

Chapter 1 Introduction

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Chapter 1.0 — How to Use the Development Code

Welcome to the Boardman Development Code. This is a comprehensive land use and development code that governs all of the land within the incorporated limits of Boardman. The five chapters of the code are used together to review land use applications. They are organized as follows:

Chapter 1 - In addition to this brief introduction, Chapter 1 provides definitions for selected terms and information on the legal construct of the code. It also explains the City's authority to enforce the Development Code.

Chapter 2 - Every parcel, lot, and tract of land within the City's incorporated boundaries is also within a "land use district". (Land use districts are shown on the City's official zoning map.) Chapter 2 identifies the land uses that are permitted within each district, and the standards that apply to each type of land use (e.g., lot standards, setbacks, and use-specific design standards). As required by state law, the zones or "land use districts" conform to the Boardman Comprehensive Plan. The districts reserve land for planned land uses, provide compatibility between different uses, and implement planned housing densities.

Chapter 3 - The design standards contained in Chapter 3 apply throughout the City. They are used in preparing development plans, and reviewing applications, to ensure compliance with City standards for access and circulation, landscaping, parking, public facilities, surface water management, housing densities, and sensitive lands.

Chapter 4 - Chapter 4 provides all of the application requirements and procedures for obtaining permits required by this code. Four types of permit procedures are covered: Type I (non-discretionary, "ministerial" decision); Type II (discretionary, "administrative" decision); Type III (discretionary, administrative decision with public hearing); and Type IV ("legislative" decision by City Council).

Chapter 5 - Chapter 5 provides standards and procedures for variances and non-conforming situations (i.e., existing uses or developments that do not comply with the code). This code cannot provide standards to fit every potential development situation. The City's varied geography, and complexities of land development, require flexibility. Chapter 5 provides that flexibility, while maintaining the purposes and intent of the code.

Chapter 6 - Chapter 6 contains map amendments that have been approved by administrative or legislative action. The District (zoning) map found within Chapter 6 is the official designated zoning map for the City of Boardman.

Chapter 1.1 — General Administration

Sections:

1.1.100 - Severability

1.1.200 - Compliance and Scope

1.1.300 - Consistency with Plan and Laws

1.1.400 - Use of a Development

1.1.500 - Pre-Existing Approvals

1.1.600 - Building Permit and Certificate of Occupancy

1.1.700 - Official Action

1.1.100 Severability

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

1.1.200 Compliance and Scope

- A. Compliance with the provisions in the Development Code.** Land and structures may be used or developed by construction, reconstruction, alteration, occupancy, use or otherwise, only as this Development Code (“Code”) or any amendment thereto permits. No plat shall be recorded or no building permit shall be issued without compliance with the provisions of this Code.
- B. Obligation by successor.** The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons’ successors in interest.
- C. Most restrictive regulations apply.** Where this Code imposes greater restrictions than those imposed or required by other rules or regulations, the most restrictive or that imposing the higher standard shall govern.
- D. Variances.** Variances shall be governed by the provisions of Chapter 5.1.
- E. Transfer of development standards prohibited.** No lot area, yard or other open space or off-street parking or loading area which is required by this Code for one use shall be a required lot area, yard or other open space or off-street parking or loading area for another use, except as otherwise specifically allowed by this Code.

1.1.300 Consistency With Plan and Laws

Each development and use application and other procedure initiated under this Code shall be consistent with the adopted comprehensive plan of the City of Boardman as implemented by this Code, and with applicable state and federal laws and regulations. All provisions of this Code shall be construed in conformity with the adopted comprehensive plan.

1.1.400 Use of a Development

A development shall be used only for a lawful use. A lawful use of a development is one that is permitted by this Code (including non-conforming uses, subject to Chapter 5.2), and is not prohibited by law.

1.1.500 Pre-Existing Approvals

- A. **Legality of pre-existing approvals.** Developments, including subdivisions, projects requiring development review or site design review approval, or other development applications for which approvals were granted prior to the effective date of this Code, may occur pursuant to such approvals; except that modifications to development approvals shall comply with Chapter 4.6 - Modifications to Approved Plans and Conditions of Approval.
- B. **Subsequent development applications.** All development proposals and applications received by the City Manager after the adoption of this Code shall be subject to review for conformance with the standards under this Code or as otherwise provided by state law.

1.1.600 Building Permit and Certificate of Occupancy

- A. **Building permit.** A building permit shall not be issued until the City Manager or his/her designee has issued a development permit in accordance with the provisions of Chapter 5 - Administration of Land Use and Development Review, or otherwise found that a development permit is not required.
- B. **Certificate of occupancy required.** To ensure completion of a development or use in the manner approved, a development shall not be occupied and a use shall not begin until the *[building official]* has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable land use and building permits.
- C. **Prior to final completion.** Prior to the final completion of all work, a certificate of occupancy may be issued for a portion of the structure conditioned upon further work being completed by a date certain.

1.1.700 Official Action

- A. **Official Action.** All officials, departments, employees (including contractor-officials), of the City vested with authority to issue permits or grant approvals shall adhere to and require conformance with this Code, and shall issue no permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Code.
- B. **Severability.** Any permit or approval issued or granted in conflict with the provisions of this Code shall be void.
- C. **Notice.** The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this Code.

Chapter 1.2 — Definitions

Abutting - Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.

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

Access easement - An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access.

Access management - The control of street (or highway) access for the purpose of improving the efficiency, safety and/or operation of the roadway for vehicles; may include prohibiting, closing, or limiting direct vehicle access to a roadway from abutting properties, either with physical barriers (curbs, medians, etc.) or by land dedication or easement. See also, Chapter 3.1, Section 200.

Access point – Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

Accessible - Approachable and useable by people with disabilities. Complies with the Americans With Disabilities Act.

Accessory dwelling – An accessory dwelling is a small, secondary housing unit on a single family lot, usually the size of a studio apartment. See Chapter 2.1, Section 200.B.

Accessory use/Accessory structure – Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Residential District include detached garages, sheds, workshops, green houses and similar structures. See Chapter 2.1, Section 200.J.

Adjacent - Abutting or located directly across a street right-of-way.

Administrative - A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal. See also Chapter 4.1, Section 400.

Adverse impact - Negative effect of development that can be measured (e.g., noise, air pollution, vibration, dust, etc.).

Affordable - Means housing affordable to a certain percentage of the population earning a specified level of income and spending no more than 30 percent of their income on housing expenses. For more information, refer to the Federal Department of Housing and Urban Development and the Oregon Department of Housing and Community Services.

Agriculture - As used in this Code, “agriculture” is the same as “farm use”. [See also, ORS 215.203(2)(a).]

Alley – A narrow street (16’-20’ right-of-way), usually a thoroughfare through the middle of the block giving access to the rear of lots or buildings. See Chapter 3.4, Section 100.F

Ambient - Something that surrounds, as in the level of light, dust or noise.

Arterial - An arterial street. Arterials form the primary roadway network within a region, providing a continuous road system that distributes traffic between cities, neighborhoods, and districts. Generally, arterials are high-capacity City roadways. See Chapter 3, Access and Circulation.

Articulate/articulation - The jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.

Automobile-dependent use – The use serves motor vehicles and would not exist without them such as vehicle repair, gas station, car wash, auto and truck sales. See Chapter 2.2, Section 180.E.

Automobile-oriented use – Automobiles and/or other motor vehicles are an integral part of the use such as drive-in restaurants and banks. See Chapter 2.2, Section 180.E.

Bed and breakfast inn - Provides accommodations (3 or more rooms) plus breakfast on a daily or weekly basis in an operator- or owner-occupied home that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a major source of income to the proprietors. This use includes inns that operate restaurants offering meals to the general public as well as to overnight guests.

Berm - A small rise or hill in a landscape which is intended to buffer or visually screen certain developments, such as parking areas.

Beveled building corner - A rounded or flat edge on a building, usually at a street corner; may include an entrance, windows, pillars, or other architectural details and ornamentation.

Block - A parcel of land or group of lots bounded by intersecting streets. See also, Chapter 3.1, Section 200.J.

Bicycle - A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which a person or persons may ride with two tandem wheels at least 4 inches in diameter. An adult tricycle is considered a bicycle.

Bicycle Facilities – A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

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

a. Multi-use Path. A paved way (typically 10 to 12-feet wide) that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other non-motorized users.

b. Bike Lane. A portion of the roadway (typically 4 to 6-foot wide) that has been designated by permanent striping and pavement markings for the exclusive use of bicycles.

c. Shoulder Bikeway. The paved shoulder of a roadway that is 4 feet or wider; typically shared with pedestrians in rural areas.

d. Shared Roadway. A travel lane that is shared by bicyclists and motor vehicles.

- e. **Multi-use Trail.** An unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians.

Bollard - A post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles). Bollards are usually decorative, and may contain sidewalk or pathway lighting.

Boulevard - A street with broad open space areas, typically with planted medians. See Chapter 3.4, Section 100.F.

Building footprint - The outline of a building, as measured around its foundation.

Building mass - The aggregate size of a building, or the total height, width, and depth of all its parts.

Building pad - A vacant building site on a lot with other building sites.

Building scale - The dimensional relationship of a building and its component parts to other buildings.

Bulkhead - The wall below ground-floor windows on a building (may be differentiated from other walls by using different materials or detailing).

Canopy-line - Imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

Capacity - Maximum holding or service ability, as used for transportation, utilities, parks and other public facilities.

Centerline radius - The radius of a centerline of a street right-of-way.

Child care center, family childcare - Facilities that provide care and supervision of minor children for periods of less than 24 hours. "Family child care providers" provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.

Clear and objective - Relates to decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

Collector - Type of street which serves traffic within the commercial, industrial and residential neighborhood areas. Collectors connect local neighborhoods or districts to the arterial network. Collectors are part of the street grid system. See Chapter 3.4, Section 100.F.

Commercial - Land use involving buying/selling of goods or services as the primary activity.

Comprehensive Plan - The Comprehensive Plan for the City of Boardman, comprising plans, maps, policies or reports, or any combination thereof relating to the future economic and physical growth and development pattern or redevelopment of the City.

Common area - Land commonly owned to include open space, landscaping or recreation facilities (e.g., typically owned by homeowners associations).

Conditional use - A use which requires a Conditional Use Permit. See Chapter 4.4.

Consensus - Agreement or consent among participants.

Corner clearance – The distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.

Conservation easement - An easement that protects identified conservation values of the land, such as wetlands, woodlands, significant trees, floodplains, wildlife habitat, and similar resources.

Corner radius - The radius of a street corner, as measured around the curb or edge of pavement.

Cornice - The projecting horizontal element that tops a wall or flat roof. See Chapter 2.2, Section 160.

Cottage - A small house that may be used as an accessory dwelling, in conformance with Chapter 2.1, Section 200.B.

Courtyard - A court or enclosure adjacent to a building, which usually provides amenities such as gardens, planters, seating, or art.

Cross Access – A service drive providing vehicular access between two or more contiguous sites so that the driver need not enter the public street system.

Curb cut - A driveway opening where a curb is provided along a street.

Deciduous - Tree or shrub that sheds its leaves seasonally.

Dedication - The designation of land by its owner for any public use as shown on a subdivision plat or deed. The term may also be used for dedications to a private homeowners association.

Density (ies) - A measurement of the number of dwelling units in relationship to a specified amount of land. As used in this Code, density does not include land devoted to street right-of-way. Density is a measurement used generally for residential uses.

Developable - Buildable land, as identified by the City's Comprehensive Plan. Includes both vacant land and land likely to be redeveloped, per ORS 197.295(1).

Development - All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes.

Discontinued/abandoned use - A use that physically vacates the land it was on, cessation of an allowed activity, or use terminated at the end of any lease or contract. See Chapter 5.2.

Discretionary - Describes a permit action or decision that involves substantial judgment or discretion.

Drive lane/travel lane - An improved (e.g., paved) driving surface for one lane of vehicles.

Driveway – An area that provides vehicular access to a site, except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking lots and parking spaces.

Driveway apron/approach - The edge of a driveway where it abuts a public way; usually constructed of concrete. See Figure 3.1.200.K.

Drought-tolerant/drought-resistant plants - Refer to *Sunset Western Garden Book* (latest edition).

Drug Store - Refers to a store where the primary business is filling of doctor prescribed prescription and the sale of drugs, medical devices and supplies, and non-prescription medicines, but where non-medical products may be sold as well.

Duplex - A building with two attached housing units on one lot or parcel.

Dwelling unit - A “dwelling unit” is a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code (UBC), for not more than one family, or a congregate residence for 10 or fewer persons. (See UBC section 205.)

Easement - A right of usage of real property granted by an owner to the public or to specific persons, firms, and corporations.

Elevation - A building face, or scaled drawing of the same, from grade to roof ridgeline.

Environmentally sensitive areas - See “sensitive lands”.

Established residential area – An area within the Residential District that was platted prior to the effective date of a land use or zoning ordinance. See Chapter 2.1, Section 120.F

Evidence - Application materials, plans, data, testimony and other factual information used to demonstrate compliance or non-compliance with a code standard or criterion.

Family day care - See “child care facilities”.

Fire apparatus lane - As defined by the Uniform Fire Code.

Flag lot - A lot or parcel which has access to a road, street or easement, by means of a narrow strip of lot or easement. See Chapter 2.1, Section 140.

Floor area ratio – Floor area ratio (FAR) is measured by dividing the gross enclosed floor area of a building by the land area of the development. See Chapter 2.2, Section 130.

Frontage- The dimension of a property line abutting a public or private street.

Frontage street or road - A minor street that parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.

Functional classification - The classification given to streets (e.g., “local/collector/arterial”) by the City’s Transportation System Plan (TSP), by adopted County plans, and the Oregon Department of Transportation.

Ground cover - A plant material or non-plant material (e.g., mulch, bark chips/dust) that is used to cover bare ground. See also, Chapter 3.2 - Landscaping.

Hammerhead turnaround - A “T” or “L” shaped area at the end of a dead-end street that allows for vehicles to turn around.

Hardscape - Non-plant landscape materials, including pathways, decorative pavers, benches, drinking fountains, arbors, pergolas, playgrounds, plazas, and similar amenities.

Home occupation, home occupation site – A small commercial venture which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. See Chapter 4.9, Section 200.

Human-scale design/development - Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e.g., as is typical of downtown and main street developments); larger buildings which have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those which are primarily intended to accommodate automobile traffic.

Impervious surface - Development which does not allow for water infiltration into the ground (e.g., pavement, roofs, etc.).

Incidental and subordinate to - A use or portion of a development that is secondary to, and less apparent, than the primary use or other portion of the development.

Infill - A dwelling that is proposed on land that is zoned for residential use where at least 75% of the abutting parcels have a dwelling, but not counting any parcel that is too small for a residence and any parcel that is large enough that it can be divided into four or more lots. These standards also apply where a home is removed to make way for a new house, manufactured home duplex and attached house. These standards do not apply to a dwelling that is proposed on land that is large enough that it can be divided into four or more lots.

Kennel – Any premises or building in which four (4) or more dogs or cats at least four (4) months of age are kept for board, propagation or sale.

Land division - The process of dividing land to create parcels or lots.

Land use - The main activity that occurs on a piece of land, or the structure in which the activity occurs (e.g., residential, commercial, mixed use, industrial, open space, recreation, street rights-of-way, vacant, etc.).

Land use district - As used in this code, a land use district is the same as a zone district.

Landing - A level part of a staircase, as at the end of a flight of stairs.

Landscaping - Any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains or the like. Landscaping also includes irrigation systems, mulches, topsoil, and re-vegetation or the preservation, protection and replacement of existing trees.

Lane, mid-block lane - A narrow, limited use roadway facility usually used to access a limited number of dwelling units. Similar to an alley in design. See Chapter 2.1, Section 140.A.

Legislative - A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation). See Chapter 4.1, Section 600.

Level of service (LOS) - For transportation, a standard of a street's carrying capacity, based upon prevailing roadway, traffic and traffic control conditions during a given time period. The Level of Service range, from LOS A (free flow) to LOS F (forced flow) describes operational conditions within a traffic stream and their perception by motorists/passengers. Level of Service is normally measured for the peak traffic hour, at intersections (signalized or unsignalized) or street segments (between signalized intersections).

Light manufacture – Light manufacturing operations (e.g., electronic equipment, printing, bindery, furniture, and similar goods). See Chapter 2, Section 4.110.

Livestock - Domestic animal types customarily raised or kept on farms.

Liquor Store – A store which sells alcoholic beverages for consumption elsewhere and is licensed by the Oregon Liquor Control Commission. This may include dining or other establishments which also allow sales for off-premises consumption

Local Improvement District (LID) - A small public district formed for the purpose of carrying out local improvements (paving of streets, construction of storm sewers, development of a park, etc.). Property owners within the LID are assessed for the cost of the improvements in accordance with ORS 223.387-223.485. See also Chapter 3.4 Section 100.

Local street - A street used primarily for access to abutting property(ies).

Lot - A lot is a unit of land that is created by a subdivision of land (ORS 92.010(3)). See also, Chapter 4.3.

Lot area - The total surface area (measured horizontally) within the lot lines of a lot.

Lot, corner– Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred and thirty five (135) degrees.

Lot coverage - The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.

Lot depth - The average distance measured from the front lot line to the rear lot line.

Lot line adjustment - The adjustment of a property line by the relocation of a common line where no additional lots are created. This development code also defines the consolidation of lots (i.e., resulting in fewer lots) as a lot line adjustment.

Main/Primary entry/entrance - A main entrance is the entrance, or entrances, to a building that most pedestrians are expected to use. Generally, smaller buildings have one main entrance. The main entrance may also be the widest entrance of those provided for use by pedestrians. In multi-tenant buildings, main entrances open directly into the building's lobby or principal interior ground level circulation space. When a multi-tenant building does not have a lobby or common interior circulation

space, each tenant's outside entrance is a main entrance. Buildings may also have main entrances opening directly into a reception or sales area, a courtyard, or plaza.

Maneuvering area/aisle - The driving area in a parking lot where motor vehicles are able to turn around and access parking spaces.

Manufactured dwelling. A manufactured dwelling is one of the following residences: a residential trailer; a mobile home or a manufactured home.

Manufactured dwelling park –Four or more units located on one lot allowing manufactured dwellings.

Manufactured Home – A manufactured home is a transportable single family dwelling constructed after 1976.

Manufactured Structure – A manufactured structure includes the following residence types: a recreational vehicle, residential trailer constructed prior to 1962, a mobile home constructed between 1962 and 1976, or a manufactured home constructed after 1976. For the purposes of this Code, Manufactured Structure also includes structures built and installed as temporary classrooms or to other non-residential uses.

Medical Marijuana Dispensary or Facility – A facility which dispenses medical marijuana, meeting the requirements set by the Oregon Health Authority and being registered to do business with the Office of the Secretary of State.

Medical Marijuana Grow Facility – A facility which grows medical marijuana as allowed under Oregon Revised Statute and as regulated by the Oregon Health Authority.

Ministerial - A routine governmental action or decision that involves little or no discretion. The issuance of a building permit is such an action. See also, Chapter 4.1 Section 400.

Mitigation - To avoid, rectify, repair, or compensate for negative impacts which result from other actions (e.g., improvements to a street may be required to mitigate for transportation impacts resulting from development.”)

Mixed-use building/development/horizontal/vertical - See Chapter 2.2, Section 180.A.

Mobile Home – A Mobile Home is a portable residence constructed between 1962 and 1976.

Mobile Home Park – Four or more units located on one lot allowing recreational vehicles, residential trailers, mobile homes, manufactured homes, or recreational structures.

Multi-family housing – Housing that provides more than three dwellings on an individual lot (e.g., multi-plexes, apartments, condominiums, etc.). See Chapter 2.1, Section 200F.

Multi-use pathway – Pathways for pedestrian and bicycle use. See Chapter 3.1, Section 300.A.4.

Natural resource areas/natural resources - Same as Sensitive Lands, per Chapter 3.7.

Natural hazard - Natural areas that can cause dangerous or difficult development situations, such as steep slopes, unstable soils, landslides, flood areas.

Neighborhood - A geographic area lived in by neighbors and usually having distinguishing character.

Neighborhood-scale design - Site and building design elements that are dimensionally related to housing and pedestrians, such as narrower streets with tree canopies, smaller parking areas, lower building heights (as compared to downtown areas) and similar neighborhood characteristics. These features are generally smaller in scale than those, which are primarily intended to accommodate automobile traffic.

Neighborhood commercial – Small scale commercial uses allowed within the residential/neighborhood commercial district. See Chapter 2.1, Section 200.K.

Non-conforming use/non-conforming development – A land use/structure that exists which would not be permitted by the regulations imposed by the code, but was lawful at the time it was established. See Chapter 5.2.

Non-native invasive plants - See current Oregon State University Extension Service Bulletin for your area.

Off-street parking - All off-street areas designed, used, required or intended to be used for the parking of motor vehicles. Off-street parking areas shall conform to the requirements of Chapter 3.3.

On-street parking - Parking in the street right-of-way, typically in parking lanes or bays. Parking may be “parallel” or “angled” in relation to the edge of the right-of-way or curb. See also, Chapter 3.3.

Open space (common/private/active/passive) - Land within a development which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreation, conservation or other open space uses.

Orientation - To cause to face toward a particular point of reference (e.g., “A building oriented to the street”).

Outdoor commercial use - A use supporting a commercial activity which provides goods or services, either wholesale or retail, where the amount of site area used for outdoor storage of materials or display of merchandise exceeds the total floor area of all buildings on the site. Examples of outdoor commercial uses include automobile sales or services, nurseries, lumber yards and equipment rental businesses.

Overlay zone/district - Overlay zones provide regulations that address specific subjects that may be applicable in more than one land use district. See also Chapter 2.6.

Parcel - A unit of land that is created by a partitioning of land (ORS 92.010(6)). See also, Chapter 4.3.

Parking lot perimeter - The boundary of a parking lot area which usually contains a landscaped buffer area.

Parking vs. storage - Parking is the area used for leaving motor vehicles for a temporary time up to 72 hours unless permitted as parking for longer by other municipal codes. Storage is to place or leave in a location for maintenance, repair, sale, rental, or future use.

Partition - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. (See also, ORS 92.010(8)).

Pathway/walkway/access way - See Chapter 3.1, Section 3.A. As defined in this code, a pathway or multi-use pathway may be used to satisfy the requirements for “accessways” in the Transportation Planning Rule. (OAR 660-012-045.)

Pedestrian amenity(ies) –Pedestrian areas and objects that serve as places for socializing and enjoyment of the City’s downtown/main street. Examples include benches or public art or sculpture. See Chapter 2.2, Section 170.

Pedestrian facilities - A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths and trails.

Pharmacy – A place where drugs and medicines are prepared and dispensed by a licensed pharmacist. A pharmacy may also be a drug store.

Pier - Exterior vertical building elements that frame each side of a building or its ground-floor windows (usually decorative).

Planter strip or tree cut-out - An area for street trees and other plantings within the public right-of-way, usually between the street and a sidewalk.

Plat - A map of a subdivision, prepared as specified in ORS 92.080, and recorded with the Morrow County Assessor’s Office. All plats shall also conform to Chapter 4.3 - Land Divisions.

Plaza - A public square or extra-wide sidewalk (e.g., as on a street corner) that allows for special events, outdoor seating, sidewalk sales, and similar pedestrian activity. See Chapter 2.2, Section 170.

Pocket park - A small park, usually less than one-half acre.

Primary - The largest or most substantial element on the property, as in “primary” use, residence, entrance, etc. All other similar elements are secondary in size or importance.

Property line: front, rear, interior side, street side - Legal borders of a lot or parcel of land See Figure 2.1.130.

Public facilities – Public and private transportation facilities and utilities. See Chapter 3.4.

Public improvements - Development of public facilities. See Chapter 3.4.

Quasi-judicial - Refers to an action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to an application for development of a specific site, and usually involves a public hearing. See Chapter 4.1, Section 500.

Recreational Vehicle – A vacation trailer or other vehicular or portable unit (boat, all-terrain vehicle (“ATV”), non-commercial watercraft) which is either self-propelled or towed or is carried by a motor vehicle, which is intended for human occupancy, and which is designated primarily for vacation or recreation purposes or temporary residential use.

Residence - Same as “dwelling”.

Residential caretaker unit - A dwelling unit for caretakers living on-site in the General Industrial District. The unit must be served by water and sanitary sewage and conform with other applicable building standards. See Chapter 2.3, Section 160.B.

Residential care home/Residential care facility –Residential treatment or training homes or adult foster homes licensed by the State of Oregon. See Chapter 2.1, Section 200.G.

Residential trailer – A portable residence constructed prior to 1962.

Ridge line (building) - The top of a roof at its highest elevation.

Right-of-way - Land that is owned in fee simple by the public, usually for transportation facilities.

Roof pitch - The slope of a roof, usually described as a ratio (e.g., 1 foot of rise per 2 feet of horizontal distance, or 1/2).

Roof-top garden - A garden on a building terrace, or at top of a building with a flat roof (usually on a portion of a roof).

Senior housing - Housing designated and/or managed for persons over the age of 55. (Specific age restrictions vary.)

Sensitive lands - Wetlands, significant trees, steep slopes, flood plains and other natural resource areas designated for protection or conservation by the Comprehensive Plan.

Setback - The distance between a building (or other feature of development) and a property line. Minimum and maximum setbacks may be required for front, side and rear yards.

Shared driveway - When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) may be created for this purpose.

Shared parking –Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (daytime versus nighttime primary uses). See Chapter 3.3, Section 300.C.4.

Single-family attached housing (townhomes) - Two or more single family dwellings with common end-walls. See also, Chapter 2.1, Section 110 and Section 200.

Single-family detached house - A single family dwelling that does not share a wall with any other building. See also Chapter 2.1, Section 110.

Single-family detached zero-lot line house - A single family detached house with one side yard setback equal to “0”. See also, Chapter 2.1, Section 110 and Section 200.

Site - A property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this Code.

Site design review – A discretionary review that applies to all developments in the City, except those specifically listed under Development Review. Site Design review ensures compliance with the basic development standards of the land use district, as well as more detailed design standards and public improvement requirements in Chapters 2 and 3, Development Review - See Chapter 4.2.

Specific Area Plan – Describes in more detail the type of development planned for a specific area than is typically found in a comprehensive plan, zone map, or public facilities plan. See Chapter 2.5.

Standards and criteria - Standards are code requirements. Criteria are the elements required to comply with a particular standard.

Steep slopes - Slopes greater than 25 percent.

Storefront character - The character expressed by buildings placed close to the street with ground-floor display windows, weather protection (e.g., awnings or canopies), corner building entrances or recessed street-front entries, and similar features.

Storm water facility - A detention and/or retention pond, swale, or other surface water feature that provides storage during high-rainfall events and/or water quality treatment.

Street/road - A public or private way for travel by vehicles, bicycles and pedestrians, that meets the City standards in Chapter 3.4, Section 100.

Street access — Safe and efficient passage for pedestrians and vehicles to circulate through a connected street system. See Chapter 3.1, Section 200.

Street connectivity - The number of street connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

Street furniture/furnishings - Benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, and similar pedestrian amenities located within a street right-of-way. See also, Chapter 2.2, Section 170.

Street stub - A temporary street ending; i.e., where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.

Street tree - A tree planted in a street right-of-way within a planter strip or tree cut-out.

Subdivision - To divide land into four or more lots within a single calendar year. (ORS 92.010(13).)

Surface water management - Definition to be developed in Chapter 3.5.

Swale - A type of storm water facility. Usually a broad, shallow depression with plants that filter and process contaminants.

Tangent - Meeting a curve or surface in a single point.

Terrace - A porch or promenade supported by columns, or a flat roof or other platform on a building.

Topographical constraint - Where existing slopes prevent conformance with a Code standard.

Tract: private/public - A piece of land set aside in a separate area for dedication to the public, a homeowner's association, or other entity (e.g., for open space, recreation facilities, sensitive lands, etc.).

Transportation facilities and improvements - The physical improvements used to move people and goods from one place to another; i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc. Transportation improvements include the following:

- a. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
- b. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
- c. Projects specifically identified in the City's adopted Transportation System Plan as not requiring further land use review and approval.
- d. Landscaping as part of a transportation facility.
- e. Emergency measures necessary for the safety and protection of property.
- f. Construction of a street or road as part of an approved subdivision or partition.
- g. Construction, reconstruction, or widening of highways, roads or bridges, or other transportation projects that are not designated improvements in the Transportation System Plan.
- h. Construction, reconstruction, or widening of highways, roads or bridges, or other transportation projects that are not designed and constructed as part of an approved subdivision or partition.

Transportation Facilities and Improvements in subsections g. and h. require a Conditional Use Permit (CU) under Section 4.4.400D.

Transportation mode - The method of transportation (e.g., automobile, bus, walking, bicycling, etc.)

Triplex - A building with three attached housing units on one lot or parcel.

Vacate plat/street - To abandon a subdivision or street right-of-way. For example, *vacation* of a public right-of-way that is not needed or cannot be used for a street or other public purpose. A plat may be vacated, returning the property to an undivided condition.

Variance - An administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this Code. See Chapter 5.1.

Vision clearance area - The shaded area as shown on the following figure is the Vision Clearance Area. This area is regulated and further described in section 3.1.200N of the code. This standard applies to driveways, streets, alleyways and railways.

Wetland - A land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities. It is defined more specifically by the Federal Clean Water Act (Section 404) and Oregon Administrative Rules (OAR 141-85-010). For more information, contact the Oregon Division of State Lands.

Window hood - An architectural detail placed above a window, used as an accent.

Wireless communication equipment - Includes cell towers, antennae, monopoles, and related facilities used for radio signal transmission and receiving.

Yard - The area defined by setbacks (i.e., between the setback line and respective property line).

Zero-lot line house –Single family home that is not subject to side yard setbacks on one side of a typical lot. See Chapter 2.1, Section 200.A.

Chapter 1.3 - Enforcement

Sections:

1.3.100 - Provisions of this Code Declared to be Minimum Requirements

1.3.200 - Violation of Code Prohibited

1.3.300 - Penalty

1.3.400 - Complaints Regarding Violations

1.3.500 - Inspection and Right of Entry

1.3.600 - Abatement of Violations

1.3.700 - Stop-Order Hearing

1.3.100 Provisions of this Code Declared to be Minimum Requirements

A. Minimum requirements intended. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare

B. Most restrictive requirements apply. When the requirements of this Code vary from other provisions of this Code or with other applicable standards, the most restrictive or that imposing the highest standard shall govern.

1.3.200 Violation of Code Prohibited

No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code or any amendment thereto.

1.3.300 Penalty

A. Class D Violations. A violation of this Code shall constitute a Class D violation as defined in Chapter 153 of the Oregon Revised Statutes or as hereafter amended and the fine for such a violation shall be set forth in Chapter 153 of the Oregon Revised Statutes for a Class D violation as presently defined or as hereafter amended.

B. Each violation a separate infraction. Each violation of a separate provision of this Code shall constitute a separate infraction, and each day that a violation of this Code is committed or permitted to continue shall constitute a separate infraction.

C. Abatement of violation required. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

D. Responsible party. If a provision of this Code is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

1.3.400 Complaints Regarding Violations

- A. **Filing written complaint.** Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a signed, written complaint.
- B. **File complaint with City Manager.** Such complaints, stating fully the causes and basis thereof, shall be filed with the City Manager. The City Manager or his/her designee shall properly record such complaints, investigate and take action thereon as provided by this Code.

1.3.500 Inspection and Right of Entry

[customize this section, as necessary, with assistance of the City attorney]

1.3.600 Abatement of Violations

Any development or use which occurs contrary to the provisions of this Code or contrary to any permit or approval issued or granted under this Code is unlawful, and may be abated by appropriate proceedings.

1.3.700 Stop-Order Hearing

- A. **Stop order issued.** Whenever any work is being done in violation of the provisions of the Code or a condition of any permit or other approval granted pursuant hereto, the City Manager or his/her designee may order the work stopped by notice in writing served on persons engaged in doing such work or causing such work to be done. All work under the permit or approval shall cease until it is authorized to continue.
- B. **Stop order hearing.** The City Manager shall schedule a hearing if requested on the stop order for the earliest practicable date, but not more than 30 days after the effectiveness of any required notice. At the discretion of the City Manager such hearing shall be either of the following:
1. **Part of a hearing on revocation of the underlying development approval;** or
 2. **Solely to determine whether a violation has occurred.** The City Manager shall hold this hearing and shall make written findings as to the violation within 30 days of issuing the stop-work order. Upon a finding of no violation, the Planning Commission shall require the issuance of a resume work order. Upon finding a violation, the stop order shall continue to be effective until the violating party furnishes sufficient proof to the Planning Commission that the violation has been abated. The Planning Commission decision is subject to review under Chapter 4.1.500 - Type III (Public Hearing) Procedure.

Chapter 2.0 — Land Use Districts

2.0 - Land Use District Administration

2.1 - Residential (R) District

2.2 - Placeholder For Downtown District (Pending)

2.3 - General Industrial (GI) District

2.4 - Light Industrial (LI) District

2.0 - Land Use District Administration

Sections:

2.0.100 - Classification of Land Use Districts

2.0.200 - Land Use District Map

2.0.300 - Determination of Land Use District Boundaries

2.0.100 Classification of Land Use Districts

All areas within the urban growth boundary of the City of Boardman are divided into land use districts. The use of each lot, parcel and tract of land is limited to the uses permitted by the applicable land use district. The applicable land use district shall be determined based on the Land Use District Map, and the provisions of this Chapter.

2.0.200 Land Use District Map

- A. **Consistency with land use district map.** The boundaries of each of the land use districts contained within this chapter shall coincide with the land use district boundaries identified on the City's official zoning map, retained by the City Recorder. Said map by this reference is made a part of this Land Development Code. A certified print of the adopted land use district map, and any map amendments, shall be maintained by the City.
- B. **Applicability of zoning requirements.** Each lot, tract and parcel of land or portion thereof within the land use district boundaries as designated and marked on the zoning map, is classified, zoned and limited to the uses as hereinafter specified and defined for the applicable district classification.
- C. **Land use district map amendments.** All amendments to the City land use district (zoning) map shall be made in accordance with the provisions of Chapter 4.7.
1. Copies of all map amendments shall be dated with the effective date of the ordinance adopting the map amendment, and shall be maintained without change, together with the adopting documents, on file at the City; and
 2. The City shall make available for public inspection an up-to-date copy of the revised land use district map, so that it accurately portrays changes of zone boundaries or classification.

2.0.300 Determination of Land Use District Boundaries

- A. Land Use District Boundaries.** Where due to the scale, lack of scale, lack of detail or illegibility of the City zoning district map, or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of district boundary lines, the boundary lines shall be determined by the City Manager in accordance with the following:
1. Boundaries indicated as approximately following the center lines of streets, highways, railroad tracks or alleys shall be constructed to follow such center lines;
 2. Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries;
 3. Boundaries indicated as approximately following a City boundary, or the Urban Growth Boundary, shall be constructed as following said boundary;
 4. Boundaries indicated as approximately following river, stream and/or drainage channels or basins shall be constructed as following river, stream and/or drainage channels or basins, as applicable; and
 5. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same land use district designation that is applicable to lands abutting the vacated area. In cases where the right-of-way formerly served as a land use district boundary, the lands formerly within the vacated right-of-way shall be allocated proportionately between the subject land use districts.

