retail Sales.

(Prior Code, § 400.120; Ord. No. 31-13; Ord. No. 22-15, § 2, 11-23-2015)

#### **Sec. 400.125. Other uses.**

- (a) *Temporary uses.*
  - (1) *Characteristics.* Temporary uses are uses that are allowed as temporary uses under the UDC and which require a temporary use permit under SRC chapter 701. Temporary uses are inherently temporary in nature and include activities that are seasonal or directed toward a specific event; or activities associated with the process of development.
  - (2) *Examples.* Christmas tree sales; construction storage yards; mobile food units; replacement single family dwellings; residential sales/development offices; temporary and seasonal gravel parking and loading areas; temporary motor vehicle and recreational vehicle sales.
- (b) *Home occupations.*
  - (1) *Characteristics.* Home occupations are characterized by any business or professional activity conducted by a resident within a building used for household living, or within an accessory structure thereto, which is clearly accessory and subordinate to the residential use of the building and its premises. Home occupations maintain the essential residential character of the building and its premises and do not to give the outward appearance, nor manifest any characteristic, of a business.



(2) *Examples.* Dressmaker, lawyer, public accountant, artist, caterer, writer, teacher, musician, home office of a physician, dentist, or other practitioner of any of the healing arts, or practices of any art or craft.

(3) *Exceptions.*

(A) Automotive repair, body work, painting, and other motor vehicle services are included in motor vehicle, trailer, and manufactured dwelling sales and service: motor vehicle services.

(B) Small engine repair, appliance repair, and other general repair services are included in construction contracting, repair, maintenance, and industrial services: general repair services.

(C) Salvaging, sorting, and recycling of discarded materials, and other waste-related facilities, are included in utilities: waste-related facilities.

(Prior Code, § 400.125; Ord. No. 31-13; Ord. No. 11-14; Ord. No. 26-14)

**CHAPTERS 401—499. RESERVED**