Chapter 2.1 - Residential (R) District

Sections:

- 2.1.100 - Purpose
- 2.1.110 - Permitted Land Uses
- 2.1.120 - Building Setbacks
- 2.1.130 - Lot Area and Dimensions
- 2.1.140 - Flag Lots and Lots Accessed by Mid-Block Lanes
- 2.1.150 - Maximum Lot Coverage
- 2.1.160 - Building Height
- 2.1.170 - Building Orientation
- 2.1.180 - Design Standards
- 2.1.190 - Special Standards for Certain Uses
- 2.1.200 - Residential Sub Districts
 - 2.1.300 - Future Urban (FU)
 - 2.1.400 - Multi-Family (MF)
 - 2.1.500 - Manufactured Home Park (MH)
 - 2.1.600 - Sunridge Terrace Sub-District

2.1.100 Purpose

The Residential District is intended to promote the livability, stability and improvement of the City of Boardman's neighborhoods. This chapter provides standards for the orderly expansion and improvement of neighborhoods based on the following principles:

- Make efficient use of land and public services, and implement the Comprehensive Plan, by providing minimum lot areas.
- Accommodate a range of housing needs, including owner-occupied and rental housing.
- Provide for compatible building and site design at an appropriate neighborhood scale.
- Reduce reliance on the automobile for neighborhood travel and provide options for walking and bicycling. Provide direct and convenient access to schools, parks and neighborhood services.

2.1.110 Permitted Land Uses

- A. Permitted Uses.** The land uses listed in Table 2.1.110.A are permitted in the Residential District, subject to the provisions of this Chapter. Only land uses which are specifically listed in Table 2.1.110.A, and land uses which are approved as "similar" to those in Table 2.1.110, may be permitted. Land uses identified as "Sub District Only" are permitted only within the applicable Sub District. The land uses identified with a "CU" in Table 2.1.110.A require Conditional Use Permit approval prior to development or a change in use, in accordance with Chapter 4.4.
- B. Determination of Similar Land Use.** Similar use determinations shall be made in conformance with the procedures in Chapter 4.8 - Interpretations.

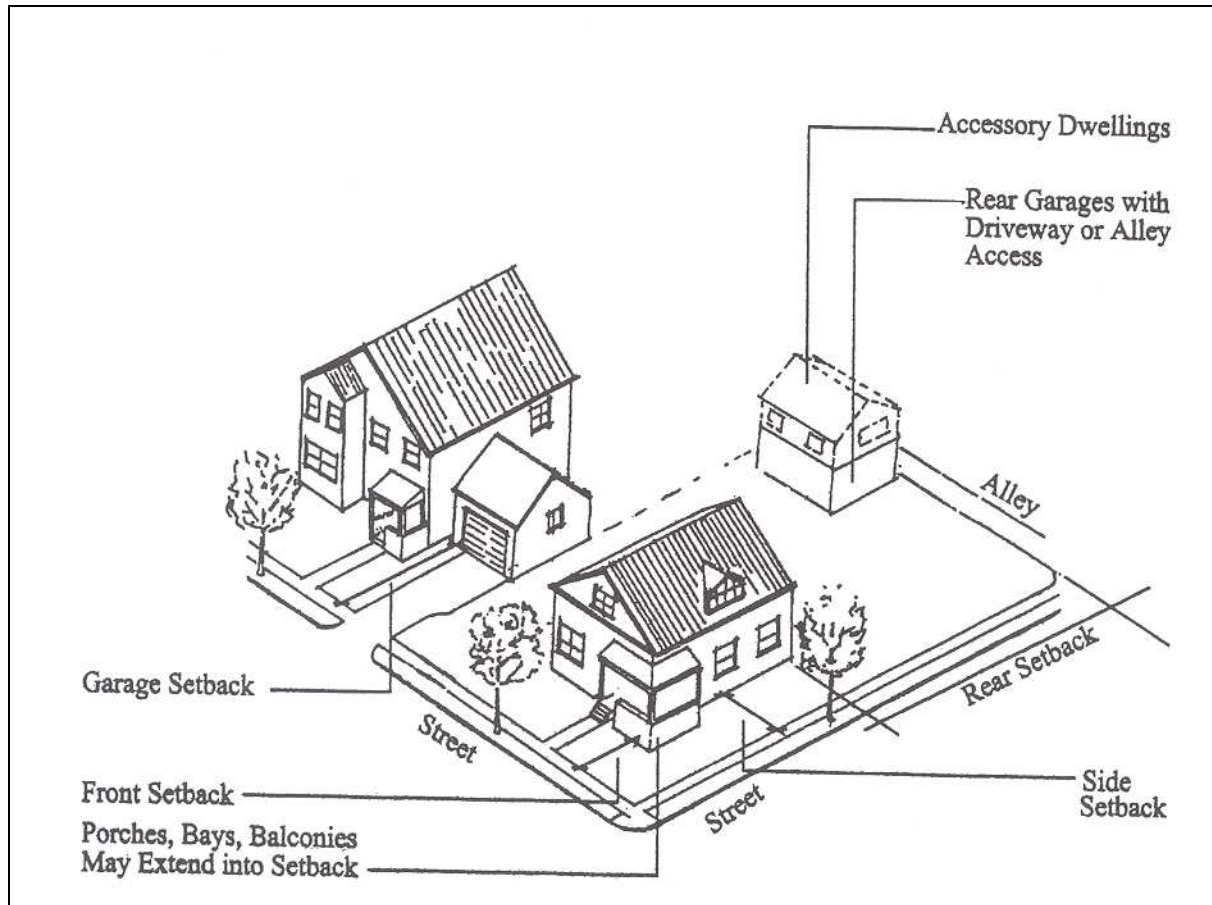
2.1.110 Permitted Land Uses (continued)

Table 2.1.110.A Land Uses and Building Types Permitted in the Residential District		
1. Residential:	6. Public and Institutional *:	i. Transitional housing
<i>Single-family</i>		j. Uses similar to those listed above
a. Single-family detached housing	a. Churches and places of worship (CU)	7. Neighborhood Commercial (MF Sub District only)*:
b. Single-family detached zero-lot line*	b. Clubs, lodges, similar uses (CU)	Each of the following uses is “size limited” and subject to provisions in Section 2.1.200 Special Standards for Certain Uses:
c. Manufactured homes – individual lots* (Sunridge Terrace Sub-District subject to provisions of 2.1.600)	c. Government offices and facilities (administration, public safety, utilities, and similar uses) (CU)	a. Child Care Center (care for more than 12 children)
d. Manufactured Home Park (MH Sub District only)*	d. Libraries, museums, community centers, and similar uses (CU)	b. Food services, excluding automobile-oriented uses
e. Single-family attached townhomes *	e. Private utilities (CU)	c. Laundromats and dry cleaners
<i>Two- and Three-Family</i>	f. Public parks and recreational facilities (CU)	d. Retail goods and services
f. Two- and three-family housing (duplex and triplex)*	g. Schools (public and private) (CU)	e. Medical and dental offices, clinics and laboratories
<i>Multi-family</i>	h. Transportation Facilities and Improvements:	f. Personal services (e.g., barber shops, salons, similar uses)
g. Multi-family housing (MF Sub District only)*	1. Normal operation, maintenance;	g. Professional and administrative offices
<i>Residential care</i>	2. Installation of improvements within the existing right-of-way;	h. Mixed use building (residential with other permitted use)
h. Residential care homes and facilities*	3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval;	i. Recreational Vehicle Parks (CU)* East Columbia Ave. MF Overlay District only
i. Family daycare	4. Landscaping as part of a transportation facility;	j. Other similar uses
2. Home occupations*	5. Emergency Measures;	8. Bed & breakfast inns and vacation rentals (CU)*
3. Accessory Uses and Structures *	6. Street or road construction as part of an approved subdivision or partition;	
4. Master Planned Neighborhoods (CU)*	7. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and	
5. Agricultural/Farm Uses (FU Sub District only)	8. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU)	

Uses marked with an asterisk (*) are subject to the standards in Section 2.1.190, “Special Standards for Certain Uses.” Temporary uses are subject to the standards in Section 4.9. ** Uses marked with two asterisks are subject to the standards in Section 4.4.400 D. CU= Conditional Use Permit Required

Only uses specifically listed in Table 2.1.110.A, and uses similar to those in Table 2.1.110.A, are permitted in the Residential District.

2.1.120 – Building Setbacks



Building Setbacks

Building setbacks provide space for private yards, and building separation for fire protection/security, building maintenance, sun light and air circulation. This section is also intended to promote human-scale design and traffic calming by downplaying the visual presence of garages along the street and encouraging the use of extra-wide sidewalks and pocket parks in front of markets and other non-residential uses. The standards encourage placement of residences close to the street for public safety and neighborhood security.

Building setbacks are measured from the face of the building, excluding porches, to the respective property line. Setbacks for decks and porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following page and illustrated above, apply to primary structures as well as accessory structures. A variance is required in accordance with Chapter 5.1 to modify any setback standard.

2.1.120 – Building Setbacks *(continued)***A. Front Yard Setbacks.**

1. Residential Uses (single family, duplex and triplex, multi-family housing types)
 - a. A minimum setback of 15 feet is required, except that an unenclosed porch may be within 8 feet of the front lot line, as long as it does not encroach into a public utility easement. See also, Section F, which provides standards for Setbacks for Established Residential Areas.
 - b. Garages and carports shall be accessed from alleys or the entrances must be set back from the front lot line a minimum of 20 feet.
 - c. Multi-family housing shall also comply with the building orientation standards in Section 2.1.180.
2. Neighborhood Commercial Buildings and Public/Institutional Buildings. A minimum front setback is not required, except as necessary to comply with the vision clearance standards in Chapter 3.1.200.

B. Rear Yard Setbacks.

The minimum rear yard setback shall be 15 feet for street-access lots and 6 feet for alley-access lots for all structures.

C. Side Yard Setbacks.

The minimum side yard setback shall be 7 feet on interior side yards, and 15 feet on street corner yards; or when zero-lot line development is permitted, the minimum side yard setbacks shall be 14 feet minimum on one side of the dwelling unit, and no setback required on the opposite side. (See standards for zero-lot line housing in Section 2.1.190.)

D. Setback Exceptions.

The following architectural features are allowed to encroach into the setback yards:

- 1) Eaves, chimneys, bay windows, overhangs, and similar architectural features may encroach into setbacks by no more than 3 feet.
- 2) Porches, decks and similar structures not exceeding 36 inches in height may encroach into setbacks by no more than 6 feet, subject to the front yard setback provisions in “A”.
- 3) Accessory structures of 200 square feet or less shall meet the provisions contained in 2.1.190 (F).
- 4) Walls and fences may be placed on property lines, subject to the standards in Chapter 3.2 - Landscaping and Fences and Walls. Walls and fences within front yards shall additionally comply with the vision clearance standards in Section 3.1.200.

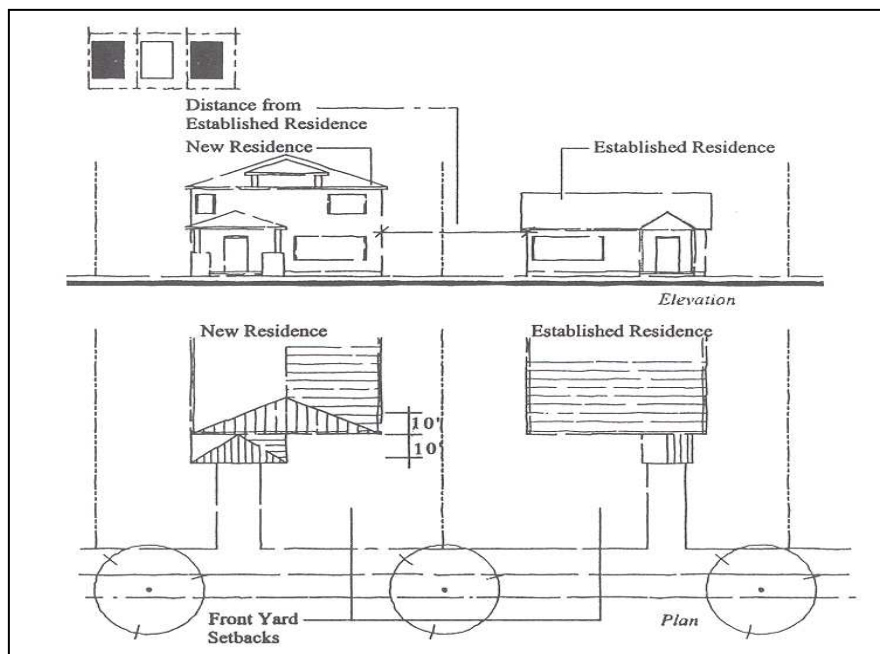
2.1.120 - Building Setbacks (continued)
E. Special Yards - Distance Between Buildings on the Same Lot.

To provide usable yard area and allow air circulation and light, the minimum distance between buildings on the same lot shall be at least one-half ($\frac{1}{2}$) the sum of the height of both buildings; provided, however, that in no case shall the distance be less than 10 feet. This requirement shall also apply to portions of the same buildings separated from each other by a court, landscape yard, or other open space.

F. Setbacks for Infill Housing in Established Residential Areas.

"Established residential area" means an area within the Residential District that was platted prior to the effective date of this ordinance. In such areas, the following setback standards shall apply:

Figure 2.1.120F - Infill/Established Residential Area Setbacks

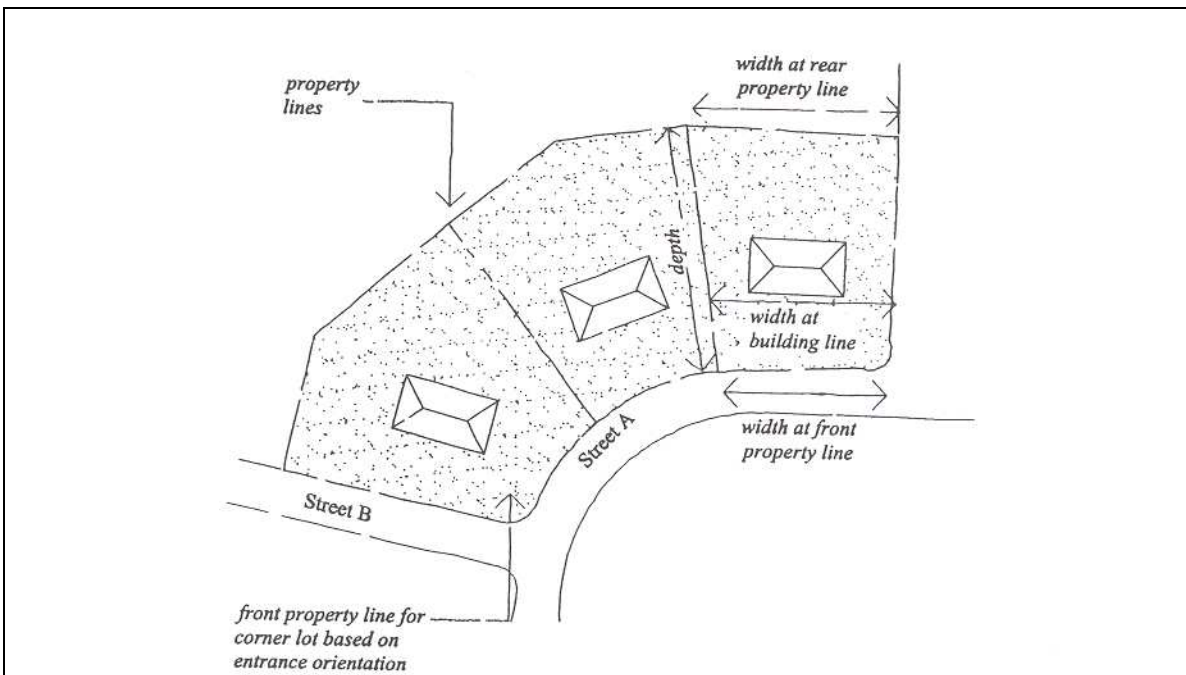


2.1.120 – Building Setbacks (*continued*)

1. When an existing single family residence on the same street is located within 40 feet of the subject site, a front yard setback similar to that of the nearest single family residence shall be used. “Similar” means the setback is within 5 feet of the setback provided by the nearest single family residence on the same street. For example, if the existing single family residence has a front yard setback 20 feet, then the new building shall have a front yard setback between 15 feet and 25 feet. If the new building is to be located between two existing residences, then the setback for the new building shall be based on the average setback of both adjacent residences, plus or minus 10 feet.
2. In no case shall a front yard setback be less than 10 feet. Zero-lot line houses shall comply with the standards for zero-lot line housing in Section 2.1.190.
3. The standards in 1-2 shall not be changed, except through a Class B Variance (i.e., to avoid significant trees, topographic constraints or other sensitive lands).

2.1.130 - Lot Area and Dimensions

Figure 2.1.130 - Lot Dimensions



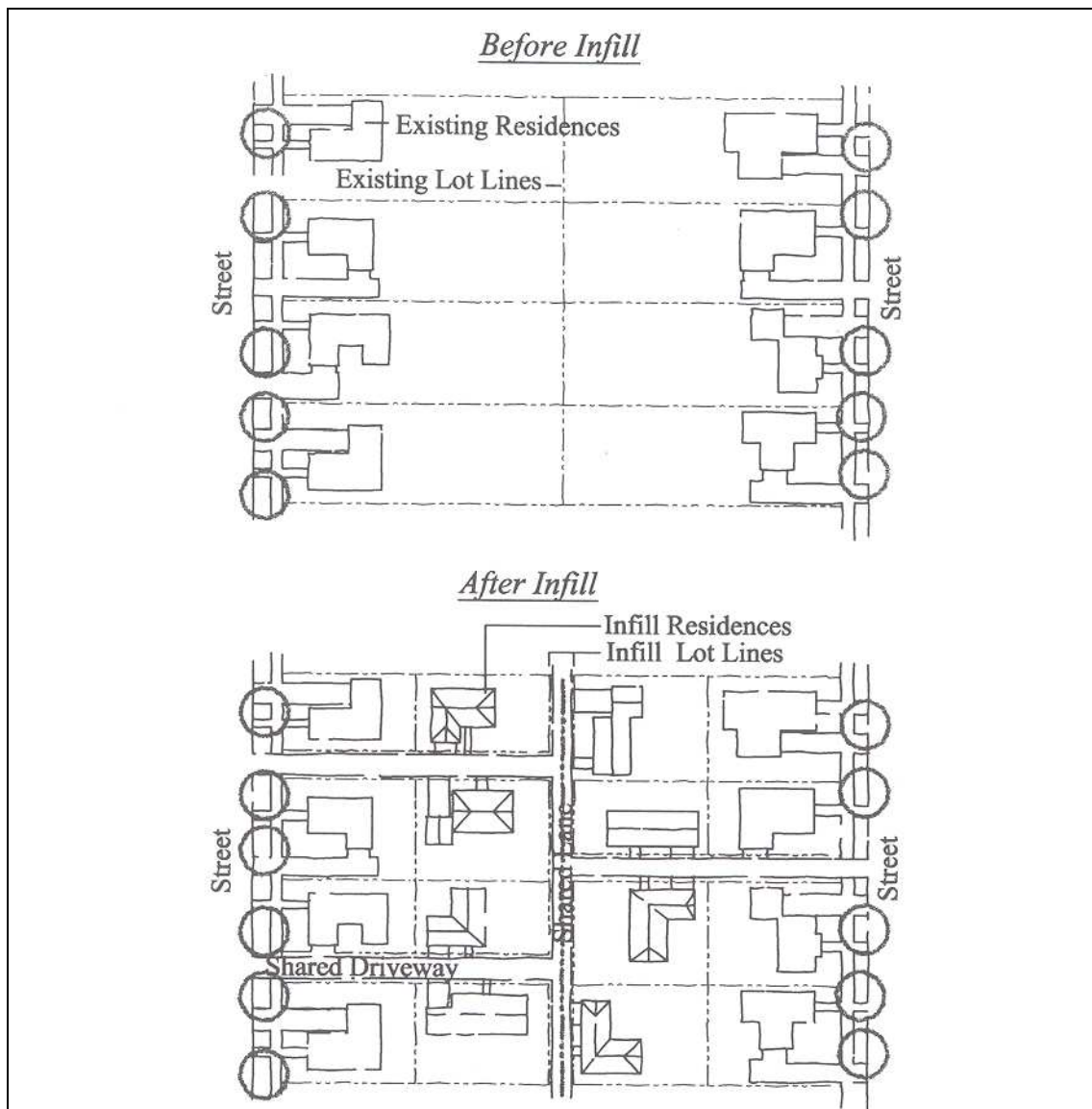
<i>Land Use</i>	<i>Lot Area*</i>	<i>Lot Width/Depth</i>	<i>Related Standards</i>
Detached Single Family Housing; Manufactured Homes on Lots	Minimum: 8,000 square feet, 6,300 square feet for lots with frontages over 80 feet.	Minimum Width: 70 feet, 30 feet for lots with a radius frontage, except for flag lots and lots served by private lanes (See Section 2.1.140) Maximum Depth: Three (3) times the lot width; except as may be required by this code (e.g., to protect sensitive lands, etc.) Minimum Depth: 70 feet as long as minimum lot area criteria is met	The average lot area and residential floor area in new developments shall conform to the standards in Section 2.1.150 - Building Size.
Two-and Three-Family Housing (duplex and triplex)	Minimum area for two-family: 8,000 square feet. Minimum area for Three-family: 9,000 square feet.	Minimum Width: 80 feet at front property line, except for flag lots and lots served by private lanes (See Section 2.1.140) Maximum Depth: Three (3) times the lot width; except as required to protect sensitive lands, etc.	The average lot area and residential floor area in new developments shall conform to the standards in Section 2.1.150 - Building Size.
Attached (Townhome) Single Family Housing	Minimum area: 3,000 square feet.	Minimum Width: 30 feet at front property line, except for flag lots and lots served by private lanes (See Section 2.1.140) Maximum Depth: Three (3) times the lot width except as may be required by this code (e.g., to protect sensitive lands, etc.)	The average lot area and residential floor area in new developments shall conform to the standards in Section 2.1.150 Building Size.
Multi-family Housing (more than 3 units)	Minimum area: 10,000 square feet.	Minimum Width: 80 feet at front property line. Maximum Depth: None.	The maximum lot/parcel area is controlled by the Block Area standards in Chapter 3.1 - Access and Circulation.
Manufactured Home Parks	See Section 2.1.190 for Manufactured Home Park standards.		
Public and Institutional Uses	Minimum area: None.	Minimum Width: 60 feet at front property line. Maximum Depth: None.	The maximum lot/parcel area is controlled by the Block Area standards in Chapter 3.1 - Access and Circulation.
Residential Commercial Uses	Minimum area: None.	Minimum Width: 60 feet at front property line. Maximum Depth: None.	The maximum lot/parcel area is indirectly controlled by the floor area standards for Residential Commercial development, as provided in Section 2.1.200.

*Lot sizes in proposed subdivisions may be averaged so that average lot size is in this range.

2.1.140 - Flag Lots and Lots Accessed by Mid-Block Lanes

As shown below, some lots in existing neighborhoods may have standard widths but may be unusually deep compared to other lots in the area. Essentially unused space at the back of a lot may provide room for one or more lots for infill housing. Infill lots may be developed as “flag lots” or “mid-block developments”, as defined below:

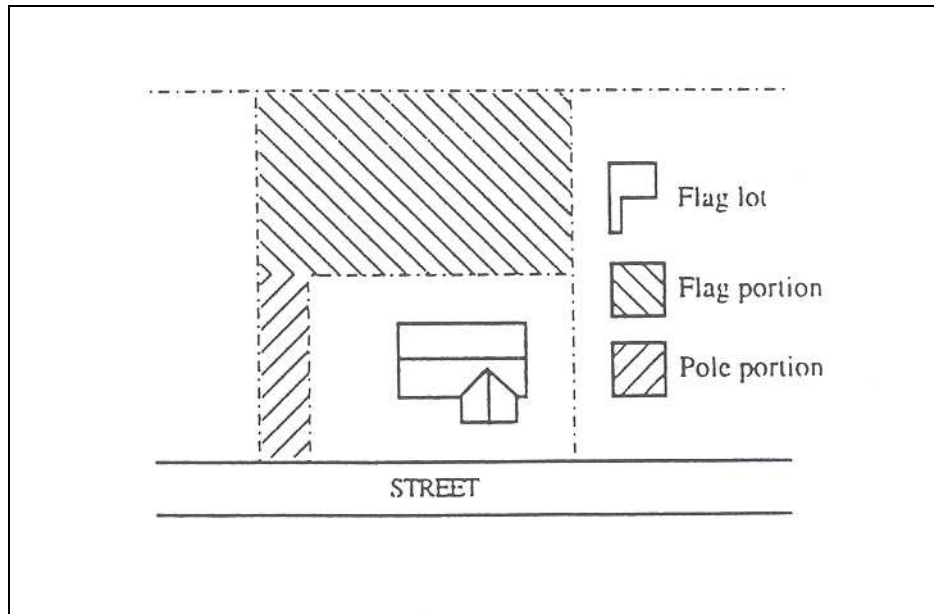
Figure 2.1.140A – Mid-block Infill



2.1.140 - Flag Lots and Lots Accessed by Mid-Block Lanes *(continued)*

- A. **Mid-block lanes.** Lots may be developed without frontage onto a public street when lot access is provided by a series of mid-block lanes, as shown above. Mid-block lanes shall be required whenever practicable as an alternative to approving flag lots. The lanes shall meet the standards for alleys, per Chapter 3.4.100, and subsections C-F, below.

Figure 2.1.140B - Flag Lot (Typical)



- B. **Flag lots.** Flag lots may be created only when mid-block lanes cannot be extended to serve future development. A flag lot driveway may serve no more than two (2) dwelling units, including accessory dwellings and dwellings on individual lots, unless Uniform Fire Code (UFC) standards are met for more units. When UFC standards are met, the maximum number of dwellings shall be six (6). A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots. No fence, structure or other obstacle shall be placed within the drive area.
- C. **Driveway and lane width.** The minimum width of all shared drives and lanes shall be 12 feet; the maximum width is 20 feet, except as required by the Uniform Fire Code.
- D. **Dedication of drive lane.** The owner shall dedicate 12 feet of right-of-way or record a 12 foot wide easement (i.e., 6 feet from each property sharing a drive) for vehicle access similar to an alley. Dedication or recording, as applicable, shall be so indicated on the face of the subdivision or partition plat.
- E. **Maximum drive lane length.** The maximum drive lane length is subject to requirements of the Uniform Fire Code, but shall not exceed 150 feet for a shared side drive, and 400 feet for a shared rear lane.

2.1.140 - Flag Lots and Lots Accessed by Mid-Block Lanes *(continued)*

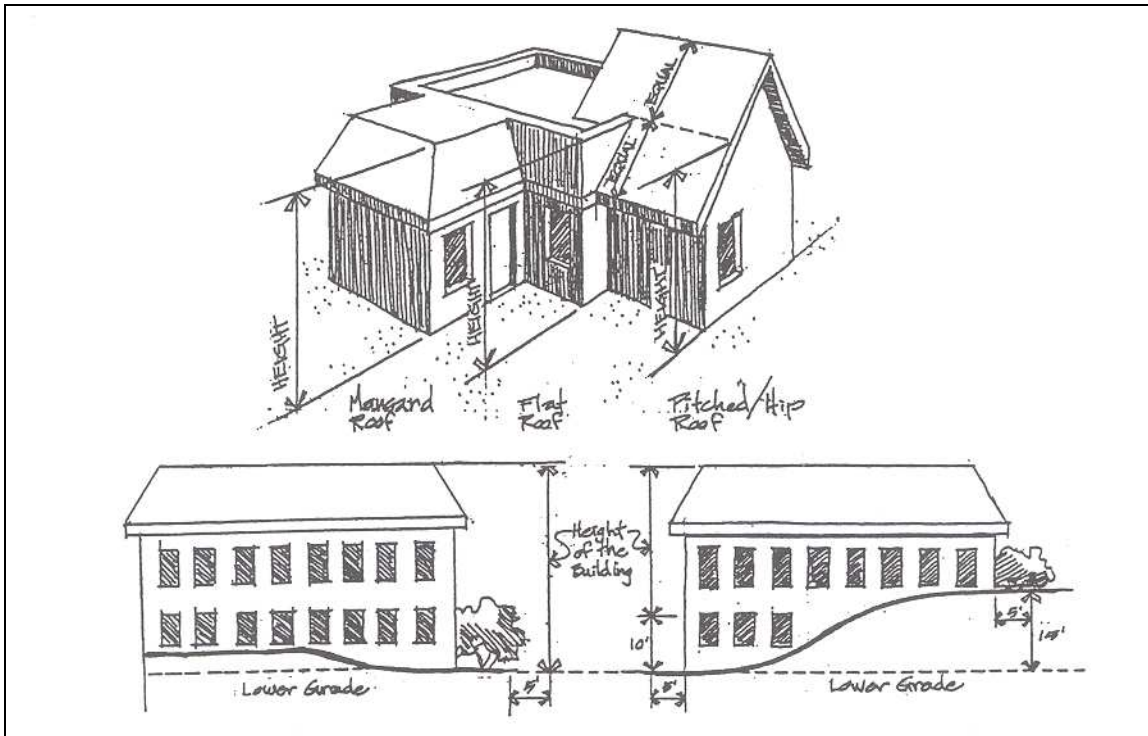
- F. **Future street plans.** Building placement and alignment of shared drives shall be designed so that future street connections can be made as surrounding properties develop (i.e., as shown in Figure 2.1.140A).
- G. **Flag lot access.** Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway system or other arterials.
- H. **Waiver of Remonstrance.** A waiver is required for all utility improvements. Utility upgrade may be required for approval.

2.1.150 - Maximum Lot Coverage

- A. **Maximum Lot Coverage.** The following maximum lot coverage standards shall apply to all development in this district:
1. Single Family Detached Houses - 40 percent
 2. Duplexes and Triplexes - 60 percent
 3. Single Family Attached Townhomes - 60 percent
 4. Multiple Family Housing - 60 percent
 5. Neighborhood Commercial and Public/Institutional Uses - 80 percent
- B. **Lot Coverage Defined.** “Lot Coverage” means all areas of a lot or parcel covered by buildings (as defined by foundation perimeters) and other structures with surfaces greater than 36 inches above the finished grade.
- C. **Compliance.** Compliance with other sections of this code may preclude development of the maximum lot coverage for some land uses.

2.1.160 - Building Height

Figure 2.1.160 - Building Height Measurement (Composite of Several Roof Forms)

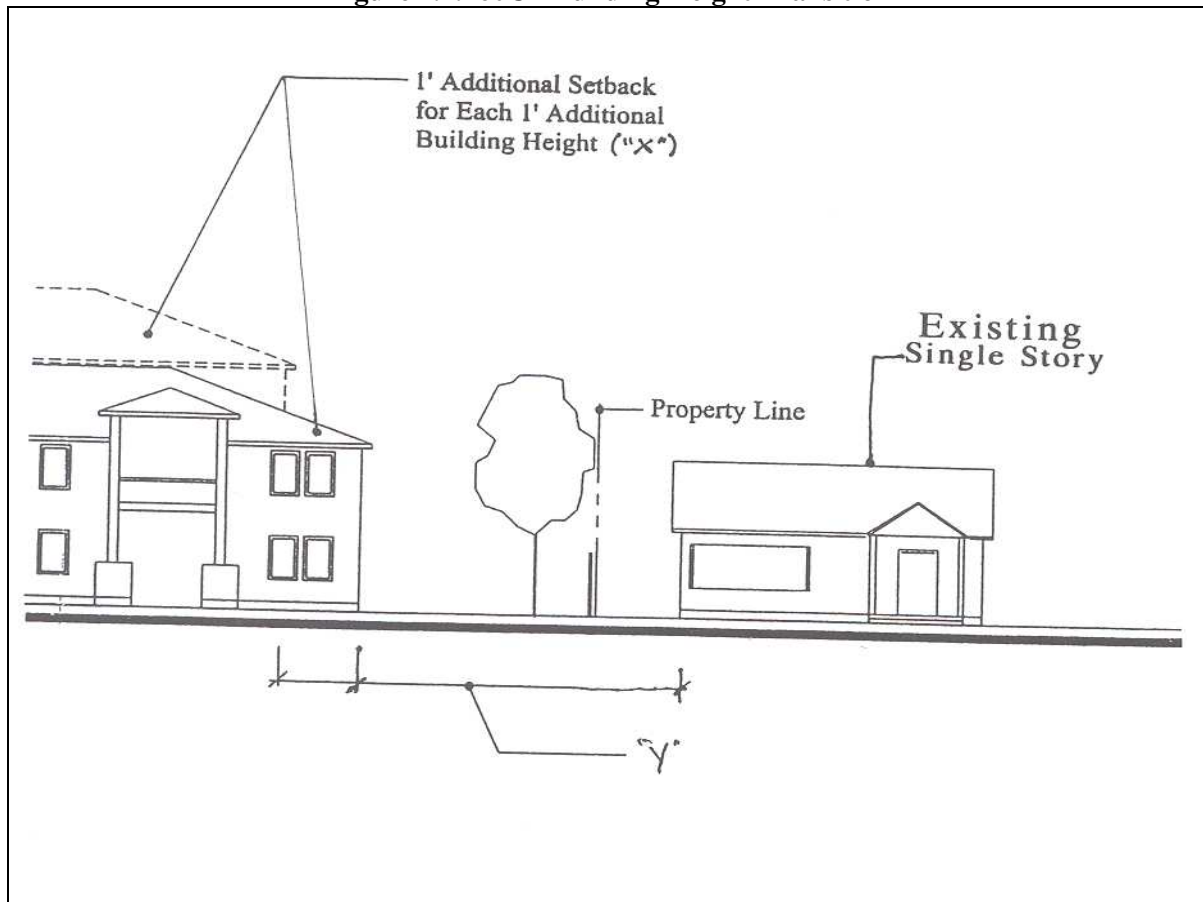


The following building height standards are intended to promote land use compatibility and support the principle of neighborhood-scale design:

- A. **Building Height Standard.** Buildings within the Residential District shall be no more than 35 feet for gabled roofs; 30 foot for flat roofs or 2 ½ stories high, whichever is greater, and buildings within the Multi-family Sub District may be up to 30 feet or 3 stories. Building height may be restricted to less than these maximums when necessary to comply with the Building Height Transition standard in “C” below. Not included in the maximum height are: chimneys, bell towers, steeples, roof equipment, flagpoles, and similar features which are not for human occupancy.
- B. **Method of Measurement.** “Building height” is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof (See above examples). The reference datum shall be selected by either of the following, whichever yields a greater height of building:
 - a. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade;

2.1.160 - Building Height *(continued)*

- b. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection 'a' is more than 10 feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

Figure 2.1.160C - Building Height Transition


C. Building Height Transition. To provide compatible building scale and privacy between developments, taller buildings shall “step-down” to create a building height transition to adjacent single-story building(s).

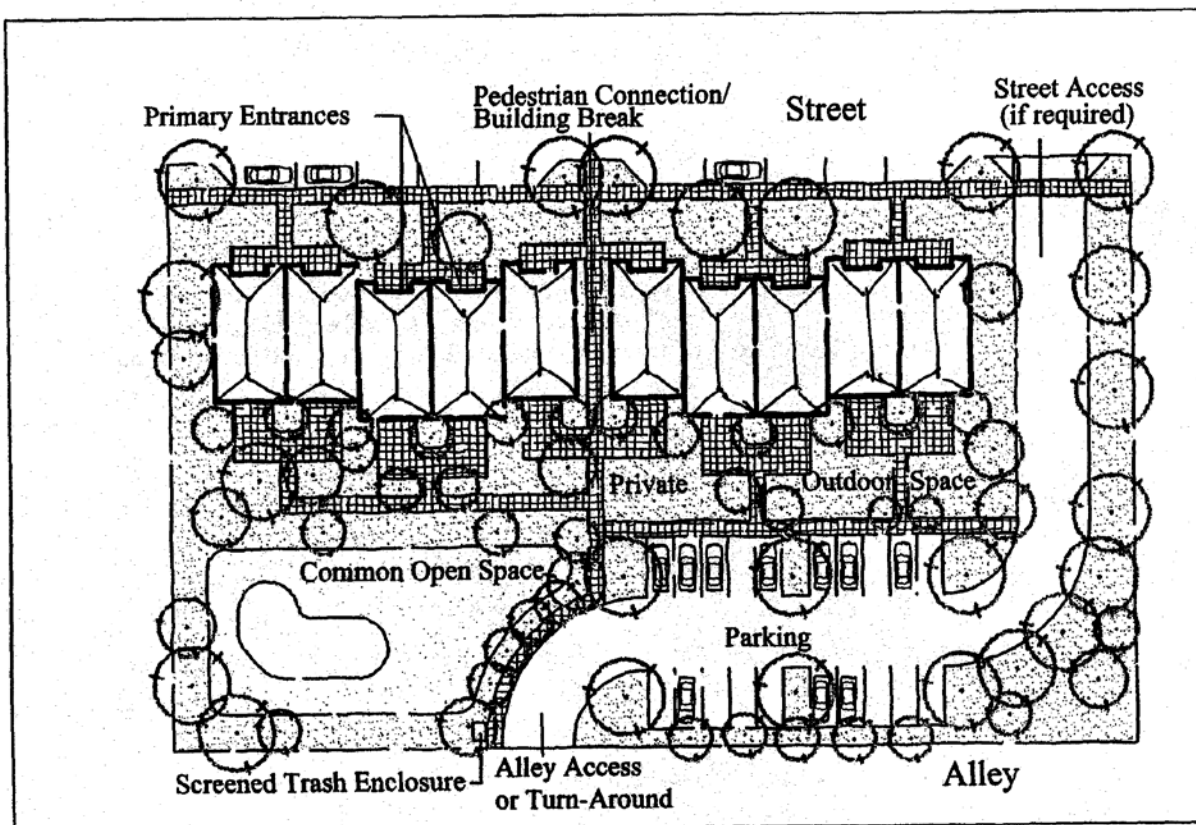
1. This standard applies to new and vertically expanded buildings within 20 feet (as measured horizontally) of an existing single-story building with a height of 20 feet or less, as shown above.
2. The building height transition standard is met when the height of the taller building (“x”) does not exceed one (1) foot of height for every one (1) foot separating the two buildings (“y”), as shown above.

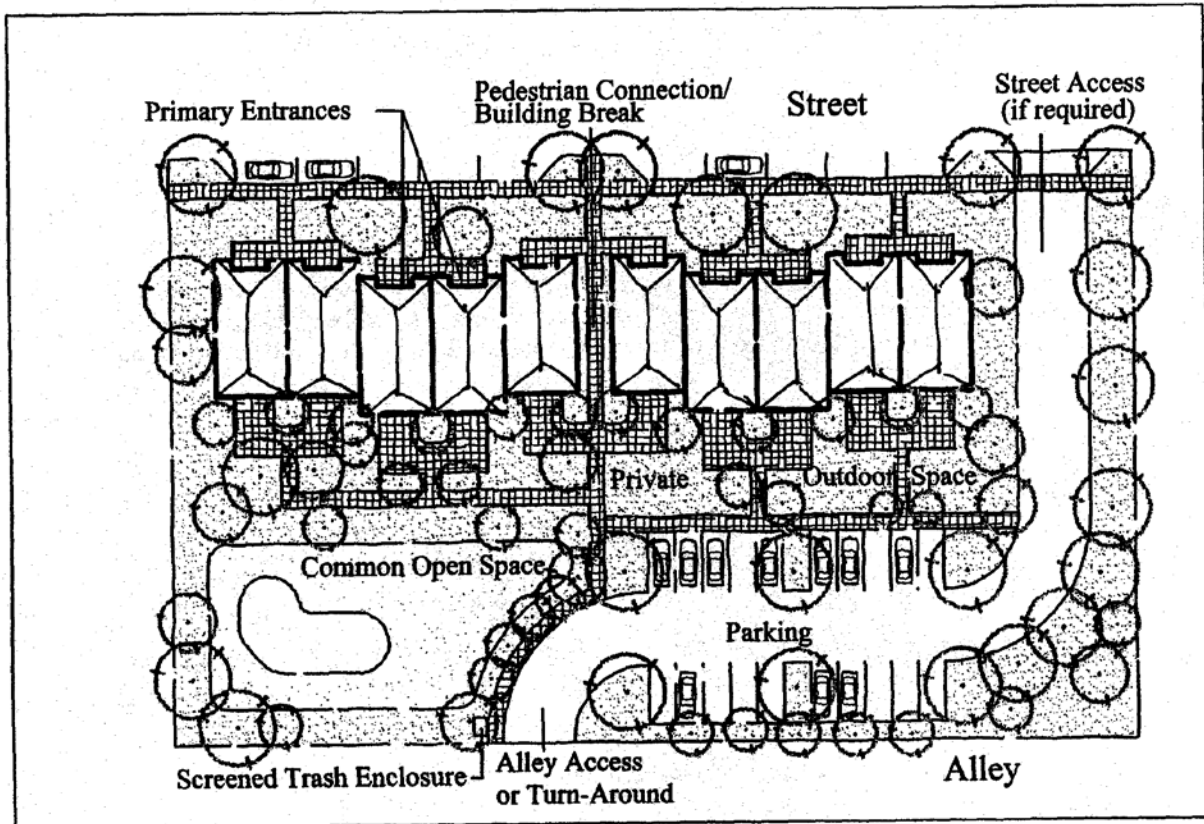
2.1.170 - Building Orientation**Typical Building Orientation
(Illustrations on following pages)**

- A. **Purpose.** The following standards are intended to orient buildings close to the street to promote human-scale development, slow traffic down, and encourage walking in neighborhoods. Placing residences and other buildings close to the street also encourages security and safety by having more “eyes-on-the-street”.
- B. **Applicability.** This section applies to: single-family dwellings, including manufactured houses, duplexes, and attached townhomes that are subject to Site Design Review (3 or more attached units); multi-family housing; neighborhood commercial buildings; and public and institutional buildings.
- C. **Building orientation standards.** All developments listed in “B” shall be oriented to a street. The building orientation standard is met when all of the following criteria are met:
1. Compliance with the setback standards in Section 2.1.120.
 2. All buildings shall have their primary entrance(s) oriented to the street. Multi-family and Neighborhood Commercial building entrances may include entrances to individual units, lobby entrances, or breezeway/courtyard entrances (i.e., to a cluster of units or commercial spaces). Alternatively, a multi-family building may have its entrance oriented to a side yard when a direct pedestrian walkway is provided between the building entrance and the street in accordance with the standards in Chapter 3.1 – Access and Circulation. In this case, at least one entrance shall be provided not more than 20 feet from the closest sidewalk or street.
 3. Off-street parking, driveways, and other vehicle areas shall not be placed between streets and buildings. Single-family dwellings, including manufactured houses, duplexes, and attached townhouses, are excepted from this standard.
- D. **Public Buildings.** The standard shall not apply to buildings which do not receive the public (e.g., buildings used solely for storage or for housing mechanical equipment; and similar uses.)

2.1.170 - Building Orientation *(continued)*

Figure 2.1.170A
Multifamily/Attached Housing – Building Orientation

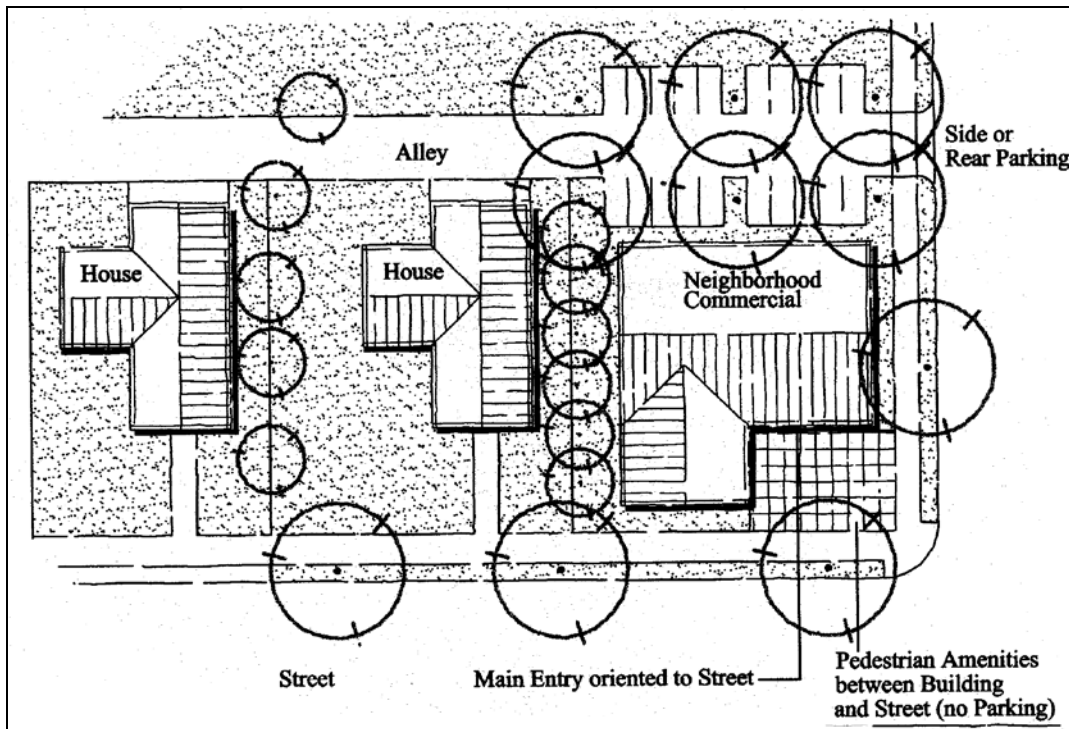
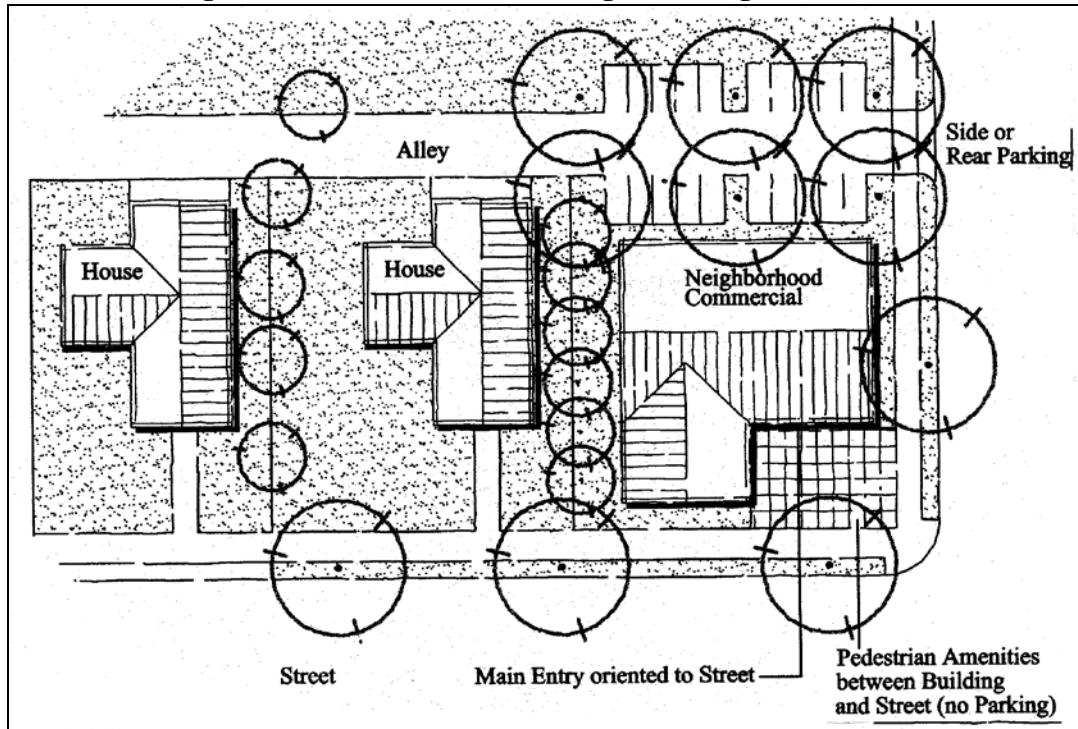




2.1.170 - Building Orientation (continued)

**Figure 2.1.170B
Neighborhood Commercial Building – Building Orientation**

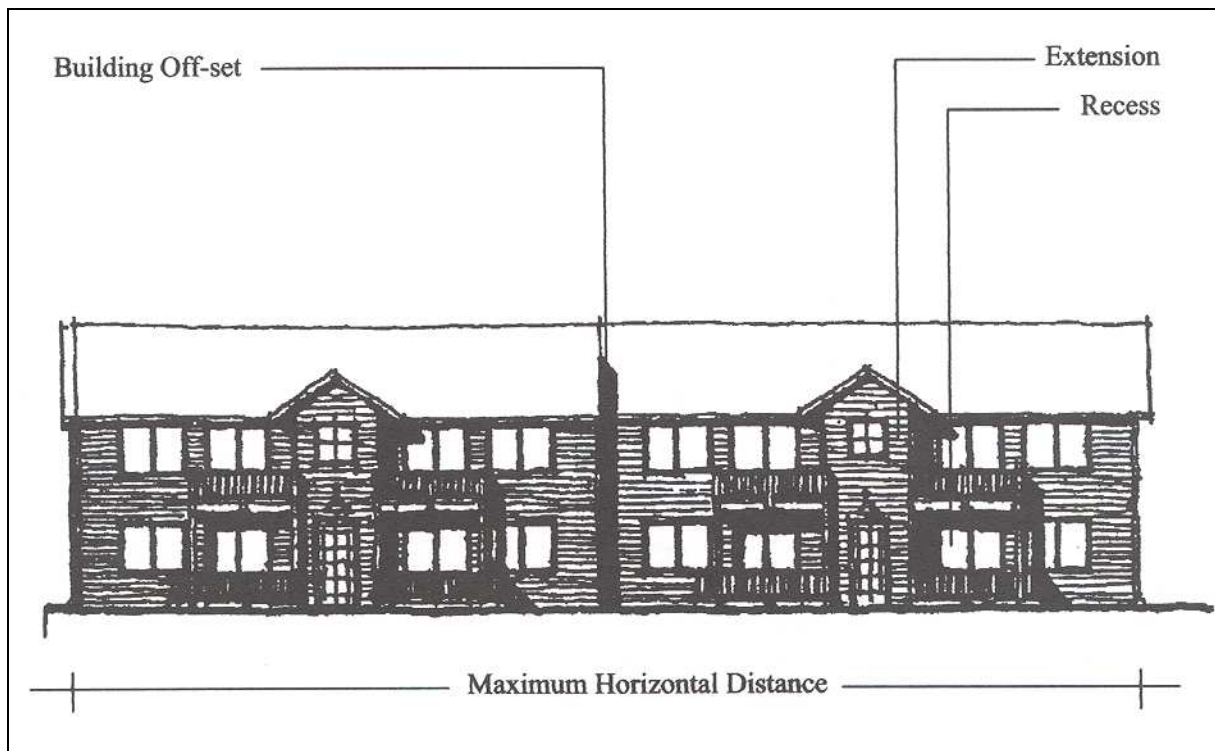
**Figure 2.1.170B
Neighborhood Commercial Building – Building Orientation**



2.1.180 – Design Standards

- A. **Purpose.** The architectural standards are intended to provide detailed, human-scale design, while affording flexibility to use a variety of building styles.
- B. **Applicability.** This section applies to all of the following types of buildings, and shall be applied during Site Design Review:
- Duplexes and Triplexes
 - Single family attached townhomes which are subject to Site Design Review (3 or more attached units);
 - Multi-family housing;
 - Public and institutional buildings;
 - Neighborhood Commercial and mixed use buildings; and
 - Single Family Residential, Section 2.1.180 (C) (4)
- C. **Standards.** As noted in 2.1.180 (B) all buildings which are subject to this Section shall comply with all of the following standards. The graphics provided with each standard are intended to show examples of how to comply. Other building styles and designs can be used to comply, so long as they are consistent with the text of this section. An architectural feature (i.e., as shown in the graphics) may be used to comply with more than one standard.

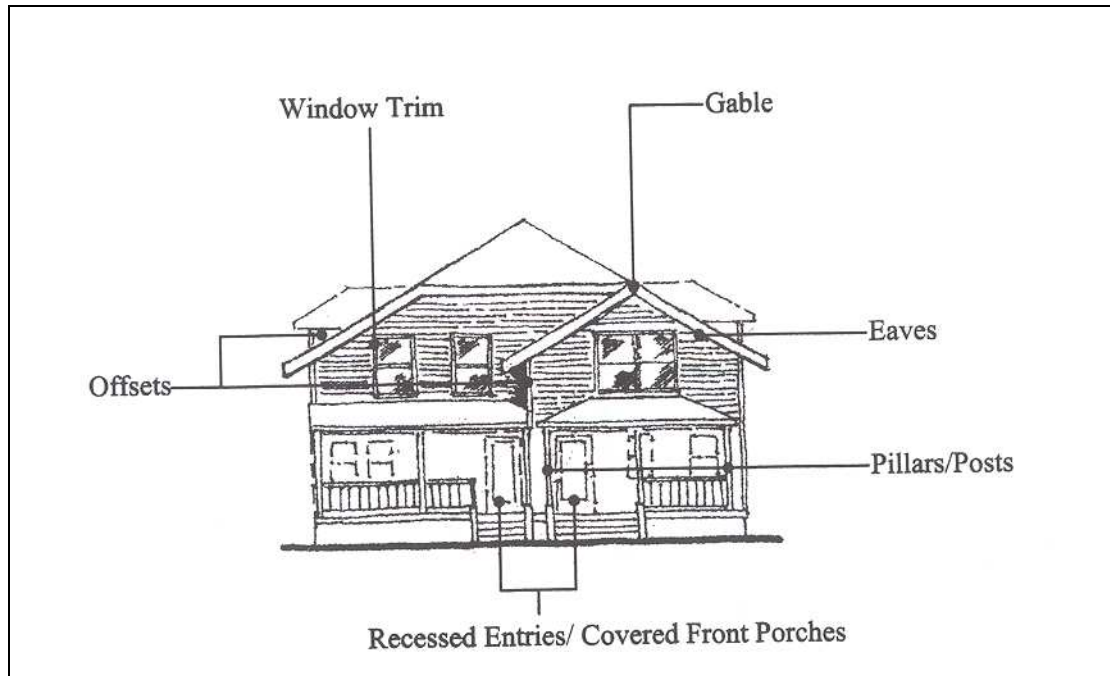
Figure 2.1.180C(1) - Building Form (Multi-family Housing Example)



2.1.180 – Design Standards (continued)

1. **Building Form.** The continuous horizontal distance (i.e., as measured from end-wall to end-wall) of individual buildings (single family residential units) shall not exceed 80 feet on more than two horizontal distance measurements. Duplexes and Triplexes reviewed by a Type I decision process in accordance with Section 4.2.200(B) shall not exceed 30 feet per living unit on more than two horizontal distance measurements. Duplexes and Triplexes reviewed by a Type II decision process in accordance with Section 4.2.400 shall not exceed 40 feet per living unit on more than two horizontal distance measurements. Multi-family buildings (more than 3 units) reviewed by a Type III decision process in accordance with Section 4.2.400(B) shall be not exceed 35 feet per living unit for no more than 4 units and shall be no more than 1 unit in depth. Alternative building designs meeting the Boardman Comprehensive Plan policies and the intent of Boardman Development Code Standards shall be considered through the Type III decision process, consistent with the Boardman Comprehensive Plan Chapter 10 – Housing, Policy 9, which states; *“The City shall give consideration to development of alternative residential construction both in form and layout for such reasons as aesthetics, energy conservation, reduced development costs and provision of open space.”*
2. All buildings shall incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of uninterrupted building surfaces, as shown in Figure 2.1.180(C)(1). Along the vertical face of a structure, such features shall occur at a minimum of every 40 feet, and on each floor shall contain at least two of the following features:
 - a. Recess (e.g., deck, patio, courtyard, entrance or similar feature) that has a minimum depth of 6 feet;
 - b. Extension (e.g., floor area, deck, patio, entrance, or similar feature) that projects a minimum of 2 feet and runs horizontally for a minimum length of 4 feet; and/or
 - c. Offsets or breaks in roof elevation of 2 feet or greater in height.
3. **Eyes on the Street.** All building elevations visible from a street right of way shall provide doors, porches, balconies, and/or windows. A minimum of 60 percent of front (i.e., street-facing) elevations, and a minimum of 30 percent of side and rear building elevations shall meet this standard. “Percent of elevation” is measured as the horizontal plane (lineal feet) containing doors, porches, balconies, terraces and/or windows. The standard applies to each full and partial building story.

Figure 2.1.180C(2) - Examples of Architectural Details



2.1.180 – Design Standards *(continued)*

3. Detailed Design. All buildings shall provide detailed design along all elevations (i.e., front, rear and sides). Detailed design shall be provided by using at least 5 of the following architectural features on all elevations, as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):
- a. Dormers
 - b. Gables
 - c. Recessed entries
 - d. Covered porch entries
 - e. Cupolas or towers
 - f. Pillars or posts
 - g. Eaves (minimum 6-inch projection)
 - h. Off-sets in building face or roof (minimum 16 inches)
 - i. Window trim (minimum 4-inches wide)
 - j. Bay windows
 - k. Balconies
 - l. Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation, and similar features)
 - m. Decorative cornices and roof lines (e.g., for flat roofs)
 - n. An alternative feature providing visual relief, similar to options a-m.

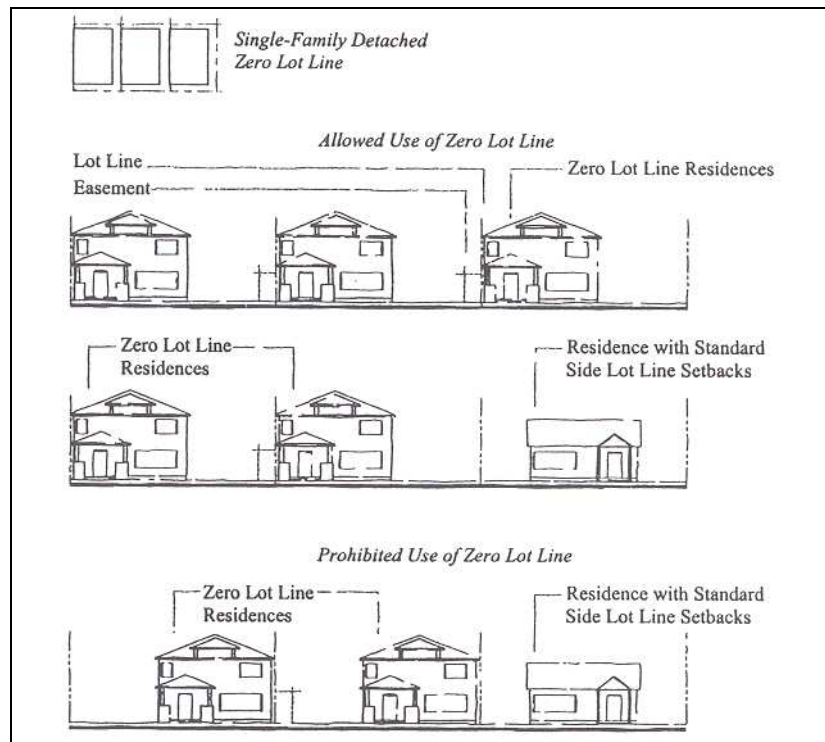
4. Garages & Carports. The home shall have a carport or garage constructed of like exterior materials, concrete or asphalt floor, and concrete or asphalt driveway from the street to the structure. The City may require an attached or detached garage where that would be consistent with the predominant construction of immediately surrounding residences.

2.1.190 - Special Standards for Certain Uses

This section supplements the standards contained Sections 2.1.100 through 2.1.190. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential District:

- A. **Zero-lot line (single family home).** “Zero-lot line” houses are subject to the same standards as single family housing, except that a side yard setback is not required on one side of a typical lot (as shown below). This type of housing is permitted to allow development on smaller (i.e., narrower) lots and still provide usable outdoor living area in side-oriented yards. The following standards are intended to promote compatibility and privacy between adjacent buildings and allow for building maintenance:

Figure 2.1.200A – Zero-Lot Line Housing



1. **Setbacks Adjacent to Non-Zero Lot Line Development.** When a zero-lot line house shares a side property line with a non-zero lot line development, the zero-lot line building shall be setback from the common property line by a minimum of 10 feet;
2. **Construction and Maintenance Easement.** Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero-lot line house that guarantees rights for the purpose of construction and maintenance of structures and yards. The easement shall stipulate that no fence or other obstruction shall be placed in a manner that would prevent maintenance of structures on the subject lot; and

2.1.190 - Special Standards for Certain Uses *(continued)*

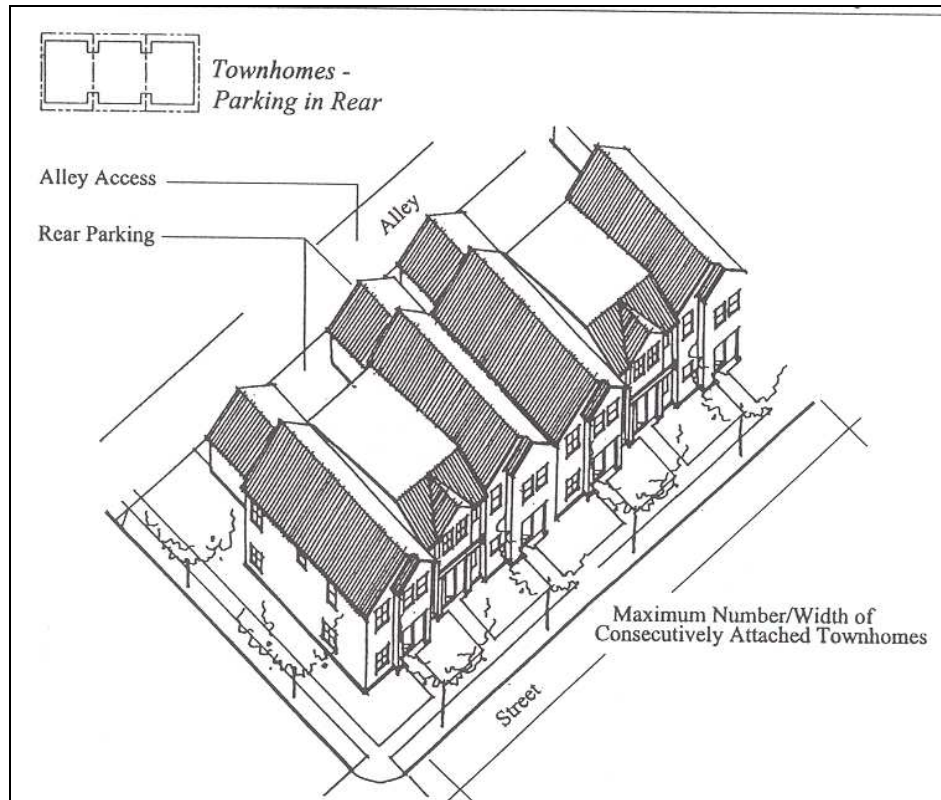
3. Buffering. The building placement, landscaping, and/or design of windows shall provide a buffer for the occupants of abutting lots. For example, this standard is met by placing ground-floor windows (along the zero setback) above sight lines with direct views into adjacent yards, or by directing views away from yards (e.g., bay window), or by using frosted/non-see-through windows, as necessary.

B. Manufactured homes on individual lots. Manufactured homes are permitted on individual lots, subject to all of the following design standards, consistent with ORS 197.307(5). Exception: The following standards do not apply to units which were placed on lots within the City prior to the effective date of this ordinance.

1. Floor Plan. The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 sq. ft;
2. Roof. The manufactured home shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees);
3. Residential Building Materials. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered “superior” to metal siding and roofing and vertical siding);
4. Garages and Carports. The manufactured home shall have a carport or a garage constructed of like exterior materials, concrete or asphalt floor, and concrete or asphalt driveway from the street to the structure. The City may require an attached or detached garage where that would be consistent with the predominant construction of immediately surrounding residences;
5. Thermal Envelope. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code. Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer’s certification shall not be required;
6. Placement. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918. Where the building site has a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home;
7. Foundation Skirt. The foundation area of the manufactured home shall be fully skirted with only 12 inches showing; and
8. Prohibited. The manufactured home shall not be located in a designated historic district.

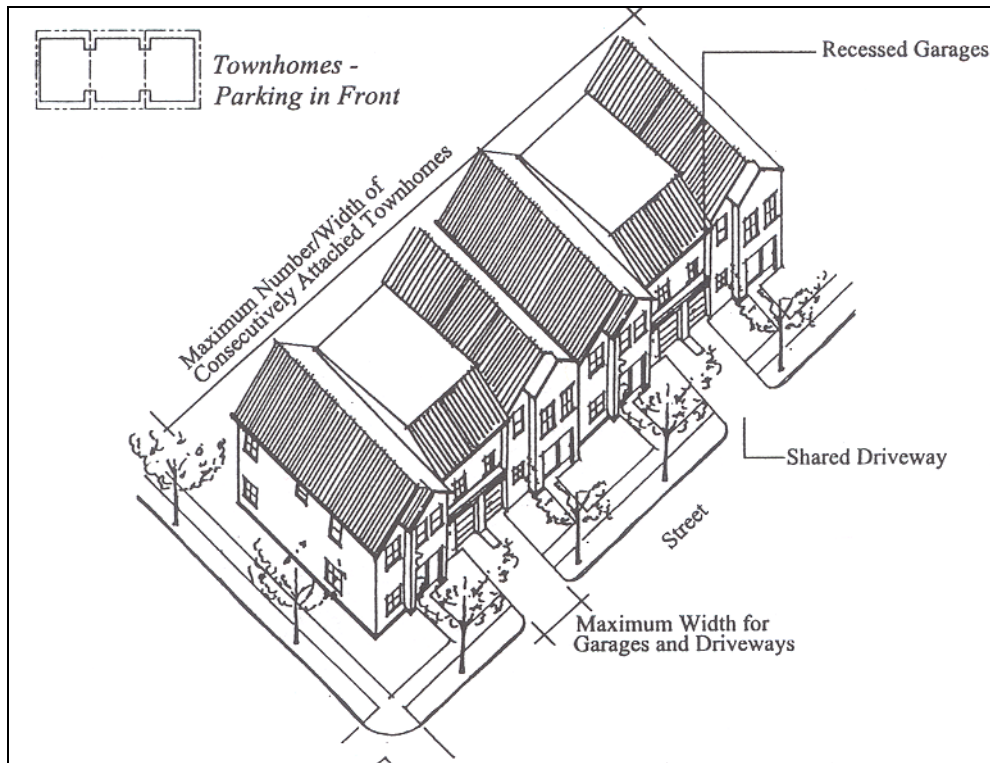
2.1.190 - Special Standards for Certain Uses *(continued)*

- C. Residential care homes and facilities.** Residential care homes and facilities are residential treatment or training homes or facilities or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for 5 or fewer individuals (“homes”) or 6 to 15 individuals (“facilities”) who need not be related. Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents. Residential care homes and facilities shall comply with the following standards, consistent with ORS 197.660-670:
1. Licensing. All residential care homes shall be duly licensed by the State of Oregon.
 2. Development Review. Development review shall be required for new structures to be used as residential care homes or facilities, and for conversion of an existing residence to be used as a residential care home, to ensure compliance with the licensing, parking, and other requirements of this Code.
- D. Single-family attached (townhomes), Duplexes and Triplexes.** Single-family attached housing (townhome units on individual lots), duplex and triplex developments shall comply with the standards in 1-4, below. The standards are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.
1. Duplex and triplex units may exceed building height requirements upon Planning Commission approval of a Conditional Use permit in a Type III Procedure consistent with Boardman Development Code 4.1.500.

2.1.190 - Special Standards for Certain Uses (continued)
Figure 2.1.200E(2) – Townhomes and Multiplex Housing With Alley Access


1. **Building Mass Supplemental Standard.** Within the Residential District, the number and width of consecutively attached townhomes (i.e., with attached walls at property line) shall not exceed 4 units; within the Multi-family Sub District, the number and width of consecutively attached townhome units shall not exceed 6 units.
2. **Alley Access.** Townhome, duplex and triplex subdivisions (4 or more lots) shall receive vehicle access only from a rear alley. Alley(s) shall be created at the time of subdivision approval, in accordance with Chapter 3.4.100 - Transportation Standards, and Chapter 4.3 - Land Divisions. Alleys are not required when existing development patterns or topography make construction of an alley impracticable (See #3 for standards). As necessary, the City shall require dedication of right-of-way or easements and construction of pathways between townhome lots (e.g., between building breaks) to implement the standards in Chapter 3.1- Access and Circulation.

2.1.190 - Special Standards for Certain Uses (continued)

Figure 2.1.200E(3) - Townhomes and Multiplex Housing With Street Access

3. Street Access Developments. Townhomes, duplexes and triplexes receiving access directly from a public or private street shall comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, provide more curb space for on-street parking, and minimize paved surfaces for better storm water management.

2.1.190 - Special Standards for Certain Uses *(continued)*

- a. When garages face the street, they shall be recessed behind the front elevation (i.e., living area or covered front porch) by a minimum of 4 feet.
 - b. The maximum allowable driveway width facing the street is 12 feet per dwelling unit. The maximum combined garage width per unit is 50 percent of the total building width. For example, a 24-foot wide unit may have one 12-foot wide recessed garaged facing the street.
 - c. Two adjacent garages shall share one driveway when individual driveways would otherwise be separated by less than 20 feet (i.e., the width of one on-street parking space). When a driveway serves more than one lot, the developer shall record an access and maintenance easement/agreement to benefit each lot, prior to building permit issuance.
4. **Common Areas.** “Common areas” (e.g., landscaping in private tracts, shared driveways, private alleys, and similar uses) may be maintained by a homeowners association or other legal entity. A homeowners association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the City prior to building permit approval.

E. Public and Institutional Land Uses. Public and institutional uses (as listed in Table 2.1.110.A) are allowed in the Residential District subject to the following land use standards, which are intended to control the scale of these developments and their compatibility with nearby residences:

1. **Development Site Area.** The maximum development site area shall be 4 acres, except that this standard shall not apply to parks and open space uses. Larger developments may be approved as a Conditional Use, in accordance with Chapter 4.4 - Conditional Use Permits, or as part of a Master Planned Development, in accordance with Chapter 4.5.
2. **Building Mass.** The maximum width or length of a multiple family building shall not exceed 100 feet (from end-wall to end-wall), except that this standard may be increased through the approval of a Conditional Use Permit, or as part of a Master Planned Development.
3. **Telecommunications Equipment.** Telecommunications equipment (e.g., cell towers and antennae) shall comply with the standards of Chapter 3.6.200.
4. **Vehicle Areas and Trash Receptacles.** All vehicle areas (i.e., parking, drives, storage, etc.) and trash receptacles shall be oriented away from adjacent residences to the greatest extent practicable, and shall be screened with an evergreen hedge or solid fence or wall of not less than 6 feet in height.

2.1.190 - Special Standards for Certain Uses *(continued)*

F. Accessory Uses and Structures. Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Residential District include detached garages, sheds, workshops, green houses and similar structures. All accessory structures shall comply with all of the following standards: (For standards applicable to Accessory Dwellings, please refer to Section 2.1.200.B.)

1. Primary use required. An accessory structure shall not be allowed before or without another permitted use (e.g., as listed in Table 2.1.110.A).
2. Setbacks.
 - a) Accessory structures shall meet setbacks identified in 2.1.120 unless identified otherwise in 2.1.190(F)(2)(b-d) below.
 - b) Accessory structures of 40 square feet or fewer are allowed to be located in a rear yard or side yard abutting a primary structure. Abutting an accessory structure to a primary structure is allowed provided 6 feet are allowed for emergency access, as measured from the wall nearest the property line of the accessory structure to the property line and no through wall openings (doors, windows, vents, etc.) in the primary structure are obscured or covered by the accessory structure.
 - c) Accessory structures of 41-200 square feet or less in size are allowed 1 foot rear yard setback and 1 foot side yard setback when placed in the rear yard of a lot, as long as structural features, such as eaves, do not encroach on adjacent properties.
 - d) Accessory building shall not be placed within ten (10) feet of any primary structure on the lot or adjacent lots with the exceptions noted in 2.1.190 (F)(2)(a-c) above.
3. The accessory structure shall be of a compatible and complimentary nature to the primary structure and be consistent with of the detail design criteria identified in Section 2.1.180 (C)(3) – Detailed Design. Accessory structures under 200 square feet shall meet at least one (1) of the design criteria identified in 2.1.180 (C)(3).
4. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
5. Placement in easement. Only a portable accessory structure of 200 square feet or less in size may be placed in an easement with the approval of the utilities affected within the easement. Letters of approval from the utility must be submitted to the City for approval of this type of placement.
6. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
7. Floor Area. The floor area of the accessory structure shall not exceed 1200 square feet;
8. Building Height. The building height of detached accessory structure shall not exceed 25 feet, as measured in accordance with Section 2.1.160; and

2.1.190 – Special Standards for Certain Uses (continued)

9. Buffering. A minimum 4-foot hedge or fence may be required to screen the accessory structure from dwellings on adjacent lots, unless a similar screen is provided or the distance to adjacent dwelling(s) is greater than 50 feet.

G. Bed and Breakfast Inns and Vacation Rentals.

1. Purpose. The purpose of this section is to provide standards for the establishment of a bed and breakfast inn.
2. Accessory Use. A bed and breakfast inn must be accessory to a household already occupying the structure as a residence.
3. Maximum size. The bed and breakfast structure is limited to a maximum of 4 bedrooms for guests and a maximum of 6 guests per night.
4. Employees. The bed and breakfast facility may have up to 2 non-resident employees for the facility.
5. Food Service. Food services may only be provided to overnight guests of the bed and breakfast inn.
6. Owner-occupied. The bed and breakfast inn shall be owner-occupied and shall maintain the exterior physical characteristics of a single-family dwelling. No separate structures shall be allowed (except for usual residential accessory buildings such as sheds, or detached garages).
7. Signs. Signs must meet the standards in Chapter 3.6.500, Signs.
8. Monitoring. All bed and breakfast inns must maintain a guest log book. It must include the names and home addresses of guests, guests' license plate numbers if travelling by car, dates of stay and the room number of each guest. The log must be available for inspection by City staff upon request.

H. Master Planned Neighborhood Development

1. Purpose and intent. The purpose of this Section is to ensure the development of fully integrated, mixed-use pedestrian-oriented neighborhoods. The intent is to minimize traffic congestion, urban and suburban sprawl, infrastructure costs, and environmental degradation, particularly as new development takes place on large parcels of land.
2. Applicability. This Section applies to:
 - a. Parcels, and development sites with more than one parcel, in the Residential District which are 20 acres or larger; and
 - b. Development sites in the Residential District which are planned in accordance with the procedures in Chapter 4.5.
3. Master plan required. Prior to land division approval, a master plan shall be prepared for all sites meeting the criteria in subsection 2. Master plans shall follow the procedures in Chapter 4.5 - Master Planned Developments.
4. Land use and design standards. Master Planned Neighborhood Developments shall be evaluated based on the criteria in Chapter 4.5, and shall be consistent with the following design principles:
 - a. All neighborhoods have identifiable centers and outer boundaries;
 - b. Edge lots are readily accessible to Residential Commercial and recreational uses by walking and bicycling (a distance not greater than one-quarter mile);
 - c. Uses and housing types are mixed and in close proximity to one another;
 - d. Streets are connected and blocks are small (e.g., between 200-600 feet in length; with a maximum perimeter of 1,600 feet);

2.1.190 – Special Standards for Certain Uses *(continued)*

- e. Civic buildings, monuments and open spaces (e.g., parks, squares, greenbelts, natural areas, etc.) are given prominent sites throughout the neighborhood.
 - f. Overall, the neighborhood plan achieves a housing density of 6 units per acre, in accordance with the Comprehensive Plan and Residential District standards.
 - g. Land needed for public use (e.g., schools, parks, fire stations, and other facilities) shall be designated on the master plan, in accordance with the Comprehensive Plan.
 - h. Common open space is provided for the residents as 30% of the net square footage of the site.
5. **Implementation.** Upon approval of a Neighborhood Development Master Plan, the development shall follow the Land Division procedures in Chapter 4.3, and the Site Design Review procedures in Chapter 4.2. Any modifications to the approved master plan shall be subject to the standards and procedures in Chapter 4.6 - Modifications.

I. Home Occupations.

1. **Purpose and Intent.** The purpose of this Section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters, or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. They are permitted by right in all residential units (dwellings), subject to the following standards:
2. **Appearance of Residence:**
- a. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
 - b. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
 - c. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
 - d. No products and or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.
3. **Storage:**
- a. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.
 - b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
 - c. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

2.1.190 - Special Standards for Certain Uses *(continued)*

4. Employees:
 - a. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee at the home occupation site at any given time. As used in this chapter, the term “home occupation site” means the lot on which the home occupation is conducted.
 - b. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
 - c. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.
5. Advertising and Signs: Signs shall comply with Chapter 3.6.5.
6. Vehicles, Parking and Traffic:
 - a. One commercially-licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that will not encroach onto the public right-of-way, including the sidewalk and planter strip, when parked in the driveway or other location on the home occupation site.
 - b. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 7 p.m. to 7 a.m.
 - c. There shall be no more than two client or customer vehicles at any one time and no more than eight per day at the home occupation site or in the right-of-way abutting the lot.
7. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 8 a.m. to 6 p.m. Monday through Friday subject to all provisions above.
8. Prohibited Home Occupation Uses:
 - a. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line, is prohibited.
 - b. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music by music teachers, art or craft supplies by arts or crafts instructors, computer software by computer consultants, and similar incidental items for sale by home business are allowed subject to all provisions above.

2.1.190 - Special Standards for Certain Uses *(continued)*

- c. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:
 - (1) Ambulance service;
 - (2) Animal hospital, veterinary services, kennels or animal boarding;
 - (3) Auto and other vehicle repair, including auto painting;
 - (4) Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site.
- 9. **Enforcement:** The City Manager or his/her designee may visit and inspect the site of home occupations in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations shall be processed in accordance with Chapter 1.4 - Enforcement.

2.1.200 Residential Sub Districts

- A. **Sub Districts Authorized.** Sub Districts provide needed land for land uses that may not otherwise be accommodated in the Residential District. The Comprehensive Plan identifies a need for residential farm uses, commercial services within residential neighborhoods, higher density housing, and multi-family housing. Therefore, the City has adopted the Future Urban, Multi-Family, and Manufactured Home Park Sub Districts to address these needs.
- B. **Applicability.** Sub Districts are identified on the City's official zoning map. Properties designated with a Sub District shall comply with the provisions of the underlying Residential District, except as may be modified by this Section.
- C. **Conflicts.** Where there are conflicts, the Sub District standards supercede the standards of section 2.1.100 to 2.1.190. Where there is no conflict, the standards of 2.1.190 shall also apply.

2.1.300 Future Urban Sub District (FU)

A. **Purpose/Intent Statement.** The purpose of this section is to preserve for future development at urban densities the Future Urban areas of the City as defined in the Comprehensive Plan.

B. **Future Urban Sub District Standards.**

- 1. **Parcel size:** The minimum parcel size for the FU Sub District is 10 acres, except for a school use, which may be a minimum of 5 acres.
- 2. **Setbacks:** The maximum/minimum front, side and rear setback for the Sub District is 20 feet.
- 3. **Building height:** The maximum height shall be two stories but shall not exceed 35 feet.
- 4. **Lot Coverage.** The maximum lot coverage in the FU Sub District shall be 50 percent.

2.1.300 Future Urban Sub District (FU) (continued)

5. Shadow Platting. The property owner presents a legally binding “shadow plat” dividing the remaining portion or entire parcel into future urban lots as permitted by underlying City zoning designations, and illustrating location of future internal roadways and easements. Properties zoned Residential District shall be able to be divided into lots a minimum of 8,000 square feet.

6. The shadow plat shall follow the land division standards in Chapter 4.3.120.

C. Allowed Uses.

1. Detached single family dwellings.
2. Residential homes.
3. A mobile or manufactured home as a residence on an individual lot, subject to the provisions of Section 2.1.190.B.
4. Continuation of existing general farm uses, including:
 - a. Raising, harvesting, and selling of crops.
 - b. Feeding, breeding, selling and management of livestock, poultry, fur-bearing animals, or honeybees.
 - c. Selling of products of livestock, poultry, fur-bearing animals, or honeybees.
 - d. Dairying and selling of dairy products.
 - e. Preparation and storage of the products raised on such lands for human use and animal use.
 - f. Distribution by marketing or otherwise of products raised on such lands.
 - g. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof.
 - h. Propagation or harvesting of a forest product.
 - i. Public and private conservation areas and structures for the conservation of water, soil, forest or wildlife habitat resources.
 - j. Fish and wildlife management program facilities.

D. Accessory Uses.

1. Home occupations, subject to the provisions of Section 4.9.200.
2. Accessory buildings and uses customarily incidental to any of the permitted primary uses.

2.1.300 Future Urban Sub District (FU) (continued)

3. Roadside stands, when located on the same property as the principal use, permitted when selling only those agricultural products that are produced in the surrounding community in which the stand is located.
4. Signs, as provided under Section 3.7.
5. Bed and Breakfast Inns and Vacation Rentals as defined in Section 2.1.100, subject to the major home occupation provisions under Section 2.1.100.

E. Conditional Uses.

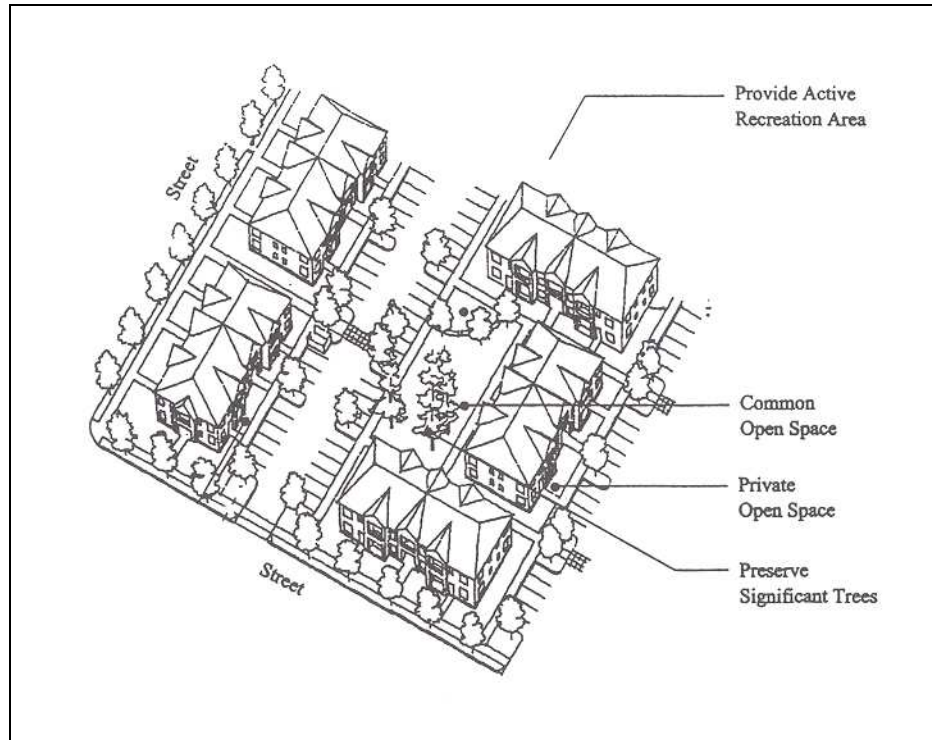
1. The following conditional uses may be allowed in a Future Urban Sub District, subject to review by the Planning Commission, pursuant to Section 4.2.400. Approval shall not be granted unless the proposal satisfies all of the criteria under Section 4.2.400 and all other applicable requirements of this Ordinance.
 - a. Expansion of existing churches and other places of worship.
 - b. Cemeteries.
 - c. Golf courses.
 - d. Public and private parks, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and other similar uses.
 - e. Service recreational uses, excluding recreational vehicle camping facilities.
 - f. Expansion of existing daycare centers.

F. Prohibited Uses.

1. Structures and uses of land not specifically mentioned in this section.
2. Outdoor advertising displays, advertising signs, or advertising structures, except as provided in Signs, Section 3.6.500.

2.1.400 - Multi-Family Sub District (MF)

- A. Purpose/Intent Statement.** The Multi Family Sub District is designed to provide land for larger multiple family housing developments. Multi-Family Housing is housing that provides 4 or more dwellings on an individual lot (e.g., multi-plexes, apartments, condominiums, etc.). New multi-family developments shall comply with all of the following standards.

2.1.400 - Multi-Family Sub District (MF) (continued)
Figure 2.1.200F - Multifamily Housing (typical site layout)

B. Multi-family housing development standards.

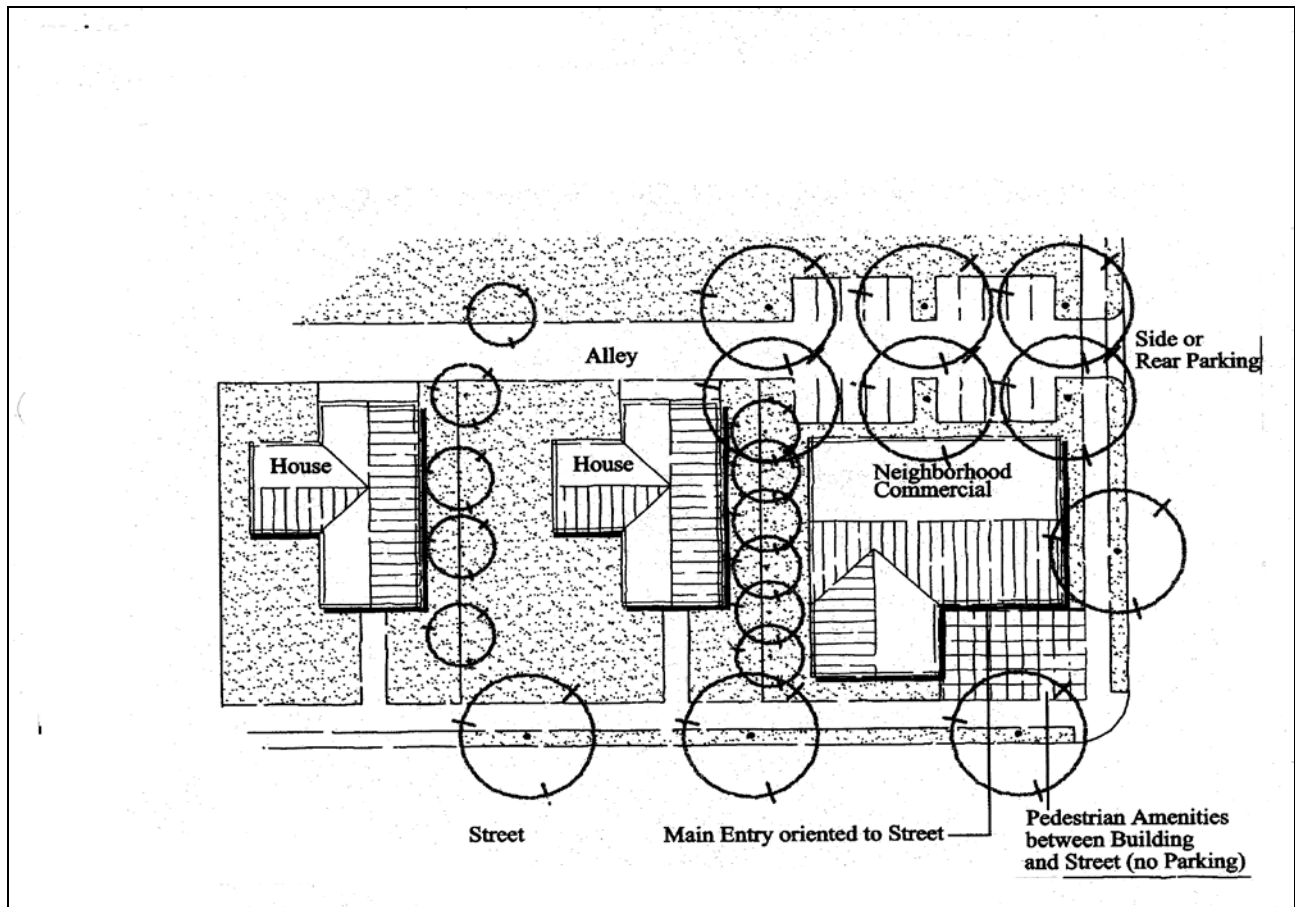
1. Common open space. Inclusive of required setback yards, a minimum of 20 percent of the site area shall be designated and permanently reserved as usable common open space in all multiple family developments. The site area is defined as the lot or parcel on which the development is planned, after subtracting any required dedication of street right-of-way and other land for public purposes (e.g., public park or school grounds, etc.). Sensitive lands and historic buildings or landmarks open to the public and designated by the Comprehensive Plan may be counted toward meeting the common open space requirements.
2. Private open space. Private open space areas shall be required for ground-floor and upper-floor-housing units based on all of the following standards:
 - a. Ground floor housing units shall have front or rear patios or decks measuring at least 48 square feet and at least 4 feet deep. Ground floor housing means the housing unit entrance (front or rear) is within 5 feet of the finished ground elevation (i.e., after grading and landscaping);
 - b. A minimum of 50 percent of all upper-floor-housing units shall have balconies or porches measuring at least 48 square feet and at least 4 feet deep. Upper-floor housing means housing units which are more than 5 feet above the finished grade;

2.1.400 – Multi-Family Sub District (MF) (continued)

- c. Private open space areas shall be oriented toward common open space areas and away from adjacent single family residences, trash receptacles, parking and drives to the greatest extent practicable; and
- 3. **Exemptions.** Exemptions may be granted for the first 50 units of a larger project when these developments are within one-quarter mile (measured walking distance) of a public park; and there is a direct, accessible (i.e., Americans With Disabilities Act-compliant), lighted, and maintained pedestrian trail or sidewalk between the site and the park. An exemption shall be granted only when the nearby park provides active recreation areas such as play fields, children's play area, sports courts, walking/fitness course, or similar facilities.
- 4. **Trash receptacles.** Trash receptacles shall be oriented away from adjacent residences and shall be screened with an evergreen hedge or solid fence or wall of not less than 6 feet in height. Receptacles must be accessible to trash pick-up trucks.

C. Special Standards for Neighborhood Commercial Uses

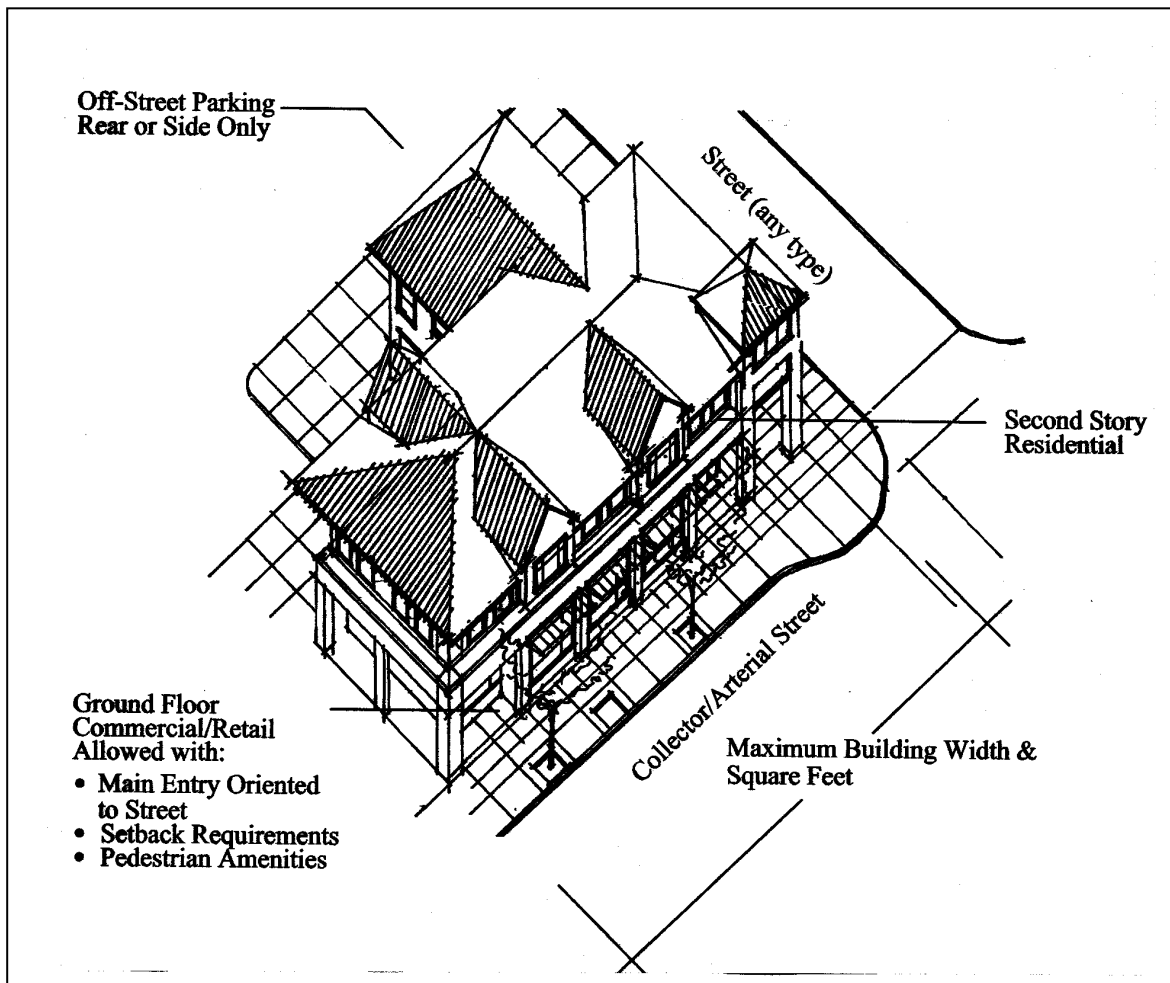
- a. **Purpose/Intent Statement.** All Neighborhood Commercial uses shall comply with the following standards, which are intended to promote land use compatibility and transition between Neighborhood Commercial and residential uses:

2.1.400 - Multi-Family Sub District (MF) (continued)**Figure 2.1.400A - Neighborhood Commercial (Example of Site Layout)**

2.1.400 - Multi-Family Sub District (MF) (continued)

- a. Permitted Uses. Only those Neighborhood Commercial uses specifically listed in section 5 of Table 2.1.110.A are permitted. Residential and Neighborhood Commercial uses may be mixed “vertically” — meaning that a residential use is developed above the commercial use (i.e., ground floor retail/office with upper-story apartments, townhomes, or condominiums), or may be mixed “horizontally”— meaning commercial and residential uses both occupy ground floor space. Automobile-oriented uses, as defined in Chapter 1.3, are expressly prohibited.

Figure 2.1.400B - Neighborhood Commercial (Example of Mixed Use)



- b. Dispersion of Neighborhood Commercial Development. A neighborhood commercial site shall be located no closer than one-half mile from another neighborhood commercial site within the City. A “neighborhood commercial site” means a lot or parcel (or combination of adjacent lots or parcels), zoned Residential and containing commercial uses.

2.1.400 - Multi-Family Sub District (MF) (continued)

- c. Location and Access. Neighborhood commercial developments shall have frontage onto a collector or arterial street with available on-street parking, and shall conform to the standards in Section 2.1.180.
- d. Building Mass Supplemental Standard. The maximum width or length of a Neighborhood Commercial or mixed use (residential and commercial) building shall not exceed 80 feet (from end-wall to end-wall).
- e. Floor Area Supplemental Standards. The maximum commercial floor area shall not exceed 5,000 square feet total per Neighborhood Commercial. Floor area is measured by totaling the interior floor area of all building stories, except crawl spaces (i.e., with less than 7 ½ feet of vertical clearance).

2.1.500 – Manufactured Home Park Sub District (MH)**A. Permitted Uses.**

- 1. Single family dwellings on individual lots in accordance with the provisions of the overlying Residential District.
- 2. Manufactured home parks are permitted on parcels of one (1) acre or larger within the Manufactured Home Park (MHP) Sub District, subject to compliance with subsections a-c, below:
 - a) Space. The minimum size pad or space for each home is 2,500 square feet, provided that the overall density of the park does not exceed 12 units per acre. Each space shall be at least 30 feet wide and 40 feet long, in accordance with ORS 446.100(c).
 - b) Setbacks and Building Separation. The minimum setback between park structures and abutting properties is 5 feet. The minimum setback between park structures and public street right-of-way is 15 feet. At least a 10-foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of 14 feet apart where flammable or combustible fuel is stored between units. Park structures shall be placed no closer than 5 feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than 6 feet to any other structure or dwelling, except that a double carport or garage may be built which serves 2 dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least 3 feet.
 - c) Perimeter landscaping. When manufactured homes are oriented with their back or side yards facing a public right-of-way, the City may require installation of fencing and planting of a 10 foot wide landscape buffer between the right-of-way and a manufactured home park for the privacy and security of residents or aesthetics of the streetscape.

3. Manufactured homes, manufactured home park manager's office, home occupations, and accessory structures which are necessary for the operation and maintenance of the manufactured home park (e.g., landscape maintenance). Home occupations shall comply with Chapter 2.1.190.I - Home Occupations
4. Home design (for parks smaller than 3 acres). Manufactured homes in parks smaller than 3 acres shall meet the following design standards, consistent with ORS 197.314(6):
 - a. The manufactured homes shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees);
 - b. The manufactured homes shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered "superior" to metal siding and roofing and vertical siding);
 - c. Electric, water and sewer utility connections shall be made to the manufactured home park or individual unit depending on the ownership of the Park;
 - d. Exception: Subsections a-b, above, do not apply to manufactured homes sited within the City prior to the effective date of this ordinance.
5. Desert Springs Estates Phase I Subdivision

Purpose: The purpose of establishment of this section is to resolve siting and construction conflicts with the Boardman Development Code due to the original design criteria of a Manufactured Home Park not being aligned with a portion of the park. These conflicts are due to manufactured home park lot sizes, and allowed setbacks, being markedly different than language called for in this chapter of the Development Code. The original design, consistent with today's rules, are primarily contained in the Oregon Manufactured Dwelling and Park Specialty Code – 2002 Edition, and are conflicting with existing code language for lot size and setbacks.

Permitted Uses:

- A) Siting of manufactured homes within the subdivided portion, still recorded as Desert Springs Estates Phase 1, owned by the Bella Vista Estates Cooperative Manufactured Home Park. Siting must be in accordance with the Oregon Manufactured Dwelling and Park Specialty Code – 2002 Edition.
- B) Accessory Structures which do not encroach into dedicated easements or rights-of-way within the Desert Springs Estates Phase 1 subdivision.
- C) Open Spaces and Playgrounds in accordance with the Oregon Manufactured Dwelling and Park Specialty Code – 2002 Edition.

2.1.500 – Manufactured Home Park Sub District (MH) (continued)**Setbacks:**

Setbacks within the Desert Springs Estates Phase 1 subdivision shall be consistent with §Chapter 9 Fire and Life Safety Table 9-A, of the Oregon Manufactured Dwelling and Park Specialty Code – 2002 Edition.

2.1.600 – Sunridge Terrace Sub-District

Purpose: The purpose of the sub-district is to allow construction or placement of single family residences on individual lots consistent with the original design and subdivision of the properties into individual lots.

A. Permitted Uses.

1. Single Family dwellings in accordance with the overlying Residential District.
2. Manufactured homes in accordance with the provisions of 2.1.600.

B. Manufactured homes on individual lots. Manufactured homes are permitted on individual lots, subject to all of the following design standards, consistent with ORS 197.307(5). Exception: The following standards do not apply to units which were placed on lots within the City prior to the effective date of this ordinance.

1. **Floor Plan.** A multi-sectional manufactured home shall have an enclosed floor area of not less than 1,000 square feet, and a single wide manufactured home shall be a minimum of 12 feet in width and have an enclosed floor area of not less than 720 square feet;
2. **Roof.** The manufactured home shall have a pitched roof;
3. **Residential Building Materials.** The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered “superior” to metal siding and roofing and vertical siding);
6. **Garages and Carports.** The manufactured home may have a carport or a garage constructed of complimentary exterior materials, concrete or asphalt floor, and concrete or asphalt driveway from the street to the structure. The City may require an attached or detached garage where that would be consistent with the predominant construction of immediately surrounding residences;
5. **Thermal Envelope.** The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code. Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer’s certification shall not be required;

Placement. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918. Where the building site has a sloped grade, no more than 12 inches of the enclosing material shall be exposed on the uphill side of the home;

2.1.600 – Sunridge Terrace Sub-District

7. **Foundation Skirt.** The foundation area of the manufactured home shall be fully skirted with only 12 inches showing; and

C. Detailed Design. All buildings shall provide detailed design along all elevations (i.e., front, rear and sides). Detailed design shall be provided by using at least 2 of the following architectural features on all elevations, as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):

- a. Dormers
- b. Gables
- c. Recessed entries
- d. Covered porch entries
- e. Cupolas or towers
- f. Pillars or posts
- g. Eaves (minimum 6-inch projection)
- h. Off-sets in building face or roof (minimum 16 inches)
- i. Window trim (minimum 4-inches wide)
- j. Bay windows
- k. Balconies
- l. Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation, and similar features)
- m. Decorative cornices and roof lines (e.g., for flat roofs)
- n. An alternative feature providing visual relief, similar to options a-m.

D. Setbacks and Building Separation. The minimum setback between structures and abutting properties is 5 feet. The minimum setback between structures and public street right-of-way is 15 feet. At least a 10-foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of 14 feet apart where flammable or combustible fuel is stored between

units. Structures shall be placed no closer than 5 feet to a sidewalk/pathway. An accessory structure shall not be located closer than 6 feet to any primary structure or dwelling, except a double carport or garage. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least 3 feet.

Chapter 2.2 – Commercial (C) District

Sections:

- 2.2.100 – Purpose**
- 2.2.110 – Permitted Land Uses**
- 2.2.120 – Building Setbacks**
- 2.2.130 – Lot Coverage**
- 2.2.140 – Building Height**
- 2.2.150 – Design Standards**
- 2.2.160 – Pedestrian Amenities**
- 2.2.170 – Special Standards for Certain Uses**
- 2.2.180 – Tourist Commercial Sub District**
- 2.2.190 – City Center Sub District**
- 2.2.200 – Service Center Sub District**
- 2.2.210 – BPA Transmission Easement Sub District**

2.2.100 Purpose

The primary purpose of the Commercial District is to create standards that allow for a variety of commercial uses in the Commercial areas of the City of Boardman. This Chapter also creates three Sub Districts---Tourist Commercial, City Center and Service Center. The Tourist Commercial Sub District provides additional standards for the areas of the City adjacent to Interstate 84. The Service Center Sub District provides standards for commercial and light industrial uses located west of the City. The City Center Sub District provides additional standards to create a concentrated and centralized commercial center to serve as the “heart” of the community. The City Center Sub District is created as an optional Sub District that may apply to certain geographic areas within the Commercial District. This geographic area has been designated to form the “center” of Boardman’s commercial activities. This chapter provides standards for the orderly creation and expansion of the Commercial District by adherence to the following principles:

- Effective and efficient use of land and urban services;
- Direct commercial and retail development to a concentrated and localized area;
- Provide a mix of uses which provides a destination within the community and encourages walking over driving;
- Create connection with the balance of the community by directing connected transportation routes to commercial areas of the city;
- Provide for additional service employment opportunities.

2.2.110 Permitted Land Uses

- A. Permitted Uses.** The land uses listed in Table 2.2.110.A are permitted in the Commercial District, subject to the provisions contained within this Chapter. Only land uses specifically listed in Table 2.2.110.A and those approved as “similar” uses are permitted. Land uses identified with a “CU” in the table will require a Conditional Use Permit approval prior to development or change in use, in accordance with Chapter 4.4 of this code

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures set in Chapter 4.8 – Interpretations.

**Table 2.2.110.A
Land Uses and Building Types Permitted in the Commercial District**

<p>1. Residential* (CU)</p> <p><i>Single-family</i></p> <p>a. Single-family attached townhomes</p> <p>b. Two and Three family housing (duplex and triplex townhomes)</p> <p>c. Multi-family housing</p> <p>d. Residential care homes and facilities</p> <p>2. Home occupations (CU)</p> <p>3. Bed & breakfast inns (CU)</p>	<p>4. Public and Institutional *:</p> <p>a. Churches and other places of worship</p> <p>b. Clubs, lodges, similar uses</p> <p>c. Government offices and facilities (administration, public safety, utilities, and similar uses)</p> <p>d. Libraries, museums, community centers, concert halls and similar uses</p> <p>e. Public parking lots and garages</p> <p>f. Private utilities (office/administration)</p> <p>g. Public parks and recreational facilities</p> <p>h. Schools (public and private) (CU)</p> <p>i. Transportation Facilities and Improvements.</p> <ol style="list-style-type: none"> 1. Normal operation, maintenance; 2. Installation of improvements within the existing right-of-way; 3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval; 4. Landscaping as part of a transportation facility; 5. Emergency Measures; 6. Street or road construction as part of an approved subdivision or partition; 7. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and 8. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU) 	<p>5. Accessory Uses and Structures*</p> <p>6. Commercial:</p> <p>a. Auto-dependent and auto-oriented uses and facilities (Prohibited in City Center Sub District)*</p> <p>b. Entertainment (e.g., theaters, clubs, amusement uses)</p> <p>c. Hotels/motels</p> <p>d. Hospitals, medical and dental offices, clinics and laboratories</p> <p>eMixed use development (housing with other permitted use)*</p> <p>f. Office uses (i.e., those not otherwise listed)</p> <p>g. Family daycare (12 or fewer children)</p> <p>h. Personal and professional services (e.g., child care center, catering/food services, restaurants, laundromats and dry cleaners, barber shops and salons, banks and financial institutions, and similar uses)</p> <p>i. Repair services (must be enclosed within building if located in City Center)</p> <p>j. Retail trade and services, except auto-dependent and auto-oriented uses</p> <p>k. Telecommunications equipment (including wireless) (CU) (Prohibited in City Center).</p> <p>l. Uses similar to those listed above (subject to CU requirements, if applicable)</p> <p>7. Light Manufacture* (see 2.2.170 C)</p>
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Uses marked with an asterisk (*) are subject to the standards in Section 2.2.170 - Special Standards for Certain Uses. Uses marked with two asterisks (**) are subject to the standards in Section 4.4.400.D. Temporary uses are subject to the standards in Chapter 4.9. CUs are subject to Conditional Use permit standards in Chapter 4.4

2.2.120 Building Setbacks

In the Commercial District, buildings are placed to encourage pedestrian traffic. The setback standards are to encourage public spaces between sidewalks and buildings. The standards are also to encourage the formation of solid blocks of commercial and retail use to encourage a walkable commercial area.

Building setbacks are measured from the respective property line to the nearest vertical wall or foundation line, whichever is closer, of any building or structure. Setbacks for porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed, apply to primary structures and accessory structures. The standards may be modified only by approval of a Variance, in accordance with Chapter 5.1.

A. Front Yard Setbacks.

1. Minimum Setback. There is no minimum front yard setback required except to provide for vision clearance standards set in Chapter 3.1.
2. Maximum Setback. There is no required maximum setback except in the City Center Sub District, which has a 5-foot maximum setback. This standard is met for City Center Sub District development when 50 percent of the front building elevation is placed no more than 5 feet back from the front property line. On parcels with more than one building, this standard applies to the largest building. The setback standard may be increased when a usable public space with pedestrian amenities (e.g., extra-wide sidewalk, plaza, pocket park, outdoor dining area or town square with seating) is provided between the building and front property line. (See also, Pedestrian Amenities Standards in Section 2.2.160, and Design Standards in Section 2.2.150 for related building entrance standards.)

B. Rear Yard Setbacks.

1. Minimum Setback. The minimum rear yard setback for all structures shall be zero (0) feet for street access lots, and eight (8) feet for alley-access lots (distance from nearest vertical wall or foundation line of any building to rear property line or alley easement) in order to provide space for parallel parking, unless to provide for vision clearance standards set in Chapter 3.1.
2. Through-Lots. For buildings on through-lots (lots with front and rear frontage onto a street), the front yard setbacks in “A” will apply except to provide for vision clearance standards set in Chapter 3.1.

C. Side Yard Setbacks.

1. There is no minimum side yard setback required, except that buildings shall conform to the vision clearance standards in Chapter 3.1 and the applicable fire and building codes for attached structures, fire walls and related requirements.

2.2.130 Lot Coverage

- A. **Lot Coverage.** There is no maximum lot coverage requirement, except that compliance with other sections of the zoning codes may preclude full (100%) lot coverage for some land uses. Lot coverage in the Service Center and Tourist Commercial Sub District is limited to 85%.

2.2.140 Building Height

All buildings in the Commercial District shall comply with the following building height standards. The standards are intended to allow for development of appropriately scaled buildings.

- A. **Maximum Height.** Buildings shall be no more than four (4) stories or fifty (50) feet in height, whichever is greater. The maximum height may be increased by ten (10) feet when conditionally approved housing is provided above the ground floor. The building height increase for housing shall apply only to that portion of the building that contains housing. Maximum height in the Tourist Commercial and Service Center Sub Districts are limited to four (4) stories or thirty-five (35) feet in height.
- B. **Method of Measurement.** Building height is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either 2.2.140(B)(1 or 2), whichever yields a greater building height:
1. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above the lowest grade;
 2. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in subsection A is more than ten (10) feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building. Not included in the maximum height are: chimneys, bell towers, steeples, roof equipment, flag-poles, and similar features which are not for human occupancy. These features will be no more than 25 feet measured from the highest point of the building.

2.2.150 Design Standards

- A. **Purpose and Applicability.** The Commercial District design standards are intended to provide similar and human scale design, while affording flexibility to use a variety of building styles. Conditional Use approval is required for those uses listed as a Conditional Use in Table 2.2.110.A. Residential development shall follow standards for residential development contained in Chapter 2.1. This section applies to all of the following types of buildings:

1. Commercial buildings intended for use as professional, retail or other similar uses and services;
2. Public and institutional buildings, except that the standard shall not apply to buildings which are not subject to site design review or those that do not receive the public; and
3. Mixed use buildings (buildings containing commercial and residential uses).

B. Guidelines and Standards. The purpose of these standards is to provide that all buildings are to contribute to the appeal of the Commercial District and Sub Districts.

1. Design of Buildings and Developments. The standards in the following section shall apply to buildings and developments listed in Section 2.2.150. Buildings shall be appealing and compatible with balance of the Commercial District and Sub Districts.
 - a) Buildings under 20,000 square feet (enclosed ground floor area) shall incorporate at least five(5) of the architectural features as follows:
 - i) Decorative cornice or facade (for a flat roof) or provision of eaves or other similar decorative feature for pitched roofs;
 - ii) Decorative display windows on ground floor;
 - iii) Entrance canopy, breezeway or kiosk;
 - iv) Changes in building color or texture;
 - v) Building articulation on street frontages;
 - vi) Decorative wall or security lighting;
 - vii) Regularly spaced and similarly shaped windows;
 - viii) Decorative window hoods or trim;
 - ix) Changes in building height along street frontages;
 - x) Decorative screening of roof mounted equipment;
 - b) Buildings with greater than 20,000 square feet of enclosed ground floor space are considered “large scale buildings”.
 - i.) Measurement for these buildings shall be as follows:
 - a. Multi-tenant buildings shall be counted as the sum of all tenant spaces within the same building shell; and
 - b. Multiple building developments with a combined ground floor space (enclosed) greater than 40,000 square feet (e.g., shopping centers, public and institutional campuses, and similar developments).
 - ii.) Building and Site design for large scale buildings shall include at least two (2) of the following to provide human scale design:
 - a. Incorporating changes in building direction (i.e., articulation);
 - b. Dividing large masses into varying heights and sizes;
 - c. Include building offsets projections;
 - d. Changes in elevation or horizontal direction;
 - e. Sheltering roofs or terraces;
 - f. Providing a distinct pattern of divisions in surface materials;
 - g. Use of windows, screening trees; small scale lighting (e.g., wall mounted lighting, or up-lighting).

2.2.160 Pedestrian Amenities

- A. **Purpose and Applicability.** This section is intended to provide comfortable and inviting pedestrian spaces within the Commercial District and Sub Districts. Pedestrian amenities serve as informal gathering places for socializing and resting and contribute to the enjoyment of the City's Commercial area. This section applies to all of the following types of buildings:
- 1) Public and institutional buildings, except that the standard shall not apply to buildings which are not subject to site design review or those that do not receive the public (e.g., buildings used solely to house mechanical equipment, and similar uses); and
 - 2) Three or more single family attached townhomes on their own lots (i.e., townhomes subject to Site Design Review);
 - 3) Duplex and tri-plex developments with more than one building (i.e., duplex and tri-plex developments subject to Site Design Review);
 - 4) Multi-family housing;
 - 5) Commercial and mixed-use buildings subject to Site Design review.
- B. **Guidelines and Standards.** Every commercial development listed above shall provide at least one of the following amenities listed below. Pedestrian amenities may be provided within a public right-of-way when approved by the applicable jurisdiction.
1. A plaza, courtyard, square or extra-wide sidewalk next to the building entrance (minimum width of 6 feet);
 2. A sitting space, dining area, benches or ledges between the building entrance and sidewalk at a minimum of 16 inches height and 30 inches width;
 3. Building canopy, awning, pergola or similar weather protection (minimum projection of 4 feet over a sidewalk or other pedestrian space);
 4. Public art which incorporates seating (e.g., fountain, sculpture, etc.) or wall decoration.

2.2.170 Special Standards for Certain Uses

This section supplements the uses and standards contained in Sections 2.2.100 through 2.2.160. Conditional Use approval is required for those uses listed as Conditional Use in Table 2.2.110.A. It is to provide standards for the following land uses in order to control the scale and compatibility of those uses within the Commercial District:

- Bed and Breakfast Inns
- Accessory Uses and Structures
- Light Manufacturing Uses
- Auto Orientated Uses and Development

2.2.170 Special Standards for Certain Uses (*continued*)**1. Bed and Breakfast Inns**

1. Purpose. The purpose of this section is to provide standards for the development of a bed and breakfast inn.
 2. Accessory Use. A bed and breakfast inn must be accessory to a household already occupying the structure as a residence.
 3. Maximum size. The bed and breakfast structure is limited to a maximum of 3 bedrooms for guests and a maximum of 6 guests per night.
 4. Employees. The bed and breakfast facility may have up to 2 non-resident employees for the facility.
 5. Food Service. Food services may only be provided to overnight guests of the bed and breakfast inn.
 6. Owner-occupied. The bed and breakfast inn shall be owner-occupied and shall maintain the exterior physical characteristics of a single-family dwelling. No separate structures shall be allowed (except for usual residential accessory buildings such as sheds, or detached garages).
 7. Monitoring. All bed and breakfast inns must maintain a guest logbook. It must include the names and home addresses of guests, guests' license plate numbers if travelling by motor vehicle, dates of stay and the room number of each guest. The log must be available for inspection by City staff upon request.
- A. **Accessory Uses and Structures.** Accessory uses and structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Boardman Commercial District include small workshops, greenhouses, studios, and similar structures. Accessory uses and structures are allowed for all permitted land uses within the Boardman Commercial District, as identified in Table 2.2.110.A. Accessory structures shall comply with the following standards:
1. Primary use required. An accessory structure shall not be allowed before or without a primary use, as identified in Table 2.2.110.A.
 2. Setback standards. Accessory structures shall comply with the setback standards in Section 2.2.120.
 3. Design guidelines. Accessory structures shall comply with the Boardman Commercial District design guidelines, as provided in Section 2.2.150, and shall contribute to the visual relatedness of the district.
 4. Restrictions. A structure shall not be placed over or under an easement that prohibits such placement. No structure shall encroach into the public right-of-way.

2.2.170 Special Standards for Certain Uses *(continued)*

5. Compliance with subdivision standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
- B. **Light Manufacture.** Light manufacturing uses shall conform to the standards listed in 2.2.170(D), which are intended to protect the pedestrian-friendly character of the Commercial District. “Light manufacture” means production or manufacturing of small-scale goods, such as crafts, electronic equipment, bakery products, printing and binderies, furniture, and similar goods.
1. Retail or Service Use Required. Light manufacture is allowed only when it is in conjunction with a permitted retail or service use and does not exceed 60% of the gross floor area.
 2. Location. The light manufacture use shall be enclosed within a building, or shall be located within a rear yard not adjacent to a street and screened from public view.
 3. Other Requirements. Any allowed light manufacture shall be conducted to minimize impacts to surrounding business and services. These shall include the conditions set as follows:
 - a. Deliveries shall not interfere with normal transportation circulation (vehicular, pedestrian, etc.);
 - b. Operations shall not produce solid waste volumes in excess of 200% of the average of surrounding business’ and services;
 - c. Operations shall not qualify as a hazardous waste generator or small quantity generator as defined by state and federal environmental regulations;
 - d. Operations shall not create conditions which would qualify as a nuisance or otherwise not be in compliance under other Boardman Municipal Codes; and
 - e. Shall be compatible with other Commercial area activities and operations.
- C. **Automobile Dependent and Auto-Oriented Uses and Facilities.**
1. “Automobile-dependent use” means that the use serves automobiles and/or other motor vehicles and the use cannot function without them. These uses are prohibited in the City Center Sub District, permitted as a conditional use in the Commercial District and allowed outright in the Service Center and Tourist Commercial Sub Districts because when unrestricted, they detract from the pedestrian-friendly character of the District and can consume large amounts of land compared to other permitted uses.
 2. “Automobile-Orientated Uses” means that automobiles and/or other motor vehicles are an integral part of the use.
 3. Standards: Automobile-dependent and Automobile-oriented uses shall comply with the following standards:

2.2.170 Special Standards for Certain Uses *(continued)*

- a. Parking, Garages, and Driveways. All off-street parking, including surface lots and garages, shall be accessed from alleys or common driveways, placed underground, placed in structures above the ground floor, or in parking areas located behind or to the side of a building. All underground or structured parking garage entrances facing a street shall be recessed behind the front elevation by a minimum of six (6) feet and have minimum queuing areas of thirty (30) feet. On corner lots, garage entrances shall be oriented to a side-street (i.e., away from a main street) when vehicle access can not be provided from an alley or a common driveway.
- b. Drive-up, drive-in, and drive-through facilities. Drive-up, drive-in, and drive-through facilities (e.g., associated with restaurants, banks, and similar uses) are permitted only when accessory to a primary commercial “walk-in” use, and shall conform to all of the standards listed below:
 - i The facility receives access from an alley or common driveway, and not a street;
 - ii None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, teller machines, service windows, drop boxes and similar facilities) are located within twenty (20) feet of a street and shall not be oriented to a street corner;
 - iii The facility is subordinate to a primary permitted use. “Subordinate” means all components of the facility, in total, occupy less street frontage than the primary commercial or public/institutional building.

D. Variances.

The standards of this section may be modified by a Class B or C variance, as detailed in Chapter 5.

2.2.180 Tourist Commercial Sub District

- A. **Purpose.** The purpose of the Tourist Commercial Sub District is to accommodate development of commercial facilities catering to the traveling public at the I-84 interchange. Retail services shall be limited to that necessary to serve travelers, in order to avoid competition with the Commercial District; Service Center Sub District and City Center Sub District businesses. The base standards of the Commercial District apply, except as modified by the standards of this Sub District.

2.2.180 Tourist Commercial Sub District <i>(continued)</i>

Table 2.2.180 A Land Uses and Building Types Permitted in the Tourist Commercial Sub District		
1. Residential* (CU): <i>Single-family</i> a. Single-family attached townhomes b. Two and Three family housing (duplex and triplex townhomes) c. Multi-family housing d. Residential care homes and facilities 2. Home occupations (CU) 3. Bed & breakfast inns (CU)	4. Public and Institutional *: a. Churches and other places of worship b. Clubs, lodges, similar uses c. Government offices and facilities (administration, public safety, transportation, utilities, and similar uses) d. Libraries, museums, community centers, concert halls and similar uses e. Public parking lots and garages f. Private utilities (office/administration) g. Public parks and recreational facilities h. Schools (public and private) (CU) i. Transportation Facilities and Improvements. 1. Normal operation, maintenance; 2. Installation of improvements within the existing right-of-way; 3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval; 4. Landscaping as part of a transportation facility; 5. Emergency Measures; 6. Street or road construction as part of an approved subdivision or partition; 7. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and 8. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU)	5. Commercial: a. Auto-oriented and auto dependent uses and facilities, including truck stops* b. Vehicle sales and repair services, including automotive, truck, RV and boat; c. Veterinarian clinics, animal clinics, laboratory; d. Office uses e. Mixed-Use Development (housing and other permitted development) f. Motels Restaurants/Food service g. Medical Marijuana dispensary under Oregon Health Authority license *** (CU) h. Uses similar to those listed above 6. Industrial: a. Light manufacture (e.g., small-scale crafts, electronic equipment, bakery, furniture, similar goods) when in conjunction with retail b. Machinery or heavy equipment sales and service

Uses marked with an asterisk (*) are subject to the standards in Section 2.2.180 - Special Standards for Certain Uses. Temporary uses are subject to the standards in Chapter 4.9. ** Uses marked with two asterisks are subject to the standards in Section 4.4.400.D. *** Uses subject to Section 4.4.400.E.

B. Special Standards [This section reserved for future use.]

2.2.190 City Center Sub District**A. Purpose and Applicability.**

The City Center Sub District provides design standards for detailed, human-scaled design, while affording flexibility to use a variety of architectural styles. The City Center Sub District may be applied by a property owner and the City to a site, which meets the following locational criteria:

- The site shall be located within the Commercial District;
- The site shall be located within a radius of ¼-mile of (but not necessarily adjacent to) Main Street;
- The site shall be adjacent to Kinkade Road, Dillabaugh Boulevard or City Center Drive.

In order for this Sub District to apply, the property owner and the City shall describe how the site meets the above locational criteria. The application for the Sub District to apply is a Type III, quasi-judicial land use application described in Chapter 4. If the Sub District were applied, the following development would adhere to the Sub District standards:

1. Public and institutional buildings, except that the standards shall not apply to buildings which are not subject to site design review or those that do not receive the public (e.g., buildings used solely to house mechanical equipment, and similar uses); and
2. Commercial and mixed-use buildings subject to Site Design review.

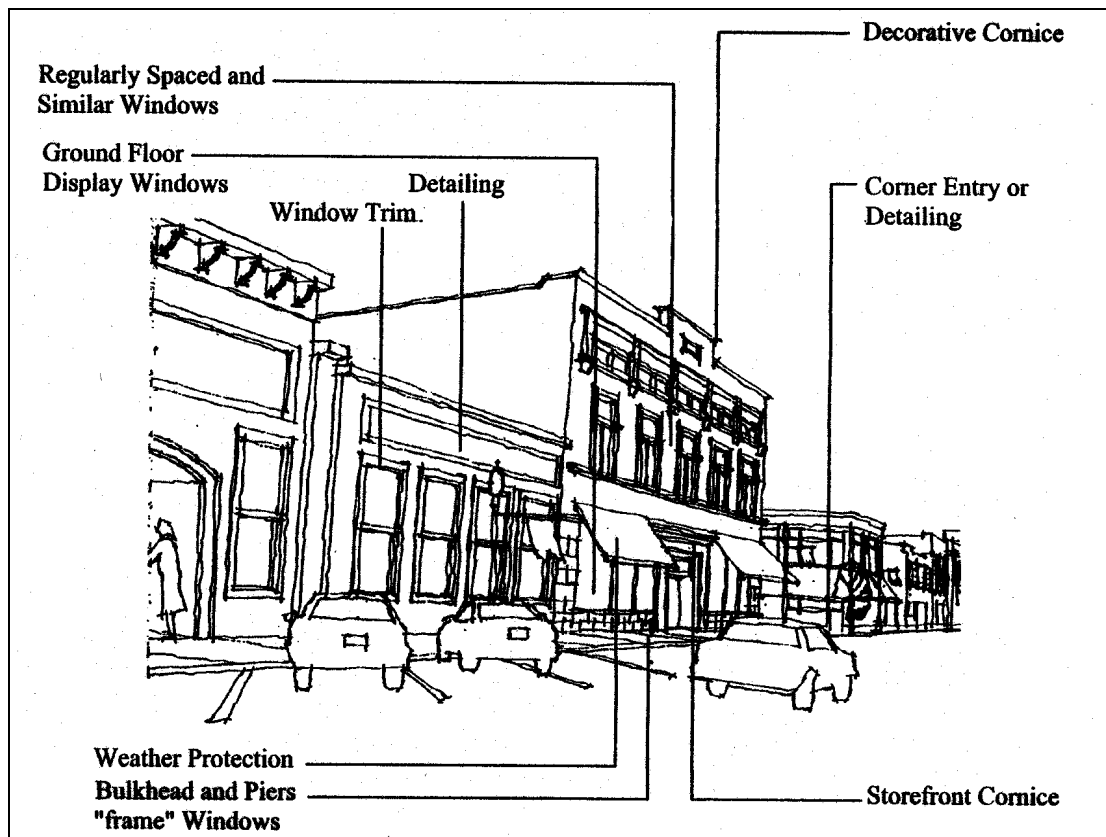
B. Design Standards.

All of the following standards in the following section shall be met.

C. Detailed Storefront Design.

All buildings shall contribute to the storefront character and visual relatedness of downtown buildings. This criterion is met by providing all of the following design features listed in 1-4, below, along front building elevations (i.e., facing a street).

1. Corner building entrances on corner lots. Alternatively, a building entrance may be located away from the corner when the building corner is beveled or incorporates other detailing to reduce the angular appearance of the building at the street corner.
2. Regularly spaced and similar-shaped windows with window hoods or trim (all building stories).
3. Large display windows on the ground floor (non-residential uses only). Display windows shall be framed by bulkheads, piers and a storefront cornice (e.g., separates ground floor from second story, as shown above).
4. Decorative cornice at top of building (flat roof) or eaves provided with pitched roof.

2.2.190 City Center Sub District. (continued)**Figure 2.2.190C – City Center Building Design Elements (Typical)**

Note: the example shown above is meant to illustrate required building design elements, and should not be interpreted as a required design style.

2.2.190 City Center Sub District *(continued)*

E. Building Orientation. This section is intended to promote the walkable, storefront character of the City Center by placing buildings close to the street. Placing buildings close to the street slows traffic down and provides more “eyes on the street”, increasing the safety of public spaces. The standards, as listed on the following page and illustrated above, complement the maximum front yard setback standards in Section 2.2.120.

1. **Applicability.** This Section applies to new land divisions and all of the following types of development within the City Center Sub District:
 - a. Commercial and mixed-use buildings subject to site design review. (Chapter 4.2).
 - b. Public and institutional buildings subject to site design review. (Chapter 4.2) except that the standard shall not apply to buildings which are not subject to site design review or those that do not receive the public (e.g., buildings used solely to house mechanical equipment, and similar uses).
 - c. Residential buildings subject to Site Design review shall comply with the Residential District design guidelines, as listed in Section 2.1.180, in addition to this section. Where conflicts occur, the more restrictive standard shall apply.

Compliance with all of the provisions of Sections 2.2.190.E.2-4, below, shall be required.

2. **Building Orientation Standard.** All of the developments listed in Section 2.2.190.E shall be oriented to a street. The building orientation standard is met when all of the following criteria are met:
 - a. The minimum and maximum setback standards in Section 2.2.120 are met.
 - b. Buildings have their primary entrance(s) oriented to (facing) the street. Building entrances may include entrances to individual units, lobby entrances, entrances oriented to pedestrian plazas, or breezeway/courtyard entrances (i.e., to a cluster of units or commercial spaces). Alternatively, a building may have its entrance facing a side yard when a direct pedestrian walkway is provided between the building entrance and the street right-of-way.
 - c. Off-street parking, driveways or other vehicular circulation shall not be placed between a building and the street that is used to comply with subsection ‘2’, above. On corner lots, buildings and their entrances shall be oriented to the street corner, as shown above; parking, driveways and other vehicle areas shall be prohibited between buildings and street corners.
3. **Active Ground Floor Standard.** The streetside portions of the lower floors of all buildings shall contain shops, offices, lobbies, and other activities oriented toward the passerby. Display windows for viewing the activity inside the building shall be provided.
4. **Continuous Building Frontage.** Buildings should be built to the property lines on either side so as to create a continuous line of storefronts. Access may be provided to the rear parking areas of the shops, offices etc. by an internal walkway.

2.2.190 City Center Sub District. (continued)

- E. **Residential Uses.** Higher density residential uses, such as multi-family buildings and attached townhomes, are permitted to encourage housing near employment, shopping and services. All residential developments shall comply with the following standards which are intended to require mixed-use development; conserve the community's supply of commercial land for commercial uses; provide for designs which are compatible with the balance of the City Center Sub District; avoid or minimize impacts associated with traffic and parking; and ensure proper management and maintenance of common areas. Residential uses that existed prior to the effective date of this code are exempt from this section.
1. **Mixed-Use Development.** Residential uses may be permitted when part of a mixed-use development (residential with commercial or public/institutional use). Both "vertical" mixed-use (housing above the ground floor), and "horizontal" mixed-use (housing on the ground floor) developments are allowed, subject to the standards in 2.2.190(A)(2-6).
 2. **Limitation on street-level housing.** Ground floor street frontage will be limited to upper floor residential access only. This standard is intended to reserve commercial space for commercial uses and public/institutional uses; it does not limit residential uses above the street level on upper stories.
 3. **Density.** There is no minimum or maximum residential density standard. Density shall be controlled by building design, fire/life/safety design, the applicable lot coverage, floor area, building height standards and off-street parking requirements.
 4. **Parking, Garages, and Driveways.** All off-street vehicle parking, including surface lots and garages, shall be oriented for reasonable access. Parking may be placed underground, placed in structures above the ground floor, or located in parking areas located behind or to the side of the building. All garage entrances facing a street (e.g., underground or structured parking) shall be recessed behind the front building elevation by a minimum of six (6) feet and have minimum queuing areas of thirty (30) feet. On corner lots, garage entrances shall be oriented to a side street (i.e., away from a main street).
 5. **Creation of Alleys.** When a subdivision (e.g., four or more townhome lots) is proposed, a public or private alley may be created for the purpose of vehicle access. Alleys are not required when existing development patterns make construction of an alley impractical. As part of a subdivision, the City may require dedication of right-of-way or easements, and construction pathways between townhome lots (e.g., between building breaks) to provide pedestrian connections through a development site, in conformance with Chapter 3.1 – Access and Circulation.
 6. **Common Areas.** All common areas (e.g., walkways, drives, courtyards, private alleys, parking courts, etc.) and building exteriors shall be maintained by a homeowners association or other legal entity. Copies of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

2.2.190 City Center Sub District. (continued)

- F. **Sidewalk Displays.** Sidewalk display of merchandise and vendors shall be limited to stationary, crafts, plants, gardening/floral products, food, books, newspapers, bicycles, and similar small items for sale or rental to the public. A minimum clearance of five (5) feet shall be maintained. Display of larger items, such as automobiles, trucks, motorcycles, buses recreational vehicles/boats construction equipment, building materials, or similar items are prohibited.

2.2.200 Service Center Sub District

- A. **Purpose.** The Service Center Sub District is designed to accommodate heavy commercial uses and light industrial uses along portions of the I-84 corridor. The base standards of the Commercial District apply, except as modified by the standards of this Sub District.
- B. **Uses Permitted.** The land uses listed in Table 2.2.200B are permitted in the Service Center Sub District, subject to the provisions of this Chapter. Only land uses that are specifically listed in Table 2.2.200B and land uses that are approved as “similar” to those in Table 2.2.200B, may be permitted. The land uses identified with a “CU” in Table 2.2.200B require Conditional use Permit approval prior to development or a change in use, in accordance with Chapter 4.4.

2.2.200 Service Center Sub District (continued)

Table 2.2.200B Land Uses and Building Types Permitted in the Service Center Sub District		
1. Residential: a. One caretaker unit shall be permitted for each development, subject to the standard in Section 2.2.200D. b. RV Parks (CU) 2. Public and Institutional: a. Government facilities (e.g. public safety, utilities, school district bus facilities, public works yards, transit and transportation and similar facilities) where the public is generally not received. b. Private utilities (e.g. natural gas, electricity, telephone, cable and similar facilities) c. Water supply and treatment facility (CU) d. Sewage disposal and treatment facility (CU)	e. Transportation Facilities and Improvements. 1. Normal operation, maintenance; 2. Installation of improvements within the existing right-of-way; 3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval; 4. Landscaping as part of a transportation facility; 5. Emergency Measures; 6. Street or road construction as part of an approved subdivision or partition; 7. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and 3. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU)	4. Commercial: a. Retail store, office or service establishment b. Commercial / industrial full service trucking and automotive facilities, to include automobile service stations and vehicle refueling. c. Commercial residential use, to include tourist or travelers' accommodations. d. Commercial amusement or recreation establishment. Medical Marijuana dispensary, Medical Marijuana Grow Facility (not on same parcel) *** (CU) 5. Industrial: a. Manufacturing or warehousing. 5. Agricultural: a. Farming excluding commercial livestock feedlot, livestock sales yard hog farms and mink farms. b. Agriculturally-oriented commercial use.(CU) c. Medical Marijuana Grow Facility *** (CU) 6. Services: a. Kennel or animal hospital. 5. Wireless Communication Equipment - subject to the standards in Chapter 3.6.200.

Uses marked with an asterisk (*) are subject to the standards in Section 2.2.180 - Special Standards for Certain Uses. Temporary uses are subject to the standards in Chapter 4.9. ** Uses marked with two asterisks are subject to the standards in Section 4.4.400.D. *** Uses subject to Section 4.4.400.E.

2.2.200 Service Center Sub District *(continued)***B. Other Yard Requirements.**

1. Buffering. The City may require landscaping, walls or other buffering in setback yards to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent properties.
2. Neighborhood Access. Construction of pathway(s) within setback yards may be required to provide pedestrian connections to adjacent neighborhoods or other districts, in accordance with Chapter 3.1 - Access and Circulation Standards.
3. Building and Fire Codes. All developments shall meet applicable fire and building code standards, which may require setbacks different from those listed above (e.g., combustible materials, etc.).

C. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter 4.8 – Interpretations.

2.2.200 Service Center Sub District *(continued)*

- C. **Residential Caretakers.** One residential caretaker unit shall be permitted for each primary industrial use, subject to the following conditions:
1. The unit shall be served with public water and sanitary sewerage disposal, in conformance with City engineering requirements.
 2. Caretaker units shall be required to meet applicable fire safety and building code requirements, in addition to the applicable setback standards of this chapter.
- D. **Wireless communication equipment.** Wireless communication equipment includes radio (i.e., cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.6.200. Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the Commercial District.

2.2.210 - BPA Transmission Easement Sub District

- A. **Purpose:** The purpose of this sub district is to identify the limitations, opportunities and process to be followed on properties, within the Commercial District, directly affected by the Three Hundred Ninety foot (390') wide Bonneville Power Administration (BPA) Transmission Line Easement. The language contained within this section is to identify flexibility in possible uses of the land under the BPA transmission lines, within the land use agreements stipulated by the BPA for the easement. All uses within the easement shall be approved by agreement with BPA prior to approval for development by the City.
- B. **Building Restrictions:** No permanent structures will be allowed within the easement area. However, buildings may go on the portions of the property outside of the easement as part of the overall development which may include land within the easement.
- C. **Height Restrictions:** No foliage or other item will be allowed to exceed twelve feet (12') in height.
- D. **Utility and Transportation Infrastructure:** Utility and transportation infrastructure shall be allowed within guidelines approved by the BPA in writing. This includes, streets, electrical, water, sewer, telephone, gas, TV, and other essential services infrastructure to provide for any allowed commercial activities.
- E. **Transmission Line Tower Setbacks:** The minimum setback from any transmission line tower shall be fifty feet (50') for all activities. Towers shall be protected from any traffic or other possible disturbance to the structural integrity of the towers.

2.2.210 - BPA Transmission Easement Sub District (continued)

F. Allowable Uses: The uses identified in 2.2.210 (F) (1-13) shall be considered for approval under a Conditional Use Permit process, as identified in Boardman Development Code Chapter 4.4. All submission requirements of Chapter 4.4 will be reviewed and will be forwarded, by the applicant, to the BPA for an approved and signed Land Use Agreement prior to any Conditional Use Hearing by the Planning Commission.

1. Single family townhomes
2. Residential duplexes or triplexes
3. Multi-family apartments
4. Residential Caretaker Unit
5. Parking lot
6. Vehicle storage
7. Vehicle sales lot
8. Vineyard operation, with retail/wholesale component*
9. Garden center/Nursery, with retail/wholesale component*
10. Mobile vendor station lease space
11. Retail sales operations with an outdoor component which are compatible with surrounding neighborhood.
12. Utility infrastructure including water lines, sewer lines, stormwater management, electrical service lines, gas lines, television cable, telephone lines, communications lines, transportation routes, and other necessary infrastructure to service the sub district.
13. Other uses considered compatible by the Boardman Planning Commission through Conditional Use Permitting process.

* = Structures necessary for retail/wholesale offices, storage, etc. must be located outside of BPA easement.

G. Safety Precautions:

1. Vehicular activities where vehicles are stored or parked for periods over two (2) hours shall have grounding mechanisms to prevent static electricity build up to prevent shock hazards.
2. Utility facilities shall be protected from shock hazards associated with static electricity discharge.
3. No combustible materials shall be stored within the easement unless approved in the Land Use Agreement from BPA.

H. Driveways and Parking Areas: Driveways and parking areas may be compacted and maintained gravel if approved by the BPA and Boardman Planning Commission to meet safety requirements in the BPA Land Use Agreement. Driveway approaches and all areas abutting a public street shall be hard surface to prevent gravel encroachment onto the street.

I. Residential Caretakers: One residential caretaker unit may be permitted for each primary commercial use, subject to the following conditions.

1. The unit shall be served with public water and sanitary sewerage disposal, in conformance with City engineering requirements.

2.2.210 - BPA Transmission Easement Sub District (*continued*)

2. Caretaker units shall be required to meet applicable fire safety and building code requirements, in addition to the applicable setback standards of this chapter (chapter 2.2) and sub district.
3. Other conditions identified by the Bonneville Power Administration or the Boardman Planning Commission:

J. Yard Requirements:

1. Buffering; The City may require landscaping, walls, or other buffering in setbacks areas to mitigate adverse noise, light, glare and aesthetic impacts to adjacent properties.
2. Neighborhood Access; Construction of pathway(s) within setbacks may be required to provide pedestrian connection to neighborhoods or other districts, in accordance with Chapter 3.1 of this Code and requirements of the Bonneville Power Administration.
3. Building and Fire Codes; All developments shall meet applicable fire, building and Bonneville Power Administration code standards, which may require setback different from those listed above.

Chapter 2.3 - General Industrial (GI) District

Sections:

2.3.100 - Purpose

2.3.110 - Permitted Land Uses

2.3.120 - Development Setbacks

2.3.130 - Lot Coverage

2.3.140 - Development Orientation

2.3.150 - Building Height

2.3.160 - Special Standards for Certain Uses

2.3.170 - Port Industrial Sub District

2.3.100 Purpose

The General Industrial District accommodates a range of light and heavy industrial land uses. It is intended to segregate incompatible developments from other districts, while providing a high-quality environment for businesses and employees. This chapter guides the orderly development of industrial areas based on the following principles:

- Provide for efficient use of land and public services;
- Provide transportation options for employees and customers;
- Locate business services close to major employment centers;
- Ensure compatibility between industrial uses and nearby commercial and residential areas;
- Provide appropriate design standards to accommodate a range of industrial users, in conformance with the Comprehensive Plan.

2.3.110 Permitted Land Uses

- A. Permitted Uses.** The land uses listed in Table 2.3.110.A are permitted in the General Industrial District, subject to the provisions of this Chapter. Only land uses that are specifically listed in Table 2.3.110.A, and land uses that are approved as “similar” to those in Table 2.3.110, may be permitted. The land uses identified with a “CU” in Table 2.3.110.A require Conditional Use Permit approval prior to development or a change in use, in accordance with Chapter 4.4.
- B. Determination of Similar Land Use.** Similar use determinations shall be made in conformance with the procedures in Chapter 4.8 - Interpretations.

2.3.110 Permitted Land Uses *(continued)*

Table 2.3.110.A Land Uses and Building Types Permitted in the General Industrial District	
1. Industrial: a. Heavy manufacturing, assembly, and processing of raw materials; b. Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods); c. Warehousing and distribution; d. Junk yard, motor vehicle wrecking yards, and similar uses; e. Uses similar to those listed above 2. Public and institutional uses a. Government facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities) where the public is generally not received; b. Private utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities); c. Passive open space (e.g., natural areas); d. Transportation facilities and improvements: 1. Normal operation, maintenance; 2. Installation of improvements within the existing right-of-way; 3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval; 4. Landscaping as part of a transportation facility; 5. Emergency Measures; 6. Street or road construction as part of an approved subdivision or partition; 7. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and 8. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU)	e. Special district facilities (e.g., irrigation district, and similar facilities); f. Vocational schools co-located with parent industry or sponsoring organization; g. Uses similar to those listed above. 3. Residential: a. One caretaker unit shall be permitted for each development, subject to the standards in Section 2.3.160. Other residential uses are not permitted, except that residences existing prior to the effective date of this Code may continue. 4. Commercial: a. Offices and other commercial uses that are integral to a primary industrial use (e.g., administrative offices, and wholesale of goods produced on location and similar uses); b. Small-scale retail and service commercial uses up to 10 percent of building in total floor area, for general use of industrial use employees and customers (e.g., restaurants, hair salons, banks, dry cleaners, book stores, coffee retailers). 5. Wireless Communication Equipment - subject to the standards in Chapter 3.6.200. 6. Accessory uses and Structures

Land uses with (CU) shall require a Conditional Use Permit in accordance with Chapter 4.4. Uses marked with an asterisk (*) are subject to the standards in Section 2.3.160 Special Use standards, "Special Standards for Certain uses)" ** Uses marked with two asterisks are subject to the standards in Section 4.4.400 D.

2.3.110.B Land Uses Prohibited in General Industrial District

Only uses specifically listed in Table 2.3.110.A, and uses similar to those in Table 2.3.110.A, are permitted in this district. The following uses are expressly prohibited: new housing, churches and similar facilities, and schools.

2.3.120 Development Setbacks

Development setbacks provide separation between industrial and non-industrial uses for fire protection/security, building maintenance, sun light and air circulation, noise buffering, and visual separation.

- A. Front Yard Setbacks.** The minimum front yard setback shall be 20 feet. The setback standard shall increase by one foot for every one foot of building height in excess of 30 feet.
- B. Rear Yard Setbacks.** There is no required rear yard setback, except that industrial development (i.e., buildings, parking, outdoor storage and industrial activities) shall be set back from Residential districts by a minimum of 40 feet, and from other non-General Industrial districts by a minimum of 20 feet; the rear setback in this case shall increase by one foot for every one foot of building height in excess of 30 feet for all other non General Industrial districts.
- C. Side Yard Setbacks.** There are no required side-yard setbacks, except that industrial development (i.e., buildings, parking, outdoor storage and industrial activities) shall be set back from Residential districts by a minimum of 40 feet, and from other non-General Industrial districts by a minimum of 20 feet; the rear setback in this case shall increase by one foot for every one foot of building height in excess of 30 feet for all other non General Industrial districts.
- D. Other Yard Requirements.**
 - 1. **Buffering.** The City may require landscaping, walls or other buffering in setback yards to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent properties.
 - 2. **Neighborhood Access.** Construction of pathway(s) within setback yards may be required to provide pedestrian connections to adjacent neighborhoods or other districts, in accordance with Chapter 3.1 - Access and Circulation Standards.
 - 3. **Building and Fire Codes.** All developments shall meet applicable fire and building code standards, which may require setbacks different from those listed above (e.g., combustible materials, etc.).
 - 4. **Noise.** Uses that are likely to create significant adverse noise impacts and create noise which meets or exceeds 55dBA (in a 24-hour average) shall be prohibited.

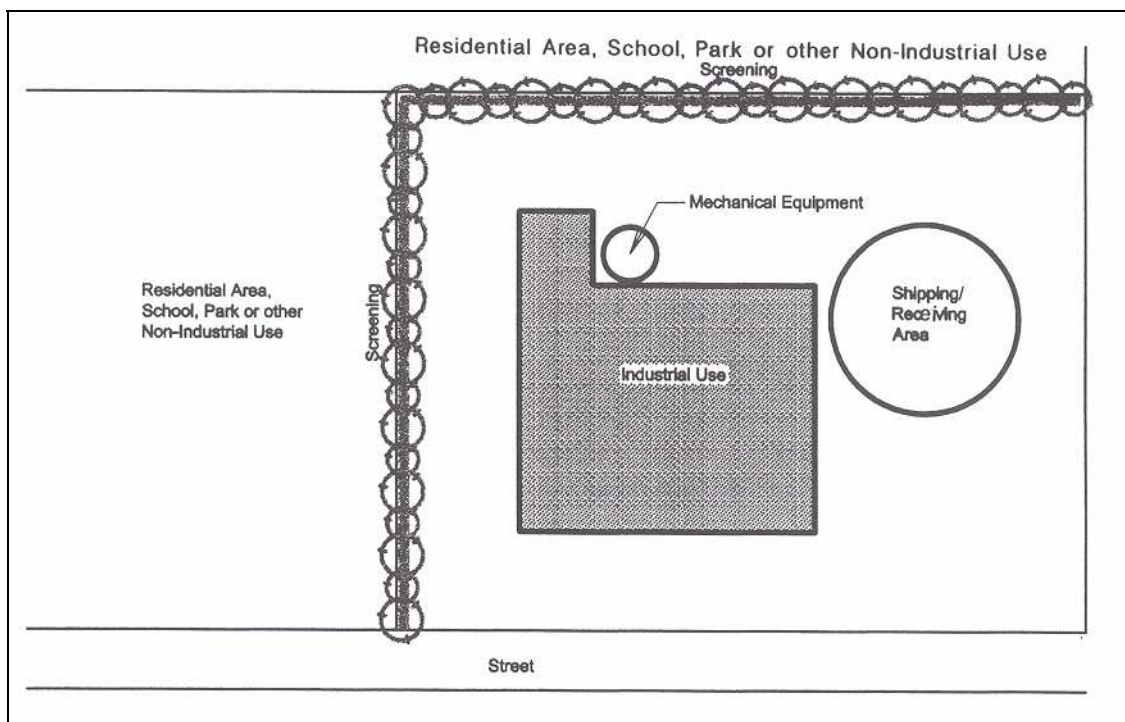
2.3.130 Lot Coverage

The maximum allowable lot coverage in the General Industrial District is 75 percent. The maximum allowable lot coverage is computed by calculating the total area covered by buildings and impervious (paved) surfaces, including accessory structures. Compliance with other sections of this code may preclude development of the maximum lot coverage for some land uses.

2.3.140 Development Orientation

Industrial developments shall be oriented on the site to minimize adverse impacts (e.g., noise, glare, smoke, dust, exhaust, vibration, etc.) and protect the privacy of adjacent (non-industrial) uses to the extent possible. The following standards shall apply to all development in the General Industrial District:

Figure 3.A - Industrial Development Orientation



- A. Mechanical equipment, emissions, shipping/receiving areas, and other components of an industrial use that are outside enclosed buildings, shall be located away from residential areas, schools, parks and other non-industrial areas to the maximum extent practicable; perimeter lighting shall be pointed inward to meet this standard and;
- B. The City may require a landscape buffer, or other visual or sound barrier (fence, wall, landscaping, or combination thereof) to mitigate adverse impacts that cannot be avoided through building orientation standards alone.

2.3.150 Building Height

The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale:

- A. Base Requirement.** Buildings shall be no more than 3 stories or 35 feet in height, whichever is greater, and shall comply with the building setback/height standards in Section 2.3.120.
- B. Performance Option.** The allowable building height may be increased to 45 feet, when approved as part of a Conditional Use Permit. The development approval may require additional setbacks, stepping-down of building elevations, visual buffering, screening, and/or other appropriate measures to provide a height transition between industrial development and adjacent non-industrial development. Smoke stacks, cranes, roof equipment, grain elevators, storage silos and other similar features which are necessary to the industrial operation may not exceed 55 feet in height without approval of a Conditional Use Permit.
- C. Method of Measurement.** “Building height” is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof (see Figure 2.1.160 for examples of measurement). The reference datum shall be selected from either of the following; whichever yields a greater height of building:
 - 1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade;
 - 2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection ‘a’ is more than 10 feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building. Not included in the maximum height are: bell towers, steeples, flag poles, antennas and similar features which are not for human occupancy.

2.3.160 Special Standards for Certain Uses

- A. Uses With Significant Noise, Light/Glare, Dust, Vibration, or Traffic Impacts.** The following uses shall require Conditional Use Permit approval, in addition to Development Review or Site Design Review:
 - 1. **Uses With Significant Noise, Light/Glare, Dust and Vibration Impacts.** Uses that are likely to create significant adverse impacts beyond the Industrial District boundaries, such as noise, light/glare, dust, or vibration, shall require conditional use approval, in conformance with Chapter 4.4. The following criteria shall be used in determining the adverse impacts of a use are likely to be “significant”:
 - a. *Noise.* The noise level beyond the property line exceeds 55 dBA (24-hour average) on a regular basis. Enforcement of this standard is governed under police enforcement.

2.3.160 Special Standards for Certain Uses *(continued)*

- b. *Light/glare.* Lighting and/or reflected light from the development exceeds ordinary ambient light and glare levels (i.e., levels typical of the surrounding area).
 - c. *Dust and/or Exhaust.* Dust and/or exhaust emissions from the development exceed ambient dust or exhaust levels, or levels that existed prior to development.
 - d. *Vibration.* Vibration (e.g., from mechanical equipment) is sustained and exceeds ambient vibration levels (i.e., from adjacent roadways and existing land uses in the surrounding area).
2. **Traffic.** Uses which are likely to generate unusually high levels of vehicle traffic due to shipping and receiving. “Unusually high levels of traffic” means that the average number of daily trips on any existing street would increase by 20 percent or more as a result of the development and 100 vehicles per day. The City may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by ODOT for developments that increase traffic on state highways.
3. **Resource extraction,** such as the operation of mineral and aggregate quarries and similar uses, shall require a Conditional Use Permit. The applicant shall also be required to prepare a site reclamation plan for review and approval by the City and other affected agencies, prior to commencing resource extraction. The required scope of the reclamation plan shall be identified by the Conditional Use Permit, and shall comply with applicable requirements of State natural resource regulatory agencies.
- B. Residential Caretakers.** One residential caretaker unit shall be permitted for each primary industrial use, subject to the following conditions:
- 1. The unit shall be served with public water and sanitary sewerage disposal, in conformance with City engineering requirements.
 - 2. Caretaker units shall be required to meet applicable fire safety and building code requirements, in addition to the applicable setback standards of this chapter.
- C. Wireless communication equipment.** Wireless communication equipment includes radio (i.e., cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.6.200. Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the Industrial District.

2.3.170 Port Industrial Sub District (PI)

A. Purpose. The Port Industrial Sub District is intended to regulate development at portions of the Port of Morrow Industrial Park and other appropriate locations. The Sub District is intended to provide for port-related industrial uses and aerospace-related industrial uses which are not devoted to research and development. The Sub District is intended to provide an industrial sanctuary, limiting commercial uses to those appropriate and necessary to serve the needs of the workers employed within the Sub District.

B. Applicability. In the PI Sub District the following regulations shall apply.

Table 2.3.110.A Land Uses and Building Types Permitted in the Port Industrial Sub District	
<p>1. Industrial:</p> <ul style="list-style-type: none"> a. Water-dependent industrial uses which are Port-related; b. Aerospace-related industrial uses c. Chemical and primary metal industrial uses which are Port-related; d. Port-related industrial uses which are land intensive; e. Lumber and wood products manufacturing and other related industrial uses, which are Port-related; f. Effluent disposal of industrial wastes, agricultural activities in conjunction therewith; g. Manufacturing, refining, processing or assembling of any agricultural, mining or industrial product; h. Storage, warehousing, distributing, assembly, selling packaging or servicing any products of agriculture, mining or industry, excluding commercial uses in conjunction thereof; i. Power generating and utility facilities; j. Oil module production and shipping and related industrial uses which are Port-related; k. Ship building and repair; l. Any other industrial use authorized by ORS 777.250 <p>2. Public and institutional uses: Transportation facilities and improvements:</p> <ul style="list-style-type: none"> a. Normal operation, maintenance; b. Installation of improvements within the existing right-of-way; c. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval; d. Landscaping as part of a transportation facility; e. Emergency Measures; f. Street or road construction as part of an approved subdivision or partition; g. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and h. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU) 	<p>3. Residential: (CU)</p> <ul style="list-style-type: none"> a. One caretaker unit shall be permitted for each development, subject to the standards in Section 2.3.160. Other residential uses are not permitted, except that residences existing prior to the effective date of this Code may continue. <p>4. Commercial: (CU)</p> <ul style="list-style-type: none"> a. Offices and other commercial uses that are integral to a primary industrial use (e.g., administrative offices, and wholesale of goods produced on location and similar uses); b. Small-scale retail and service commercial uses up to 10,000 square feet of total floor area per site, for general use of industrial use employees and customers (e.g., restaurants, hair salons, banks, dry cleaners, book stores, coffee retailers). <p>5. Wireless Communication Equipment - subject to the standards in Chapter 3.6.200.</p> <p>6. Accessory uses and Structures</p>

Land uses with (CU) shall require a Conditional Use Permit in accordance with Chapter 4.4. Uses marked with an asterisk (*) are subject to the standards in Section 2.3.160 Special Use standards, "Special Standards for Certain uses"

** Uses marked with two asterisks are subject to the standards in Section 4.4.400 D. "Port-related" uses identifies the Port of Morrow.

2.3.170 Port Industrial Sub District (PI) (continued)**D. Limitations on Uses.**

1. Material shall be stored and grounds shall be maintained in a manner which will not create a health hazard.
2. All related provisions of the Oregon Revised Statutes shall be complied with, particularly those dealing with hazardous substances and radioactive materials.

E. Dimension Requirements.

The following dimensional requirements apply to all buildings and structures constructed, placed or otherwise established in the PI Sub District.

1. Minimum front yard setback: Thirty (30) feet. No structure shall be erected closer than ninety (90) feet from the centerline of any public, county or state road. Structures on corner or through lots shall observe the minimum front yard setback on both streets.
2. Minimum side and rear yard setback: Ten (10) feet.
3. Maximum lot coverage: Lot coverage may be up to 100% in this Sub District. This standard may be limited by dimensional, landscaping and other land use standards within the Code.
4. Maximum building height: No limitation.

F. Interpretation.

1. In the event that it is unclear to City staff whether a proposed use is a permitted use within the PI Sub District, Chapter 4.8, Interpretations, shall be followed.

G. Additional Requirements.

1. The Port shall establish a master plan for the area that assures compatibility of Port uses with adjacent land uses. The master plan should include provisions for buffering, traffic circulation, lighting, and landscaping, as necessary, to ensure compatibility.
2. The plan shall be subject to review and approval by the City of Boardman Planning Commission

Chapter 2.4 - Light Industrial (LI) District

Sections:

- 2.4.100 - Purpose
- 2.4.110 - Permitted Land Uses
- 2.4.120 - Development Setbacks
- 2.4.130 - Lot Coverage
- 2.4.140 - Building Height
- 2.4.150 - Building Orientation
- 2.4.160 - Design Guidelines and Standards
- 2.4.170 - Special Standards for Certain Uses

2.4.100 Purpose

The Light Industrial District accommodates a range of light manufacturing, industrial-office uses, automobile-oriented commercial uses (*e.g.*, lodging, restaurants, auto-oriented retail), and similar uses which are not appropriate in downtown or main street areas. The district's standards are based on the following principles:

- Ensure efficient use of land and public services.
- Provide a balance between jobs and housing, and encourage mixed-use development.
- Provide transportation options for employees and customers.
- Provide business services close to major employment centers.
- Ensure compatibility between industrial uses and nearby residential areas.
- Provide appropriately zoned land with a range of parcel sizes for industry.
- Provide for automobile-oriented uses, while preventing strip-commercial development in highway corridors.

2.4.110 Permitted Land Uses

A. Permitted Uses. The land uses listed in Table 2.4.110.A are permitted in the Light Industrial District, subject to the provisions of this Chapter. Only land uses which are specifically listed in Table 2.4.110.A, and land uses which are approved as "similar" to those in Table 2.4.110, may be permitted. The land uses identified with a "CU" in Table 2.4.110.A require Conditional Use Permit approval prior to development or a change in use, in accordance with Chapter 4.4.

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter 4.8 - Interpretations.

2.4.110 Permitted Land Uses (continued)
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Table 2.4.110.A
Land Use Types Permitted in the Light Industrial District

1. Industrial *:

- a. Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods)
- b. Research facilities
- c. Warehousing and distribution
- d. Mini-warehouse and storage
- e. Similar uses

2. Commercial :

- a. Automobile-oriented uses (vehicle repair, sales, rental, storage, service; and drive-up, drive-in, and drive-through facilities)
- b. Hotels and motels
- c. Medical and dental clinics and laboratories
- d. Outdoor commercial uses (e.g., outdoor storage and sales)
- e. Personal and professional services (e.g., child care, catering/food services, restaurants, laundromats and dry cleaners, barber shops and salons, banks and financial institutions, and similar uses)
- f. Repair services
- g. Retail trade and services, not exceeding 60,000 square feet of floor area per building
- h. Wholesale trade and services, not exceeding 60,000 square feet of floor area per building
- i. Uses similar to those listed above

3. Civic and Semi-Public Uses :

- a. Government facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities)
- b. Utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)
- c. Special district facilities (e.g., irrigation district and similar facilities)
- d. Transportation facilities and improvements:
 - 1. Normal operation, maintenance;
 - 2. Installation of improvements within the existing right-of-way;
 - 3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval;
 - 4. Landscaping as part of a transportation facility;
 - 5. Emergency Measures;
 - 6. Street or road construction as part of an approved subdivision or partition;
 - 7. Transportation projects that are not designated improvements in the Transportation System Plan ** (CU); and
 - 8. Transportation projects that are not designed and constructed as part of an approved subdivision or partition** (CU)
- e. Uses similar to those listed above.

4. Accessory Uses and Structures**5. Wireless communication equipment (CU)**

Land uses with (CU) shall require a Conditional Use Permit in accordance with Chapter 4.4. Uses marked with an asterisk (*) are subject to the standards in Section 2.4.170 Special Use standards, "Special Standards for Certain uses)"

** Uses marked with two asterisks are subject to the standards in Section 4.4.400 D.

2.4.110.B Land Uses Prohibited in Light Industrial District

Only uses specifically listed in Table 2.4.110.A, and uses similar to those in Table 2.4.110.A, are permitted in this district. The following uses are expressly prohibited: new housing, churches and similar facilities, and non-vocational schools.

2.4.120 Development Setbacks

Development setbacks provide building separation for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation. Development setbacks are measured from the building foundation to the respective property line.

- A. Front Yard Setbacks.** The minimum front yard setback shall be 15 feet, except that additional setback yards may be required to provide for planned widening of an adjacent street.
- B. Rear Yard Setbacks.** There is no required rear yard setback, except that buildings shall be set back from the Residential District by a minimum of 20 feet.
- C. Side Yard Setbacks.** There are no required side-yard setbacks, except that buildings shall be set back from the Residential District by a minimum of 15 feet.
- D. Other Yard Requirements.**
 - 1. **Buffering.** A 20-foot minimum buffer zone shall be required between development and any adjacent Residential District. The buffer zone shall provide landscaping to screen parking, service and delivery areas, and walls without windows or entries. The buffer may contain pedestrian seating but shall not contain any trash receptacles or storage of equipment, materials, vehicles, etc. The landscaping standards in Chapter 3.2 may require buffering other situations, as well.
 - 2. **Neighborhood Access.** Construction of pathway(s) and fence breaks in yard setbacks may be required to provide pedestrian connections to adjacent neighborhoods or other districts, in accordance with Chapter 3.1 - Access and Circulation Standards.
 - 3. **Building and Fire Codes.** All developments shall meet applicable fire and building code standards, which may require setbacks different from those listed above (e.g., combustible materials, etc.).

2.4.130 Lot Coverage

The maximum allowable lot coverage in the Light Industrial District is 80 percent. The maximum allowable lot coverage is computed by calculating the total area covered by buildings and impervious (paved) surfaces, including accessory structures. Compliance with other sections of this code may preclude development of the maximum lot coverage for some land uses.

2.4.140 Building Height

The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale:

- A. **Base Requirement.** Buildings shall be no more than 3 stories or 35 feet in height, whichever is greater.
- B. **Performance Option.** The allowable building height may be increased to 45 feet, when approved as part of a Conditional Use Permit. The development approval may require additional setbacks, stepping-down of building elevations, visual buffering, screening, and/or other appropriate measures to provide a height transition between the development and adjacent non-industrial development. Roof equipment and other similar features, which are necessary to the industrial operation, shall be screened, and may not exceed 55 feet in height without approval of a Conditional Use Permit.
- C. **Method of Measurement.** “Building height” is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. (See Figure 2.1.160 for examples of measurement.) The reference datum shall be selected from either of the following, whichever yields a greater height of building:
 - 1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade;
 - 2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection ‘a’ is more than 10 feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building .

2.4.150 Building Orientation

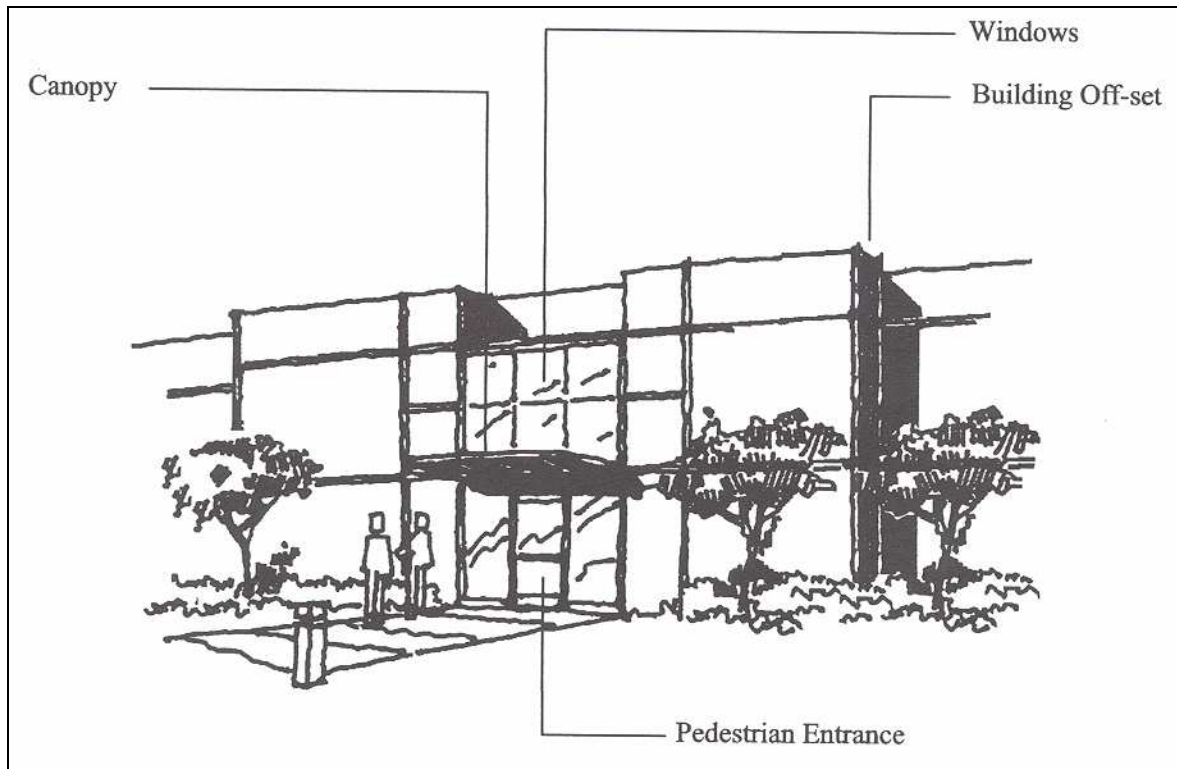
All of the following standards shall apply to new development within the Light Industrial District in order to reinforce streets as public spaces and encourage alternative modes of transportation, such as walking, and bicycling.

- A. Building Entrances.** All buildings shall have a primary entrance oriented to a street. “Oriented to a street” means that the building entrance faces the street, or is connected to the street by a direct and convenient pathway. Streets used to comply with this standard may be public streets, or private streets that contain sidewalks and street trees, in accordance with the design standards in Chapter 3.
- B. Corner Lots.** Buildings on corner lots shall have their primary entrance oriented to the street corner, or within 20 feet of the street corner (i.e., as measured from the lot corner). In this case, the street corner shall provide an extra-wide sidewalk or plaza area with landscaping, seating or other pedestrian amenities. The building corner shall provide architectural detailing or beveling to add visual interest to the corner.
- C. Pathway Connections.** Pathways shall be placed through yard setbacks as necessary to provide direct and convenient pedestrian circulation between developments and neighborhoods. Pathways shall conform to the standards in Chapter 3.
- D. Arterial Streets.** When the only street abutting a development is an arterial street, the building’s entrance(s) may be oriented to an internal drive. The internal drive shall provide a raised pathway connecting the building entrances to the street right-of-way. The pathway shall conform to the standards in Chapter 3.
- E. Buffers.** The City may require a 20-foot landscape buffer between development in the Light Industrial District and adjacent Residential District(s) to reduce light, glare, noise, and aesthetic impacts.

2.4.160 Design Guidelines and Standards

All developments in the Light Industrial District shall be evaluated during Site Design Review for conformance with the criteria in A-B. *Note: the example shown below is meant to illustrate typical building design elements, and should not be interpreted as a required design or style.*

Figure 4.A – Design Features (Typical)



- A. **Building Mass.** Where building elevations are oriented to the street in conformance with Section 2.4.150, design features such as windows, pedestrian entrances, building off-sets, projections, detailing, change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes.
- B. **Pedestrian-Scale Building Entrances.** Recessed entries, canopies, and/or similar features shall be used at the entries to buildings in order to create a pedestrian-scale.

2.4.170 Special Standards for Certain Uses**A. High Traffic-Generating Uses.**

Uses which are likely to generate “significant” levels of vehicle traffic (e.g., due to shipping, receiving, and/or customer traffic) shall require a Conditional Use Permit, in accordance with Section 4.4. “Significant traffic” means that the average number of daily trips, or the average number of peak hour trips, on any existing street would increase by 20 percent or greater and 100 vehicles per day as a result of the development. The City may require a traffic impact analysis (Chapter 4.10) prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by the Oregon Department of Transportation (ODOT) for developments that increase traffic on state highways. The Conditional Use Permit shall include appropriate transportation improvement requirements, as identified by the traffic analysis and/or ODOT, in conformance with Chapter 3.4.1.

B. Wireless Communication Equipment.

Wireless communication equipment, including radio (i.e., cellular), television and similar types of transmission and receiving facilities are permitted, subject to the standards for wireless communication equipment in Chapter 3.6.2. Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the Light Industrial District.

Chapter 3.1 - Access and Circulation

Sections:

3.1.100 - Purpose

3.1.200 - Vehicular Access and Circulation

3.1.300 - Pedestrian Access and Circulation

3.1.100 Purpose

The purpose of this chapter is to help insure that developments provide safe and efficient access and circulation, for pedestrians and vehicles. Section 3.1.200 provides standards for vehicular access and circulation. Section 3.1.300 provides standards for pedestrian access and circulation. Standards for transportation improvements are provided in Chapter 3.4.100.

3.1.200 Vehicular Access and Circulation

A. Intent and Purpose. The intent of this Section is to manage vehicle access to development through a connected street system, while preserving the flow of traffic in terms of safety, roadway capacity, and efficiency. Access shall be managed to maintain adequate performance standards and to maintain the “functional classification” of roadways as required by the City’s Comprehensive Plan. Major roadways, including highways, arterials, and collectors, serve as the primary system for moving people and goods. “Access management” is a primary concern on these roads. Local streets and alleys provide access to individual properties. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function. This Section attempts to balance the right of reasonable access to private property with the right of the citizens of the City and the State of Oregon to safe and efficient travel. It also requires developments to construct planned streets (arterials and collectors) and to extend local streets.

To achieve this policy intent, state and local roadways have been categorized in the Comprehensive Plan by function and classified for access purposes based upon their level of importance and function. (See Chapter 3.4.100.) Regulations have been applied to these roadways for the purpose of reducing traffic accidents, personal injury, and property damage attributable to access systems, and to thereby improve the safety and operation of the roadway network. This will protect the substantial public investment in the existing transportation system and reduce the need for expensive remedial measures. These regulations also further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed road and access systems and discouraging the unplanned subdivision of land.

B. Applicability. This ordinance shall apply to all public streets within the City and to all properties that abut these streets.

3.1.200 - Vehicular Access and Circulation *(continued)*

- C. Access Permit Required.** Access to a public street requires an Access Permit in accordance with the following procedures:
1. **City Street Permits.** Permits for access to City streets shall be subject to review and approval by the City Manager or his/her designee based on the standards contained in this Chapter, and the provisions of Chapter 3.4.100 - Transportation Standards. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.
 2. **State Highway Permits.** Permits for access to State highways shall be subject to review and approval by the Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the City or Morrow County. In that case, the City or County shall determine whether access is granted based on its adopted standards.
 3. **County Highway Permits.** Permits for access to County highways shall be subject to review and approval by Morrow County, except where the County has delegated this responsibility to the City, in which case the City shall determine whether access is granted based on adopted County standards.
- D. Traffic Study Requirements.** The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also, Section 3.4.100 - Transportation Standards, and Chapter 4.10.)
- E. Conditions of Approval.** The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. To obtain access to and from off-street parking areas shall not require the driver to back-out onto a public street (except for single-family, two-family, and three-family dwellings).
- F. Access Options.** When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods. These methods are “options” to the developer/subdivider, unless one method is specifically required by Chapter 2 (i.e., under “Special Standards for Certain Uses”). A minimum of 10 feet per lane is required.
1. **Option 1.** Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.

3.1.200 - Vehicular Access and Circulation *(continued)*

2. Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.
3. Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in Section G, below.
4. Subdivisions Fronting On an Arterial Street. New residential land divisions fronting on an arterial street shall be required to provide alleys or secondary (local or collector) streets for access to individual lots. When alleys or secondary streets cannot be constructed due to topographic or other physical constraints or existing development patterns access may be provided by consolidating front-access driveways for clusters of two or more lots (e.g., includes flag lots and mid-block lanes).
5. Double-Frontage Lots. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. Except for corner lots, the creation of new double-frontage lots shall be prohibited in the Residential District, unless topographic or physical constraints or existing development patterns require the formation of such lots. When double-frontage lots are permitted in the Residential District, a landscape buffer with trees and/or shrubs and ground cover not less than 15 feet wide shall be provided between the back yard fence/wall and the sidewalk or street; maintenance shall be assured by the owner (i.e., through homeowner’s association, etc.).

Important cross-references to other code sections: Chapters 2 and 3 may require buildings placed at or near the front property line and driveways and parking areas oriented to the side or rear yard. The City may require the dedication of public right-of-way and construction of a street (e.g., frontage road, alley or other street) when the development impact is proportionate to the need for such a street, and the street is identified by the Comprehensive Plan or an adopted Local Streets Plan. (Please refer to Section 3.4.100 - Transportation Standards.)

G. Access Spacing. Driveway accesses shall be separated from other driveways and street intersections in accordance with the following standards and procedures:

1. Local Streets. The minimum feet of separation on local streets (as measured from the sides of the driveway/street) shall be determined based on the policies and standards contained in Table 3.1.200 G except as provided in subsection 3, below.
2. Arterial and Collector Streets. Access spacing on collector and arterial streets and at controlled intersections (i.e., with four-way stop sign or traffic signal) shall be determined by the policies and standards in Table 3.1.200 G.

3.1.200 - Vehicular Access and Circulation *(continued)*

3. Access to State Highways shall be subject to the applicable standards and policies contained in the Interstate Highway 84 Corridor Plan. See Table 9A and Table 9 in the Transportation System Plan (TSP).
4. Special Provisions for All Streets. Direct street access may be restricted for some land uses, in conformance with the provisions of Chapter 2 - Land Use Districts. For example, access consolidation, shared access, and/or access separation greater than that specified by subsections 1-2, may be required by the permitting agency for the purpose of protecting the function, safety and operation of the street for all users. (See Section 'I', below.) Where no other alternatives exist, the permitting agency may allow construction of an access connection along the property line farthest from an intersection. In such cases, directional connections (i.e., right in/out, right in only, or right out only) may be required.
5. Corner Clearance. The distance from a street intersection to a driveway or other street access shall meet or exceed the minimum spacing requirements for the street classification in the City's Transportation System Plan.
6. Variance. A variance to vehicle access and circulation standards shall follow procedures in Chapter 5.1.300.A.

Table 3.1.200 G
Minimum Intersection Spacing Standards

Street Type	Public Street	Private Drive
Arterial	600 feet	300 feet
Collector	300 feet	75 feet
Neighborhood Collector	200 feet	50 feet
Local	150 feet	15 feet

This table identifies the minimum public street intersection and private access spacing standards for the City of Boardman roadway network as they relate to new development and redevelopment. Source: City of Boardman, Transportation System Plan, 2001.

- H. Number of Access Points.** For single-family (detached and attached), two-family, and three-family housing types, one street access point is permitted per lot; except that two access points may be permitted for two-family and three-family housing on corner lots (i.e., no more than one access per street), subject to the access spacing standards in Section 'G', above. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Section I, below, in order to maintain the required access spacing, and minimize the number of access points.

3.1.200 - Vehicular Access and Circulation *(continued)*

- I. Shared Driveways.** Where feasible, the number of driveway and private street accesses to public streets shall be minimized for commercial and industrial uses by the sharing of driveways between adjoining parcels. The City shall require shared driveways as a condition of land division or site design review for commercial and industrial uses, as applicable, for traffic safety and access management purposes in accordance with the following standards:
1. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. “Stub” means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. “Developable” means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).
 2. Access easements for the benefit of affected properties shall be recorded for all shared driveways, including pathways, at the time of final plat approval (Chapter 4.3) or as a condition of site development approval (Chapter 4.2).
 3. Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, parcel configuration, existing development or similar conditions) prevent extending the street/driveway in the future.
 4. Cross Access. Cross access is encouraged, and may be required as a condition of approval between contiguous sites in the Commercial and Industrial Districts and for multi-family housing in the Residential Multi-family Sub District of the Residential District, in order to provide for more direct circulation between sites and uses for pedestrians, bicycles and drivers.
- J. Street Connectivity.** In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:
1. Block Length and Perimeter. The maximum block length and perimeter shall not exceed:
 - a. 600 feet length and 1,600 feet perimeter in the Residential District and Sub Districts;
 - b. 600 feet length and 1,600 feet perimeter in the Commercial District;
 - c. Not applicable to the General Industrial District;
 - d. 800 feet length and 2,000 feet perimeter in the Tourist Commercial Sub District, Service Center Sub District and Light Industrial District, except as required for commercial developments subject to Chapter 2.2, Section 140;
 2. Street Standards. Public and private streets shall also conform to Chapter 3.4.100 - Transportation Standards, Section 3.1.300 - Pedestrian Circulation, and applicable Americans With Disabilities Act (ADA) design standards.

3.1.200 - Vehicular Access and Circulation *(continued)*

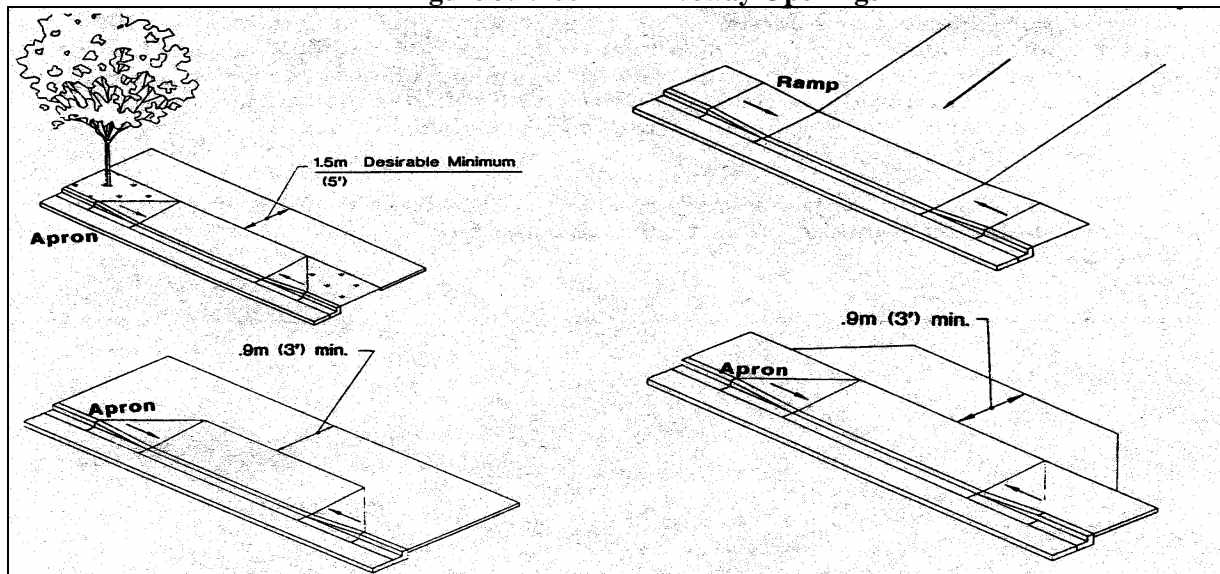
3. Exception. Exceptions to the above standards may be granted when blocks are divided by one or more pathway(s), in conformance with the provisions of Section 3.1.300.A. Pathways shall be located to minimize out-of-direction travel by pedestrians and may be designed to accommodate bicycles. An exception may also be granted for topography, natural resources, existing development or other permanent features such as Interstates and railroad track right-of-ways.

K. Driveway Openings. Driveway openings [or curb cuts] shall be the minimum width necessary to provide the required number of vehicle travel lanes (10 feet for each travel lane). The following standards (i.e., as measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians:

1. Single family, two-family, and three-family uses shall have a minimum driveway width of 10 feet, and a maximum width of 24 feet, (except that one recreational vehicle pad driveway may be provided in addition to the standard driveway for each lot).
2. Multiple family uses with 4 to 7 dwelling units shall have a minimum driveway width of 20 feet, and a maximum width of 24 feet.
3. Multiple family uses with more than 8 dwelling units, and off-street parking areas with 16 or more parking spaces, shall have a minimum driveway width of 24 feet, and a maximum width of 30 feet. These dimensions may be increased if the City Manager or his/her designee determines that more than two lanes are required based on the number of trips generated or the need for turning lanes.
4. Access widths for all other uses shall be based on 10 feet of width for every travel lane, except that driveways providing direct access to parking spaces shall conform to the parking area standards in Chapter 3.3.
5. Driveway Aprons. Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive, as shown in Figure 3.1.200K. Driveway aprons shall conform to Americans with Disabilities Act (ADA) standards for sidewalks and pathways, which require a continuous route of travel that is a minimum of 3 feet in width, with a cross slope not exceeding 2 percent.
6. Driveway approaches. Driveway approaches shall be designed and located to provide an existing vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes or tapers should be avoided due to the potential for vehicle conflicts.
7. Loading area design. The design of driveways and on-site maneuvering and loading areas for commercial and industrial developments shall consider the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.

3.1.200 - Vehicular Access and Circulation (*continued*)

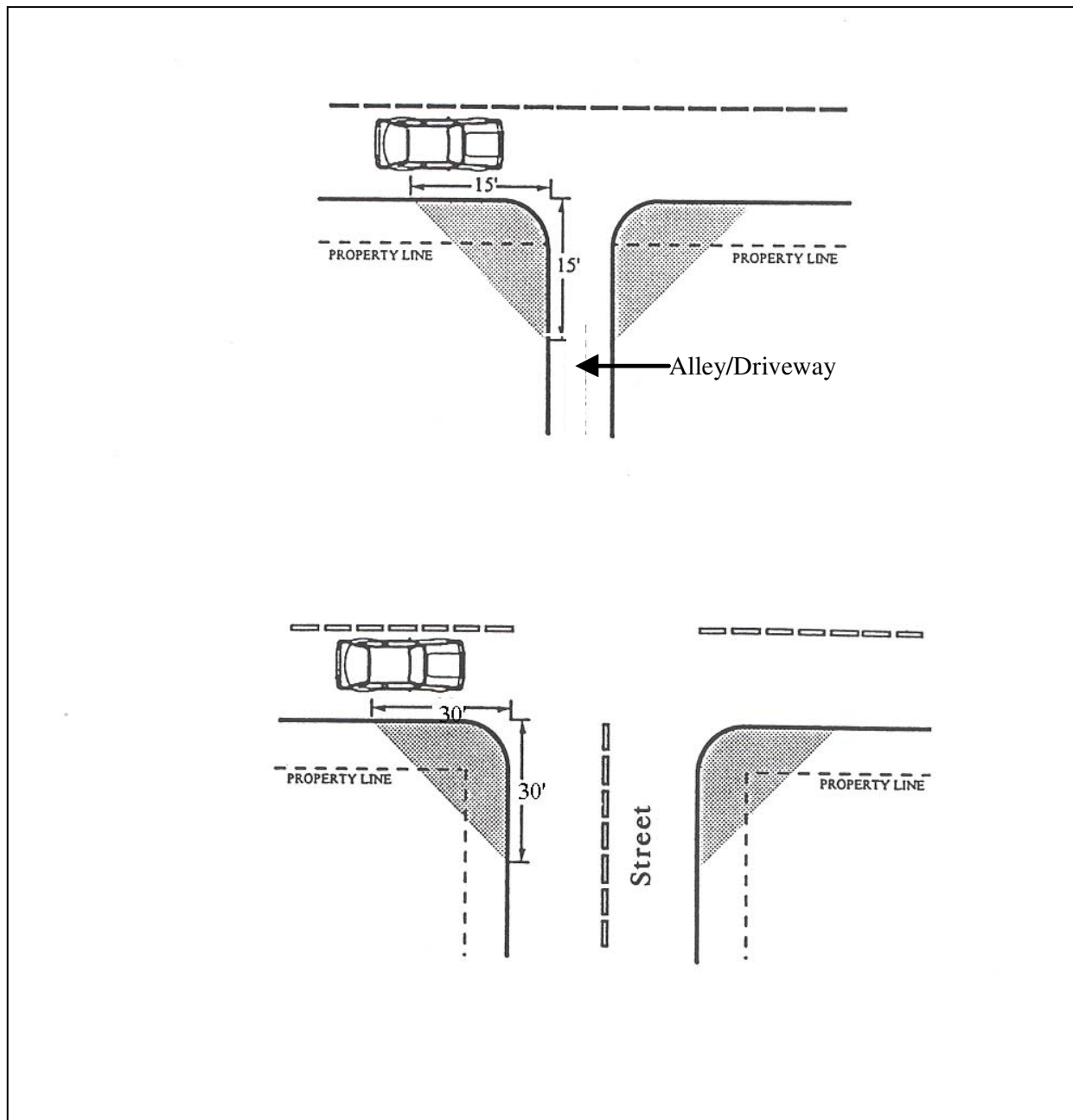
Figure 3.1.200K – Driveway Openings



- L. Fire Access and Parking Area Turn-around.** A fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive. Parking areas shall provide adequate aisles or turn-around areas for service and delivery vehicles so that all vehicles may enter the street in a forward manner. For requirements related to cul-de-sacs or dead-end streets, please refer to Section 3.4.100.M.
- M. Vertical Clearances.** Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13' 6" for their entire length and width.
- N. Vision Clearance.** No signs, structures or vegetation in excess of three feet in height shall be placed in "vision clearance areas", as shown in Figure 3.1.200N. This standard applies to the following types of roadways: streets, driveways, alleyways and railways. The minimum vision clearance area may be increased by the City Manager or his/her designee upon finding that more sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). An exception to this standard may be granted by the City Manager or his/her designee to allow utility structures (such as electrical transformers) for necessary services. This exception does not include the installation of utility poles.
- O. Construction.** The following development and maintenance standards shall apply to all driveways and private streets.
1. **Surface Options.** Driveways, parking areas, aisles, and turn-arounds may be paved with asphalt, concrete or comparable surfacing, or a durable non-paving material may be used to reduce surface water runoff and protect water quality. Paving surfaces shall be subject to review and approval by the City Manager or his/her designee.

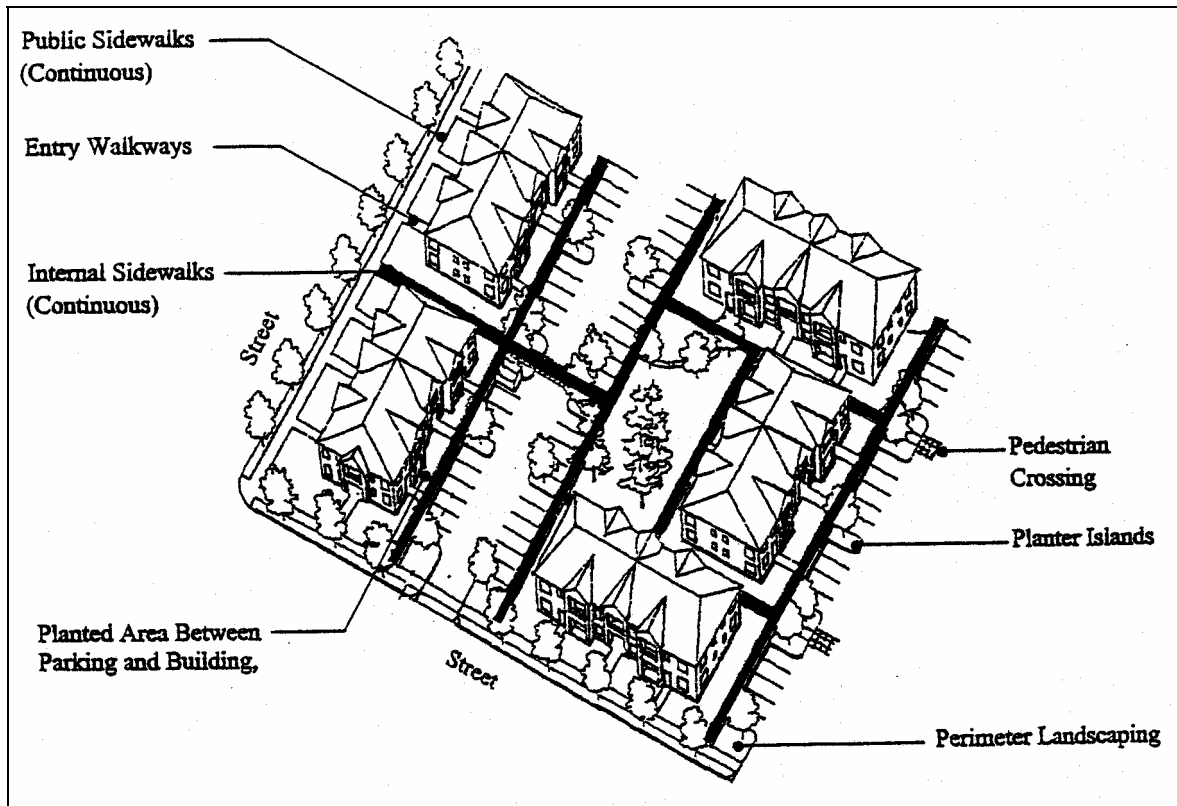
3.1.200 - Vehicular Access and Circulation *(continued)*

3. Surface Water Management. Surface water facilities shall be constructed in conformance with City standards. See Section 3.2 for Landscaping standards or the City's Stormwater Management Standards in Section 3.5.
4. Driveway Aprons. When driveway approaches or "aprons" are required to connect driveways to the public right-of-way, they shall be paved with concrete surfacing. (See Section K above.)

Figure 3.1.200N – Vision Clearance Area

3.1.300 – Pedestrian Access and Circulation

Pedestrian System for Multi-Family Development
Figure 3.1.300A



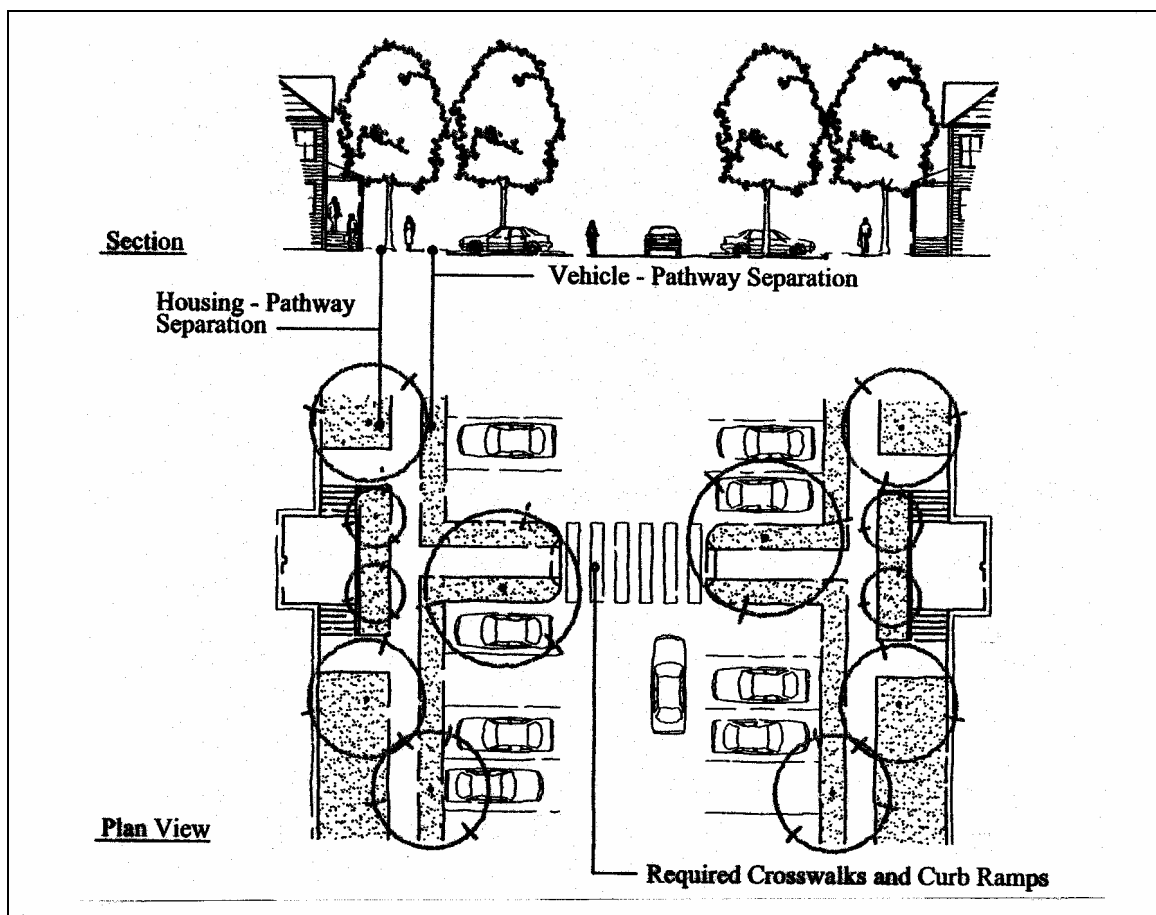
- A. **Pedestrian Access and Circulation.** To ensure safe, direct and convenient pedestrian circulation, all developments, except single family detached housing (i.e., on individual lots), shall provide a continuous pedestrian and/or multi-use pathway system. (Pathways only provide for pedestrian circulation. Multi-use pathways accommodate pedestrians and bicycles.) The system of pathways shall be designed based on the standards in subsections 1-3, below:
1. **Continuous Pathways.** The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas whenever possible. The developer may also be required to connect or stub pathway(s) to adjacent streets and private property, in accordance with the provisions of Section 3.1.200 - Vehicular Access and Circulation, and Chapter 3.4. 100 - Transportation Standards.

3.1.300 – Pedestrian Access and Circulation *(continued)*

2. Safe, Direct, and Convenient Pathways. Pathways within developments shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets, based on the following definitions:
 - a. Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.
 - b. Safe and convenient. Bicycle and pedestrian routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.
 - c. Commercial and Industrial Primary Entrance. For commercial, industrial, mixed use, public, and institutional buildings, the “primary entrance” is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.
 - d. Residential Entrance. For residential buildings the “primary entrance” is the front door (i.e., facing the street). For multifamily buildings in which each unit does not have its own exterior entrance, the “primary entrance” may be a lobby, courtyard or breezeway which serves as a common entrance for more than one dwelling.
3. Connections Within Development. For all developments subject to Site Design Review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable.
4. Street Connectivity. Pathways (for pedestrians and bicycles) shall be provided at or near mid-block where the block length exceeds the length required by Section 3.1.200 J. Pathways shall also be provided where cul-de-sacs or dead-end streets are planned, to connect the ends of the streets together, to other streets, and/or to other developments. Pathways used to comply with these standards shall conform to all of the following criteria:
 - a. Multi-use pathways (i.e., for pedestrians and bicyclists) are no less than 10 feet wide and located within a 20-foot-wide right-of-way or easement that allows access for emergency vehicles;
 - b. If the streets within the subdivision or neighborhood are lighted, the pathways shall also be lighted;
 - c. Stairs or switchback paths using a narrower right-of-way/easement may be required in lieu of a multi-use pathway where grades are steep;
 - d. The City may require landscaping within the pathway easement/right-of-way for screening and the privacy of adjoining properties;

3.1.300 – Pedestrian Access and Circulation *(continued)*

- e. The City Manager or his/her designee may determine, based upon facts in the record, that a pathway is impracticable due to: physical or topographic conditions (e.g., freeways, railroads, extremely steep slopes, sensitive lands, and similar physical constraints); buildings or other existing development on adjacent properties that physically prevent a connection now or in the future, considering the potential for redevelopment; and sites where the provisions of recorded leases, easements, covenants, restrictions, or other agreements recorded as of the effective date of this Code prohibit the pathway connection.

Figure 3.1.300 B. Pathway Separations

3.1.300 – Pedestrian Access and Circulation *(continued)***B. Design and Construction.** Pathways shall conform to all of the standards in 1-5:

1. Vehicle/Pathway Separation. Where pathways are parallel and adjacent to a driveway or street (public or private), they shall be raised 6 inches and curbed, or separated from the driveway/street by a 5-foot minimum strip with bollards, a landscape berm, or other physical barrier. If a raised path is used, the ends of the raised portions must be equipped with curb ramps.
2. Housing/Pathway Separation. Pedestrian pathways shall be separated a minimum of 5 feet from all residential living areas on the ground floor, except at building entrances. Separation is measured from the pathway edge to the closest dwelling unit. The separation area shall be landscaped in conformance with the provisions of Chapter 3.3. No pathway/building separation is required for commercial, industrial, public, or institutional uses.
3. Crosswalks. Where pathways cross a parking area, driveway, or street (“crosswalk”), they shall be clearly marked with contrasting paving materials, humps/raised crossings, or painted striping. An example of contrasting paving material is the use of a concrete crosswalk through an asphalt driveway. If painted striping is used, it shall consist of thermo-plastic striping or similar type of durable application.
4. Pathway Surface. Pathway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, at least 5 feet wide, and shall conform to ADA requirements. Multi-use paths (i.e., for bicycles and pedestrians) shall be the same materials, at least 10 feet wide. (See also, Section 3.4.100 - Transportation Standards for public, multi-use pathway standard.)
5. Accessible routes. Pathways shall comply with the Americans With Disabilities Act (ADA), which requires accessible routes of travel.

Chapter 3.2 - Landscaping, Street Trees, Fences and Walls

Sections:

3.2.100 - Purpose

3.2.200 - New Landscaping

3.2.300 - Street Trees

3.2.400 - Fences and Walls

3.2.100 Purpose

The purpose of this chapter is to promote community health, safety and welfare by protecting natural vegetation, and setting development standards for landscaping, street trees, fences and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Trees and other plants can also buffer pedestrians from traffic. Walls, fences, trees and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces.

The chapter is organized into the following sections:

Section 3.2.200 - New Landscaping sets standards for and requires landscaping of all development sites that require Site Design Review. This section also requires buffering for parking and maneuvering areas, and between different land use districts. Note that other landscaping standards are provided in Chapter 2 - Land Use Districts, for specific types of development.

Section 3.2.300 - Street Trees sets standards for and requires planting of trees along all streets for shading, comfort and aesthetic purposes.

Section 3.2.400 - Fences and Walls, sets standards for new fences and walls, including maximum allowable height and materials, to promote security, personal safety, privacy, and aesthetics.

3.2.200 - New Landscaping

- A. **Applicability.** This Section shall apply to all developments requiring Site Design Review, and other developments with required landscaping.
- B. **Landscaping Plan Required.** A landscape plan is required. All landscape plans shall conform to the requirements in Chapter 4.2, Section 500.B (Landscape Plans).
- C. **Landscape Area Standards.** The minimum percentage of required landscaping equals:
 - 1. Residential Districts. 20 percent of the site.
 - 2. Commercial District. 10 percent of the site.

3.2.200 - New Landscaping (continued)

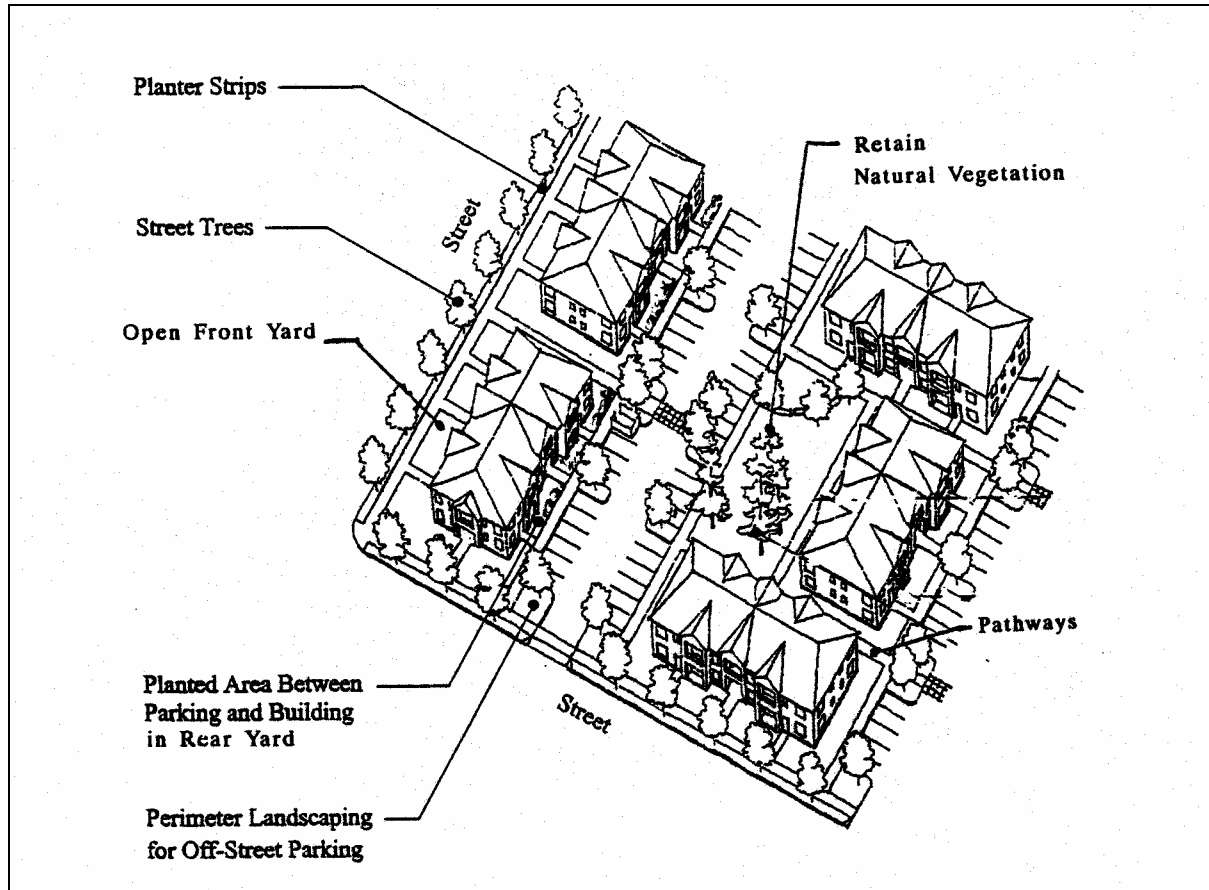
3. General Industrial District. 20 percent of the site.
4. Light Industrial District. 10 percent of the site.

D. Landscape Materials. Landscape materials include trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features, as described below:

1. Natural Vegetation. Natural vegetation shall be preserved or planted where practicable.
2. Plant Selection. A combination of trees, shrubs and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions. As necessary, soils shall be amended to allow for healthy plant growth.
3. Hardscape features (i.e., patios, decks, plazas, etc.) may cover up to 30 percent of the required landscape area; except in the City Center Sub District where hardscape features may cover up to 50 percent of the landscape area. Swimming pools, sports courts and similar active recreation facilities may not be counted toward fulfilling the landscape requirement.
4. Non-plant Ground Covers. Bark dust, chips, aggregate or other non-plant ground covers may be used, but shall cover no more than 25 percent of the area to be landscaped. "Coverage" is measured based on the size of plants at maturity or after 2 years of growth, whichever comes sooner.
5. Tree Size. Trees shall have a minimum caliper size of 2 inches or greater when planted.
6. Ground Cover Ground cover plants shall be sized and spaced so that they grow together to cover a minimum of 75 percent of the underlying soil within 5 years.
7. Storm Water Facilities. Storm water facilities (e.g., detention/retention ponds and swales) shall be landscaped with water tolerant, native plants.

3.2.200 - New Landscaping *(continued)*

Figure 3.2.200 - Landscape Areas in a Multiple Family Development (Typical)



E. Landscape Design Standards. All yards, parking lots and required street tree planter strips shall be landscaped in accordance with the provisions of this Chapter (Sections 3.2.100 through 3.2.400). Landscaping shall be installed with development to provide erosion control, visual interest, buffering, privacy, open space and pathway identification, shading and wind buffering, based on the following standards:

1. Yard Setback Landscaping. Landscaping shall satisfy the following criteria:
 - a. Provide visual screening and privacy within side and rear yards; while leaving front yards and building entrances mostly visible for security purposes;
 - b. Use shrubs and trees as wind breaks, as appropriate;
 - c. Define pedestrian pathways and open space areas with landscape materials;
 - d. Provide focal points within a development, such as signature trees (i.e., large or unique trees), hedges and flowering plants;

3.2.200 - New Landscaping *(continued)*

- e. Use trees to provide summer shading within common open space areas, and within front yards when street trees cannot be provided;
 - f. Use a combination of plants for year-long color and interest;
 - g. Use landscaping to screen outdoor storage and mechanical equipment areas, and to enhance graded areas such as berms, swales and detention/retention ponds.
2. Parking areas. A minimum of five percent of the combined area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of an evenly distributed mix of shade trees with shrubs and/or ground cover plants. “Evenly distributed” means that the trees and other plants are distributed around the parking lot perimeter and between parking bays to provide a partial canopy. At a minimum, one tree per 4 parking spaces total shall be planted to create a partial tree canopy over and around the parking area. All parking areas with more than 20 spaces shall include landscape islands with trees to break up the parking area into rows of not more than 12 contiguous parking spaces. All landscaped areas shall have minimum dimensions of 4 feet by 4 feet to ensure adequate soil, water, and space for healthy plant growth when used as a modified swale in accordance with detention standards found in the City’s Stormwater Design Standards (Chapter 3.5).
3. Buffering and Screening Required - Buffering and screening are required under the following conditions:
- a. Parking/Maneuvering Area Adjacent to Streets and Drives. Where a parking or maneuvering area is adjacent and parallel to a street or driveway, a decorative wall (masonry or similar quality material), arcade, trellis, evergreen hedge, or similar screen shall be established parallel to the street or driveway. The required wall or screening shall provide breaks, as necessary, to allow for access to the site and sidewalk by pedestrians via pathways. The design of the wall or screening shall also allow for visual surveillance of the site for security. Evergreen hedges used to comply with this standard shall be a minimum of 36 inches in height at maturity, and shall be of such species, number and spacing to provide the required screening within one year after planting. Any areas between the wall/hedge and the street/driveway line shall be landscaped with plants or other ground cover. All walls shall be maintained in good condition, or otherwise replaced by the owner.
 - b. Parking/Maneuvering Area Adjacent to Building. Where a parking or maneuvering area, or driveway, is adjacent to a building, the area shall be separated from the building by a raised pathway, plaza, or landscaped buffer no less than 3 feet in width. Raised curbs, bollards, wheel stops, or other design features shall be used to protect buildings from being damaged by vehicles. When parking areas are located adjacent to residential ground-floor living space, a landscape buffer is required to fulfill this requirement.

3.2.200 - New Landscaping *(continued)*

- c. Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas, and Automobile-Oriented Uses. All mechanical equipment, outdoor storage and manufacturing, and service and delivery areas, shall be screened from view from all public streets and Residential districts. Screening shall be provided by one or more the following: decorative wall (i.e., masonry or similar quality material), evergreen hedge, non-see through fence, or a similar feature that provides a non-see through barrier. Walls, fences, and hedges shall comply with the vision clearance requirements and provide for pedestrian circulation, in accordance with Chapter 3.1 - Access and Circulation. (See Section 3.2.400 for standards related to fences and walls.)
- F. Maintenance and Irrigation. The use of drought-tolerant plant species is encouraged, and may be required when irrigation is not available. Irrigation shall be provided for plants that are not drought-tolerant. If the plantings fail to survive, the property owner shall replace them with an equivalent specimen (i.e., evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.). All other landscape features required by this Code shall be maintained in good condition, or otherwise replaced by the owner in perpetuity.
- G. Additional Requirements. Additional buffering and screening may be required for specific land uses, as identified by Chapter 2, and the City may require additional landscaping through the Conditional Use Permit process (Chapter 4.4).

3.2.300 - Street Trees

Street trees shall be planted for all developments that are subject to Site Design Review. Requirements for street tree planting strips are provided in Section 3.4.100 - Transportation Standards. Planting of unimproved streets shall be deferred until the construction of curbs and sidewalks. Street trees shall conform to the following standards and guidelines:

- A. Growth Characteristics. Trees shall be selected based on growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. The following should guide tree selection:
1. Provide a broad canopy where shade is desirable.
 2. Use low-growing trees for spaces under utility wires.
 3. Select trees which can be "limbed-up" where vision clearance is a concern.
 4. Use narrow or "columnar" trees where awnings or other building features limit growth, or where greater visibility is desired between buildings and the street.
 5. Use species with similar growth characteristics on the same block for design continuity.

3.2.300 - Street Trees (continued)

6. Avoid using trees that are susceptible to insect damage, and avoid using trees that produce excessive seeds or fruit.
 7. Select trees that are well adapted to the environment, including soil, wind, sun exposure, and exhaust. Drought-resistant trees should be used in areas with low annual or summer season rainfall, or with sandy or rocky soil.
 8. Select trees for their seasonal color, as desired.
 9. Use deciduous trees for summer shade and winter sun.
- B. Caliper Size.** The minimum caliper size at planting shall be 2 inches, based on the American Association of Nurserymen Standards.
- C. Spacing and Location.** Street trees shall be planted within existing and proposed planting strips, and in sidewalk tree wells on streets without planting strips. Street tree spacing shall be based upon the type of tree(s) selected and the canopy size at maturity. In general, trees shall be spaced no more than 30 feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers.
- D. Soil Preparation, Planting and Care.** The Developer shall be responsible for planting street trees, including soil preparation, ground cover material, staking, and temporary irrigation for two years after planting. The developer shall also be responsible for tree care (pruning, watering, fertilization, and replacement as necessary) during the first two years after planting.
- E. Assurances.** ALTERNATIVE 1: The developer shall pay a fee to the City, in accordance with the adopted fee schedule, for each required street tree. The fee shall cover the City's expense for planting and the first two years of care.
ALTERNATIVE 2: The City shall require the developer to provide a performance and maintenance bond in an amount determined by the City Manager or his/her designee, to ensure the planting of the tree(s) and care during the first two years after planting.

3.2.400 - Fences and Walls

The following standards shall apply to all fences and walls:

- A. General Requirements.** All fences and walls shall comply with the standards of this Section. The City may require installation of walls and/or fences as a condition of development approval, in accordance with Chapter 4.4 - Conditional Use Permits or Chapter 4.2 - Site Design Review.
1. All private fences constructed in the public right-of-way shall require a zoning approval by the City of Boardman to construct the fence within the right-of-way. This approval will be through a Type I ministerial procedure consistent with 4.1.300.

3.2.400 - Fences and Walls

B. Dimensions.

1. The maximum allowable height of fences and walls is six (6) feet, as measured from the lowest grade at the base of the wall or fence, except that retaining walls and terraced walls may exceed six (6) feet when permitted as part of a site development approval, or as necessary to construct streets and sidewalks. A building permit is required for walls exceeding 6 feet in height, in conformance with the Uniform Building Code.
2. The height of fences and walls within a front yard setback shall not exceed four (4) feet, in Residential or Commercial districts (except decorative arbors, gates, etc.) or six (6) feet in Industrial and Light Industrial Districts as measured from the grade closest to the street right-of-way.
3. Landscaping walls to be built for required buffers shall comply with Section 3.2.200.
4. Fences and walls shall comply with the vision clearance standards of Section 3.1.200.

C. Materials. All fences shall be constructed of materials suited to provide fences of standard and acceptable visual characteristics of the surrounding neighborhood.

1. **Acceptable materials shall include;** chain link fencing, redwood or cedar fencing, composite fencing materials, formed plastic fencing, split rail fencing, painted picket fencing, concrete or plaster filled PVC fencing, decorative wrought iron or metal fencing, masonry block or brick or a combination of decorative masonry block or brick and decorative wrought iron or metal.
2. **Unacceptable materials shall include;** pallet panels, steel farm fencepost, chicken wire, rabbit wire or other farm related fencing, undecorated plywood, undecorated pressboard, undecorated chipboard, scrap iron, two or three wire barbed wire fencing, electric fencing materials of any type, or materials inconsistent with the acceptable list of materials in 3.2.400 (C)(1).
3. **Use of Barbed Wire:** the use of barbed wire in fencing materials may be allowed for security purposes within the Industrial and Light Industrial zones and will be subject to Conditional Use approval in all other land use districts within the City. The Conditional Use Permit shall follow the Type III procedure identified in 4.1.500 and be required to submit the information consistent with the provisions in Chapter 4.4.

D. Vision Clearance. All fencing shall meet the requirements of vision clearance at any street intersection in accordance with Figure 3.1.200(N).**E. Maintenance.** For safety and for compliance with the purpose of this Chapter, walls and fences shall be maintained in good condition, or otherwise replaced by the owner.

Chapter 3.3 - Vehicle and Bicycle Parking

Sections:

3.3.100 - Purpose

3.3.200 - Applicability

3.3.300 - Automobile Parking Standards

3.3.400 - Bicycle Parking Standards

3.3.100 Purpose

The purpose of this chapter is to provide basic and flexible standards for development of vehicle and bicycle parking. The design of parking areas is critically important to the viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Historically, some communities have required more parking than is necessary for some land uses, paving extensive areas of land that could be put to better use. Because vehicle parking facilities can occupy large amounts of land, they must be planned and designed carefully to use the land efficiently while maintaining the visual character of the community. This chapter recognizes that each development has unique parking needs by providing a flexible approach for determining parking space requirements (i.e., “minimum” and “performance-based” standards). This chapter also provides standards for bicycle parking because many people use bicycles for recreation, commuting, and general transportation. Children as well as adults need safe and adequate spaces to park their bicycles throughout the community.

3.3.200 Applicability

All developments subject to site design review (defined in Chapter 4.2), including development of parking facilities, shall comply with the provisions of this Chapter.

3.3.300 Vehicle Parking Standards

The minimum number of required off-street vehicle parking spaces (i.e., parking that is located in parking lots and garages and not in the street right-of-way) shall be determined based on the standards in Section 3.3.300.A. There is no minimum number of off-street parking spaces required in the City Center Sub District (or in designated historic districts), however, the “maximum parking” standards of this Chapter apply in those areas.

The number of required off-street vehicle parking spaces shall be determined in accordance with the following standards. Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway or landscape area. Credit shall be allowed for “on-street parking”, as provided in Section 3.3.300.B.

3.3.300 Vehicle Parking Standards *(continued)*

Parking spaces must be developed in accordance with the provisions of this chapter as well as all other applicable standards of the Code including Chapter 2, Land Use District standards; Chapter 3.1 Access and Circulation, Chapter 3.2, Landscaping; and Chapter 3.5, Stormwater Management.

A. Minimum Required Off-street Parking Spaces**1. Residential Uses**

Single family detached housing. Two parking spaces shall be provided for each detached single family dwelling or manufactured home on an individual lot.

Two- and three-family housing. Two spaces per dwelling unit.

Multi-family and single family attached housing.

- a. Studio units or 1-bedroom units less than 500 sq. ft.--Two space/unit.
- b. 1-bedroom units 500 sq. ft. or larger--Two spaces/unit.
- c. 2-bedroom units--Two spaces/unit.
- d. 3-bedroom or greater units--Two spaces/unit.
- e. Retirement complexes for seniors 55-years or greater--Two spaces per unit.

Rooming and boarding houses, dormitories, and bed and breakfast facilities. One space for each guest room.

Senior housing. Same as for retirement complexes.

Manufactured home parks. Same as for single family detached housing.

2. Commercial Uses

Auto, boat or trailer sales, retail nurseries and similar bulk retail uses. One space per 1,000 square feet of the first 10,000 square feet of gross land area; plus one space per 5,000 square feet for the excess over 10,000 square feet of gross land area; plus one space per two employees.

Business, general retail, personal services. General - one space for 350 square feet of gross floor area. Furniture and appliances - one space per 750 square feet of gross floor area.

Chapels and mortuaries. One space per four fixed seats in the main chapel.

Hotels and motels. One space for each guest room, plus one space for the manager.

Offices. Medical and Dental Offices - one space per 350 square feet of gross floor area;

General Offices - one space per 450 square feet of gross floor area.

3.3.300 Vehicle Parking Standards *(continued)*

Restaurants, bars, ice cream parlors and similar uses. One space per four seats or one space per 100-sq. ft. of gross leasable floor area, whichever is less.

Theaters, auditoriums, stadiums, gymnasiums, similar uses. One space per four seats.

3. Industrial Uses

Industrial uses, except warehousing. One space per two employees on the largest shift or for each 700 square feet of gross floor area, whichever is less plus one space per company vehicle.

Warehousing. One space per 1,000 square feet of gross floor area or for each two employees, whichever is greater plus one space per company vehicle.

Public utilities (gas, water, telephone, etc.), not including business offices. One space per two employees on the largest shift, plus one space per company vehicle; a minimum of two spaces is required.

4. Public and Institutional Uses

Child care centers having 13 or more children. One space per two employees; a minimum of two spaces is required.

Churches and similar places of worship. One space per four seats.

Golf courses, except miniature. Eight spaces per hole, plus additional spaces for auxiliary uses set forth in this section. Miniature golf courses -four spaces per hole.

Hospitals. Two spaces per patient bed.

Nursing and convalescent homes. One space per three patient beds.

Residential Care Homes and Facilities or Assisted Living. One space per two patient beds or one space per apartment unit.

Schools, elementary and junior high. One and one-half space per classroom.

High schools. One and one-half spaces per classroom, plus one space per 10 students the school is designed to accommodate, whichever is greater.

Colleges, universities and trade schools. One and one-half spaces per classroom, plus one space per five students the school is designed to accommodate, plus requirements for on-campus student housing.

3.3.300 Vehicle Parking Standards *(continued)***5. Unspecified Uses**

Where a use is not specifically listed in this table, parking requirements shall be determined by finding that the use is similar to one listed in terms of parking needs.

B. Parking Location and Shared Parking

1. Location. Vehicle parking is allowed only on approved parking shoulders (streets), within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this code. Specific locations for parking are indicated in Chapter 2 for some land uses (e.g., the requirement that parking be located to side or rear of buildings, with access from alleys, for some uses). (See also, Section 3.1 - Access and Circulation).
2. Off-site parking. Except for single family, two-family, and three-family dwellings, the vehicle parking spaces required by this Chapter may be located on another parcel of land, provided the parcel is within ¼ mile of the use it serves. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written instrument.
3. Mixed uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.
4. Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.
5. Availability of facilities. Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customers and/or employees, as applicable. Signs shall conform to the standards of Chapter 3.6.

- C. Maximum Number of Parking Spaces.** The number of parking spaces provided by any particular use in ground surface parking lots shall not exceed the required minimum number of spaces provided by this Section by more than 10%. Spaces provided on-street, or within the building footprint of structures, such as in rooftop parking, or under-structure parking, or in multi-level parking above or below surface lots, shall not apply towards the maximum number of allowable spaces. Parking spaces provided through “shared parking” also do not apply toward the maximum number.

3.3.300 Vehicle Parking Standards *(continued)*

- D. Parking Stall Size and Design Standards.** All off-street parking stalls shall be improved to conform to City standards for surfacing, stormwater management and striping, and have a net area of not less than 180 square feet exclusive of access drives or aisles, and shall be of usual shape and condition. If determined on a gross area basis, 280 square feet shall be allowed per vehicles. (Disabled person parking shall be provided in conformance with Section F)
- E. Disabled Person Parking Spaces.** The following parking shall be provided for disabled persons, in conformance with the Americans with Disabilities Act and State Law. Disabled parking is included in the minimum number of required parking spaces in Section A. (Note: State Law may supersede this Federal table.)

Figure 3.3.300 F – Disabled Person Parking Requirements

Minimum Number of Accessible Parking Spaces <small>ADA Standards for Accessible Design 4.1.2 (5)</small>			
Total Number of Parking spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
Column A			
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A*	7/8 of Column A**
1001 and over	20 plus 1 for each 100 over 1000	1/8 of Column A*	7/8 of Column A**
* one out of every 8 accessible spaces ** 7 out of every 8 accessible parking spaces			

3.3.400 - Bicycle Parking Requirements

The following development/land use districts shall provide bicycle parking, in conformance with the following standards evaluated during Site Design Review:

- A. Number of Bicycle Parking Spaces.** The following additional standards apply to specific types of development:

3.3.400 - Bicycle Parking Requirements *(continued)*

1. **Multi-Family Residences.** Every residential use of four (4) or more dwelling units provides at least one sheltered bicycle parking space for each dwelling unit. Sheltered bicycle parking spaces may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the bicycle parking spaces may be sheltered from sun and precipitation under an eave, overhang, an independent structure, or similar cover.
 2. **Retail/Institutional/Office Use.** All public, retail and office parking lots and parking structures shall provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces. If the use or uses only utilize off-street parking or have less than 10 motor vehicle spaces, each use shall provide at least one space per use.
 3. **Schools.** Schools both private and public shall provide one bicycle parking space for every 10 students and employees.
 4. **Colleges and trade schools.** College and trade schools shall provide one bicycle parking space for every 10 motor vehicle spaces plus one space for every dormitory unit.
 5. **Multiple Uses.** For buildings with multiple uses (such as a commercial or mixed use center), bicycle parking standards shall be calculated by using the total number of motor vehicle parking spaces required for the entire development. A minimum of one bicycle parking space for every 10 motor vehicle parking spaces is required.
- B. Exemptions.** This Section does not apply to single family, two-family, and three-family housing (attached, detached or manufactured housing), home occupations, agriculture and livestock uses, or other developments with fewer than 10 vehicle parking spaces.
- C. Location and Design.** Bicycle parking shall be conveniently located with respect to both the street right-of-way and at least one building entrance (e.g., no farther away than the closest parking space). It should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided. Street furniture includes benches, street lights, planters and other pedestrian amenities. Bicycle parking spaces shall be located in front of stores along the street, either on the sidewalks or in specially constructed areas such as pedestrian curb extensions. Inverted "U" style racks are recommended. Bicycle parking shall not interfere with pedestrian passage, leaving a clear area of at least 36 inches between bicycles and other existing and potential obstructions. Spaces may or may not be sheltered.
- D. Visibility and Security.** Bicycle parking shall be visible to cyclists from street sidewalks or building entrances, so that it provides sufficient security from theft and damage;
- E. Options for Storage.** Bicycle parking requirements for long-term and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building;
- F. Lighting.** Bicycle parking shall be least as well lit as vehicle parking for security.
- G. Reserved Areas.** Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.

3.3.400 - Bicycle Parking Requirements *(continued)*

- H. Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as not to conflict with vision clearance standards (Chapter 3.1 - Access and Circulation).

Chapter 3.4 - Public Facilities Standards

Sections:

- 3.4.000 - Purpose and Applicability
- 3.4.100 - Transportation Standards
- 3.4.200 - Public Use Areas
- 3.4.300 - Sanitary Sewer and Water Service Improvements
- 3.4.400 - Storm Drainage Improvements
- 3.4.500 - Utilities
- 3.4.600 - Easements
- 3.4.700 - Construction Plan Approval and Assurances
- 3.4.800 - Installation
- 3.4.900 - Purpose and Applicability

3.4.000 Purpose and Applicability

- A. **Purpose.** The purpose of this chapter is to provide planning and design standards for public and private transportation facilities and utilities. Streets are the most common public spaces, touching virtually every parcel of land. Therefore, one of the primary purposes of this Chapter is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth, and provide a range of transportation options, including options for driving, walking and bicycling. This Chapter is also intended to implement the City's Transportation System Plan.

Important cross-reference to other standards: The City requires that streets provide direct and convenient access, including regular intersections. Chapter 3.1 - Access and Circulation, provides standards for intersections and blocks, and requires pedestrian access ways to break up long blocks.

- B. **Applicability.** Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Chapter. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Chapter; except that the City may defer compliance with one or more of the development standards for a public improvement project constructed by the City or other public agency if the City finds that the improvements required by the standard(s) are likely to be provided by development of the adjacent property.
- C. **Standard Specifications.** The City Manager or his/her designee shall establish standard construction specifications consistent with the design standards of this Chapter and application of engineering principles. They are incorporated in this code by reference.
- D. **Conditions of Development Approval.** No development may occur unless required public facilities are in place or guaranteed, in conformance with the provisions of this Code. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development. Findings in the development approval shall indicate how the required improvements are roughly proportional to the impact.

3.4.100 Transportation Standards

- A. Development Standards.** No development shall occur unless the development has frontage or approved access to a public street, in conformance with the provisions of Chapter 3.1 - Access and Circulation, and the following standards are met:
1. Streets within or adjacent to a development shall be improved in accordance with the Transportation System Plan and the provisions of this Chapter.
 2. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this Section, and public streets shall be dedicated to the applicable city, county or state jurisdiction;
 3. New streets and drives connected to a collector or arterial street shall be paved; and
 4. The City may accept a future improvement guarantee [e.g., the property owner agrees not to remonstrate (object) against the formation of a local improvement district in the future which the City may require as a deed restriction] in lieu of street improvements if one or more of the following conditions exist:
 - a. A partial improvement may create a potential safety hazard to motorists or pedestrians;
 - b. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;
 - c. The improvement would be in conflict with an adopted capital improvement plan; or
 - d. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets.
- B. Variances.** Variances to the transportation design standards in this Section may be granted by means of a Class B Variance, as governed by Chapter 5.1 - Variances.
- C. Creation of Rights-of-Way for Streets and Related Purposes.** Streets shall be created through the approval and recording of a final subdivision or partition plat; except the City may approve the creation of a street by acceptance of a deed, provided that the street is deemed essential by the City Council for the purpose of implementing the Transportation System Plan, and the deeded right-of-way conforms to the standards of this Code. All deeds of dedication shall be in a form prescribed by the City Manager or his/her designee and shall name "the public," as grantee.

3.4.100 Transportation Standards *(continued)*

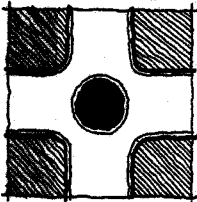
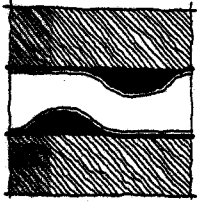
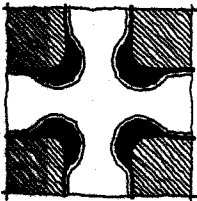
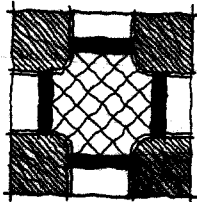
- D. Creation of Access Easements.** The City may approve an access easement established by deed when the easement is necessary to provide for access and circulation in conformance with Chapter 3.1 - Access and Circulation. Access easements shall be created and maintained in accordance with the Uniform Fire Code Section 10.207.
- E. Street Location, Width and Grade.** Except as noted below, the location, width and grade of all streets shall conform to the Transportation System Plan, and an approved street plan or subdivision plat. Street location, width and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets:
1. Street grades shall be approved by the City Manager or his/her designee in accordance with the design standards in Section 'N', below; and
 2. Where the location of a street is not shown in an existing street plan (See Section 'H'), the location of streets in a development shall either:
 - a. Provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this Chapter, or
 - b. Conform to a street plan adopted by the City Council, if it is impractical to connect with existing street patterns because of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.
- F. Minimum Rights-of-Way and Street Sections.** Street rights-of-way and improvements shall conform with the widths in Table 3.4.100. A Class B variance shall be required in conformance with Section 3.4.1.B to vary the standards in Table 3.4.100. Where a range of width is indicated, the width shall be determined by the decision-making authority based upon the following factors:
1. Street classification in the Transportation System Plan;
 2. Anticipated traffic generation;
 3. On-street parking needs;
 4. Sidewalk and bikeway requirements based on anticipated level of use;
 5. Requirements for placement of utilities;
 6. Street lighting;
 7. Minimize drainage, slope, and sensitive lands impacts, as identified by Chapter 3.7;
 8. Street tree location, as provided for in Chapter 3.2;
 9. Protection of significant vegetation, as provided for in Chapter 3.2;
 10. Safety and comfort for motorists, bicyclists, and pedestrians;
 11. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided;
 12. Access needs for emergency vehicles; and
 13. Transition between different street widths (i.e., existing streets and new streets), as applicable.

3.4.100 Transportation Standards *(continued)*

Table 3.4.100 F. Street Widths		
Type of Street	Minimum Right of Way	Minimum Roadway
Local Street (Optional/Conditional)	56 feet	23 feet
Local Street	60 feet	34 feet
Neighborhood Collector	60 feet	38 feet
Minor Collector	68 feet	47 feet
New Arterial	80 feet	49 feet
East Columbia, Wilson Road and South Main Street Arterial	80 feet	49 feet
North Main Street Arterial	60 feet	48 feet

Source: Boardman TSP, 2001

3.4.100 Transportation Standards (continued)
Figure 3.4.100G Traffic Calming Features

<i>Drawing</i>	<i>Technique</i>	<i>Description</i>
	Traffic Circles	Circular raised islands centered within intersections. Circles can be landscaped or surfaced with special paving. Landscaping can be maintained by the local jurisdiction or by neighborhood volunteers.
	Chicanes	Alternately placed curb extensions into the street that force motorists to drive in a serpentine pattern. Chicanes are offset from each other in mid-block locations and can be used to keep through-trucks versus local delivery off residential streets.
	Curb Bulb-Outs, Chokers/Neckdowns	Curb extensions placed at mid-block locations or intersections which narrow the street to provide visual distinction and reduce pedestrian crossing distances. Bulb-outs help to provide a clear visual signal to drivers that a crossing is approaching and makes waiting pedestrians more visible. Neckdowns are often longer than bulb-outs and often line up with and help to define parallel street parking areas. They narrow the appearance of the street and can be attractive, especially when landscaped.
	Special Paving	Alternative road surfaces, such as brick, colored concrete or special pavers, can be used at crossings, intersections, or along the sides of the street to break up the visual expanse of pavement and define areas of pedestrian travel.

3.4.100 Transportation Standards *(continued)***G. Traffic Signals and Traffic Calming Features**

1. Traffic-calming features, such as traffic circles, curb extensions, narrow residential streets, and special paving may be used to slow traffic in neighborhoods and areas with high pedestrian traffic.
2. Traffic signals shall be required with development when traffic signal warrants are met, in conformance with the Highway Capacity Manual, and Manual of Uniform Traffic Control Devices. The location of traffic signals shall be noted on approved street plans. Where a proposed street intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed. The developer's cost and the timing of improvements shall be included as a condition of development approval.
3. Traffic signals and traffic calming features on roads under State jurisdiction shall be determined by the Oregon Department of Transportation. When obtaining access to off-street parking areas (both to and from), backing onto a public street shall not be permitted, except for single-family, two-family, and three-family dwellings.

H. Future Street Plan and Extension of Streets

1. A future street plan shall be filed by the applicant in conjunction with an application for a subdivision in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include all of adjacent, abutting and other parcels within 400 feet of the proposed land division. The street plan is not binding; rather it is intended to show potential future street extensions with future development.
2. Streets shall be extended to the boundary lines of the parcel or tract to be developed, when the Planning Commission determines that the extension is necessary to give street access to, or permit a satisfactory future division of, adjoining land. The point where the streets temporarily end shall conform to a-c, below:
 - a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs or dead-ends since they are intended to continue as through streets when the adjoining property is developed.
 - b. A barricade (e.g., fence, bollards, boulders or similar vehicle barrier) shall be constructed at the end of the street by the subdivider and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The cost of the barricade shall be included in the street construction cost.
 - c. Temporary (all-weather) turnarounds (e.g., hammerhead or bulb-shaped configuration) shall be constructed for stub streets over 150 feet in length.

3.4.100 Transportation Standards *(continued)***I. Street Alignment and Connections**

1. Staggering of streets making "T" intersections at collectors and arterials shall not be designed so that jogs of less than 300 feet on such streets are created, as measured from the centerline of the street.
2. Spacing between local street intersections shall have a minimum separation as per Table 3.1.200.G, except where more closely spaced intersections are designed to provide an open space, pocket park, common area or similar neighborhood amenity. This standard applies to four-way and three-way (offset) intersections.
3. All local and collector streets that abut a development site shall be extended within the site to provide through circulation unless prevented by environmental or topographical constraints, existing development patterns or compliance with other standards in this code. This exception applies when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes some reasonable street connection.
4. Proposed streets or street extensions shall be located to provide direct access to existing or planned commercial services and other neighborhood facilities, such as schools, shopping areas and parks.
5. Exceptions to the above standards may be granted when an access way is provided at or near mid-block, in conformance with the provisions of Section 3.1.300.A. Exceptions may also be granted for topography, existing developments and natural resources.

J. Sidewalks, Planter Strips, Bicycle Lanes. Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the standards in Table 3.4.100, applicable provisions of the Transportation System Plan, the Comprehensive Plan, and adopted street plans. Maintenance of sidewalks, curbs, and planter strips is the continuing obligation of the adjacent property owner.

K. Intersection Angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle or where a reduced angle is necessary to provide an open space, pocket park, common area or similar neighborhood amenity. In addition, the following standards shall apply:

1. Streets shall have at least 25 feet of tangent adjacent to the right-of-way intersection unless topography requires a lesser distance;
2. Intersections which are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle; and
3. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than 20 feet.

3.4.100 Transportation Standards *(continued)*

- L. Existing Rights-of-Way.** Whenever existing rights-of-way adjacent to or within a tract are of less than standard width, additional rights-of-way shall be provided at the time of subdivision or development, subject to the provision of Section 3.4.0.D.
- M. Cul-de-sacs.** A dead-end street shall be no more than 400 feet long, shall not provide access to greater than 25 dwelling units, and shall only be used when environmental or topographical constraints, existing development patterns, or compliance with other standards in this code preclude street extension and through circulation:
1. All cul-de-sacs shall terminate with a circular or hammerhead turnaround. Circular turnarounds shall have a minimum right of way radius of no less than 50 feet except that turnarounds may be larger when they contain a landscaped island or parking bay in their center. When an island or parking bay is provided, there shall be a fire apparatus lane of 20 feet in width; and
 2. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
- N. Grades and Curves.** Grades shall not exceed 10% on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet), and:
1. Centerline curve radii shall not be less than 700 feet on arterials, 500 feet on major collectors, 350 feet on minor collectors, or 100 feet on other streets; and
 2. Streets intersecting with a minor collector or greater functional classification street, or streets intended to be posted with a stop sign or signalization, shall provide a landing averaging five percent or less. Landings are that portion of the street within 20 feet of the edge of the intersecting street at full improvement.
- O. Curbs, Curb Cuts, Ramps, and Driveway Approaches.** Concrete curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in accordance with standards specified in Chapter 3.1 - Access and Circulation.
- P. Streets Adjacent to Railroad Right-of-Way.** Wherever the proposed development contains or is adjacent to a railroad right-of-way, a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land shall be created. New railroad crossings and modifications to existing crossings are subject to review and approval by the Oregon Department of Transportation.
- Q. Development Adjoining Arterial Streets.** Where a development adjoins or is crossed by an existing or proposed arterial street, the development design shall separate residential access and through traffic, and shall minimize traffic conflicts. The design shall include one or more of the following:
1. A parallel access street along the arterial with a landscape buffer separating the two streets;

3.4.100 Transportation Standards *(continued)*

2. Deep lots abutting the arterial or major collector to provide adequate buffering with frontage along another street. Double-frontage lots shall conform to the buffering standards in Chapter 3.1, section 200.F;
3. Screen planting at the rear or side property line to be contained in a non-access reservation (e.g., public easement or tract) along the arterial;
4. Other treatment suitable to meet the objectives of this subsection; or
5. If a lot has access to two streets with different classifications, primary access shall be from the lower classification street, in conformance with Chapter 3.1, Section 200.

R. Alleys, Public or Private. Alleys shall conform to the standards in Table 3.4.100. While alley intersections and sharp changes in alignment should be avoided, the corners of necessary alley intersections shall have a radius of not less than 12 feet.

S. Private Streets. Private streets shall not be used to avoid connections with public streets.

T. Street Names. No street name shall be used which will duplicate or be confused with the names of existing streets in Morrow County, except for extensions of existing streets. Street names, signs and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers.

U. Survey Monuments. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments shall be reestablished and protected.

V. Street Signs. The city, county or state with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.

W. Mail Boxes. Plans for mailboxes to be used shall be approved by the United States Postal Service and shall be Central Delivery Units where designated.

X. Street Light Standards. Streetlights shall be installed in accordance with City standards which provides for installation at intervals of 300 feet.

Y. Street Cross-Sections. The final lift of asphalt or concrete pavement shall be placed on all new constructed public roadways prior to final City acceptance of the roadway and within one year of the conditional acceptance of the roadway unless otherwise approved by the City Manager or his/her designee. The final lift shall also be placed no later than when 85% of the structures in the new development are completed or two years from the commencement of initial construction of the development, whichever is less. Contact City staff for current street cross-section requirements.

1. Sub-base and leveling course shall be of select crushed rock;

3.4.100 Transportation Standards *(continued)*

2. Surface material shall be of Class C or B asphaltic concrete;
3. The final lift shall be Class C asphaltic concrete as defined by A.P.W.A. standard specifications; and
4. No lift shall be less than 1-1/2 inches in thickness.

3.4.200 Public Use Areas**A. Dedication Requirements.**

1. Where a proposed park, playground or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require the dedication or reservation of this area on the final plat for the subdivision.
2. If determined by the Planning Commission to be in the public interest in accordance with adopted comprehensive plan policies, and where an adopted plan of the City does not indicate proposed public use areas, the City may require the dedication or reservation of areas within the subdivision of a character, extent and location suitable for the development of parks and other public uses.
3. All required dedications of public use areas shall conform to Section 3.4.0.D (Conditions of Approval).

B. Acquisition by Public Agency. If the developer is required to reserve land area for a park, playground, or other public use, the land shall be acquired by the appropriate public agency within 24 months following final plat approval, at a price agreed upon prior to approval of the plat, or the reservation shall be released to the property owner.

C. System Development Charge Credit. Dedication of land to the City for public use areas shall be eligible as a credit toward any required system development charge for parks.

3.4.300 Sanitary Sewer and Water Service Improvements

- A. Sewers and Water Mains Required.** Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's construction specifications and the applicable Comprehensive Plan policies.
- B. Sewer and Water Plan approval.** Development permits for sewer and water improvements shall not be issued until the City Manager or his/her designee has approved all sanitary sewer and water plans in conformance with City standards.

3.4.300 Sanitary Sewer and Water Service Improvements *(continued)*

- C. **Over-sizing.** Proposed sewer and water systems shall be sized to accommodate additional development within the area as projected by the Comprehensive Plan. The developer shall be entitled to system development charge credits for the over-sizing.
- D. **Permits Denied.** Development permits may be restricted by the City where a deficiency exists in the existing water or sewer system which cannot be rectified by the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems. Building moratoriums shall conform to the criteria and procedures contained in ORS 197.505.
- E. **Submittal.** Developers shall submit construction drawings to the State Department of Environmental Quality (DEQ) and Health Division of the State Department of Human Services for their agency approval and provide City with copies of all correspondence.
- F. **Inspection costs.** Developer shall be responsible for inspection costs.

3.4.400 Storm Drainage

- A. **General Provisions.** The City shall issue a development permit only where adequate provisions for storm water and flood water runoff have been made in conformance with Chapter 3.5 - Surface Water Management.
- B. **Accommodation of Upstream Drainage.** Culverts and other drainage facilities shall be large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the development. Such facilities shall be subject to review and approval by the City Manager or his/her designee.
- C. **Effect on Downstream Drainage.** Where it is anticipated by the City Manager or his/her designee that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with City standards.
- D. **Easements.** Where a development is traversed by a watercourse, drainageway, channel, stream, bioswale or modified bioswale the applicant shall provide a stormwater easement as required by the city.
- E. **Sidewalk drainage requirements.** See city staff for current drainage requirements (Chapter 3.5).

3.4.500 Utilities

- A. Underground Utilities.** All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities, shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above. The following additional standards apply to all new subdivisions, in order to facilitate underground placement of utilities:
1. The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct vision clearance areas for vehicular traffic (Chapter 3.1);
 2. The City reserves the right to approve the location of all surface mounted facilities;
 3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
 4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.
 5. Commercial/Industrial subdivisions shall be required to complete Site Team review prior to commencement of construction.
- B. Easements.** Easements shall be provided for all underground utility facilities.
- C. Exception to Under-Grounding Requirement.** The standard applies only to proposed subdivisions. An exception to the under-grounding requirement may be granted due to physical constraints, such as steep topography, sensitive lands (Chapter 3.7), or existing development conditions.

3.4.600 Easements

Easements for sewers, storm drainage and water quality facilities, water mains, electric lines or other public utilities shall be dedicated on a final plat, or provided for in the deed restrictions. See also, Chapter 4.2 - Site Design Review, and Chapter 4.3 - Land Divisions. The developer or applicant shall make arrangements with the City, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. The City's standard width for public main line utility easements shall be 10 feet unless otherwise specified by the utility company, applicable district, or City Manager or his/her designee.

3.4.700 Construction Plan Approval and Assurances

No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by City Council. The City may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements. See also, Chapter 4.2.400 - Site Design Review, and Chapter 4.3.180 - Land Divisions.

3.4.800 Installation

- A. **Conformance Required.** Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the City.
- B. **Adopted Installation Standards.** The Standard Specifications for Public Works Construction, Oregon Chapter A.P.W.A. shall be a part of the City's adopted installation standard(s); other standards may also be required upon recommendation of the City Engineer.
- C. **Commencement.** Work shall not begin until the City has been notified in advance.
- D. **Resumption.** If work is discontinued for more than one month, it shall not be resumed until the City is notified, and the City approves resumption.
- E. **City Inspection.** Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications requested by the developer shall be subject to land use review under Chapter 4.6 - Modifications to Approved Plans and Conditions of Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.
- F. **Engineer's Certification and As-Built Plans.** A registered engineer shall provide written certification in a form required by the City that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide 10 set(s) of "as-built" plans, in conformance with the City Manager or his/her designee's specifications, for permanent filing with the City.

Chapter 3.5 - Stormwater Management

Sections:

- 3.5.100 - Purpose and Applicability
- 3.5.200 - Detention Criteria and Requirements
- 3.5.300 - Grading and Drainage Plan
- 3.5.400 - Landscaping Requirements
- 3.5.500 - Street, Curb and Sidewalk Design
- 3.5.600 - Water Quality Easements
- 3.4.700 - Plans Submission and Approval
- 3.5.800 - Variance and Exceptions

3.5.100 – Purpose, Scope and Applicability

- A. **Purpose.** The purpose of this chapter is to provide planning and design standards for stormwater management within the City. The primary intent of this chapter is to provide standards for effective and cost efficient stormwater management. Stormwater management is accomplished through a combination of design standards reflecting a more accurate representation of natural climatic, hydraulic and geologic conditions. Included in this chapter are stormwater detention criteria for development, grading and drainage plan requirements, landscaping criteria, street, curb and sidewalk designs. These are designed to keep all precipitation from each lot contained upon that lot.

Important cross reference to other standards: The following code chapters are to be cross referenced to assess impacts of the provisions of this chapter; Chapter 3.1, Chapter 3.2, Chapter 3.3, Chapter 3.4, Chapter 3.6, Chapter 4.1, Chapter 4.2 and Chapter 5.1.

- B. **Applicability.** Where storm sewer infrastructure is currently available or unless otherwise provided, the standard specifications for construction or reconstruction of stormwater management facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this chapter. This chapter applies to development on or within public properties and rights-of-way and privately owned properties.
- C. **Standard Specifications.** The City Manager or their designee shall establish standard construction specifications consistent with the design standards of this Chapter and application of accepted engineering, landscape architecture, hydraulic and geologic principles. They are incorporated in this code by reference.
- D. **Conditions of Development Approval.** Development may occur when stormwater management criteria are met or guaranteed, in conformance with the provisions of this Code. Improvements required as a condition of development approval shall be roughly proportional to the impact of development. Findings in the development approval shall indicate how the required improvements are roughly proportional to the impact.

3.5.200 – Detention Criteria and Requirements

- A. Purpose.** Detention of stormwater collected from impervious surfaces on a given property, or within a public right-of-way, is essential to the management of stormwater within the City of Boardman. Each lot will retain all precipitation, which falls upon the lot, within the confines of the lot. In the case of public facilities, stormwater will be retained within the public right-of-way. This section of Chapter 3.5 is to identify the detention of stormwater based upon the Oregon Department of Transportation Hydraulic Manual for Zone 13. National Oceanographic and Atmospheric Administration 100 year – 24-hour isopluvial maps and data were reviewed for applicability. Soils permeability rates from National Resource Conservation Service were also reviewed and assessed to determine the most appropriate data to use in the construction detention volumes of Table 3.5.100C. The Zone 13 Intensity, Duration and Frequency curves, which are the most conservative for the 100-year storm event, at 0.93”/hour for 1 hour, were used in development of Table 3.5.100C and the criteria set in this chapter. All detention values are based upon retention of 100% of the precipitation volumes derived from the data contained in the Oregon Department of Transportation Hydraulic Manual curves for Zone 13.
- B. Public Rights-Of-Way.** Detention of all of the minimum stormwater detention volumes listed in Table 3.5.100C shall be applicable to the design and development of stormwater detention from all impervious surfaces within a public right-of-way.
- C. Lot Development.** Detention of all of the minimum stormwater detention volumes listed in Table 3.5.100C shall be applicable to the design and development of stormwater detention from all impervious surfaces located on any lot within the City.

Table 3.5.100C
Detention Volume Criteria

Impervious Surface Square Footage	Detention Volume Cubic Feet	Detention Volume Gallons
1,000	78	580
2,000	155	1,159
3,000	233	1,739
3,500	271	2,027
4,000	310	2,319
5,000	388	2,899
6,000	465	3,478
7,000	543	4,058
8,000	620	4,638
9,000	698	5,217
10,000	775	5,797
11,000	853	6,380
12,000	930	6,956
13,000	1,008	7,540
14,000	1,085	8,116
15,000	1,163	8,699
20,000	1,550	11,594
25,000	1,938	14,496
30,000	2,325	17,931
35,000	2,713	20,428
40,000	3,100	23,188
43,560	3,376	25,252

3.5.200 – Detention Criteria and Requirements

- D. Building Drains.** Impervious surface drainage from building roofs shall be diverted to detention area(s) on the ground surface by use of downspouts, or other method of vertical conveyance, to a splash pad or other method of horizontal conveyance preventing sub-surface injection of water, which would require registry as an Underground Injection Control well as defined in Oregon Administrative Rule Chapter 340 Division 44.
- E. Methods of Detention.** Collected stormwater can be stored in a detention method capable of holding the entire volume, for the corresponding impervious surface area, listed in Table 3.5.100C. These detention facilities may be constructed ponds, may be lined, may be constructed bio-swales or may be accomplished through grading, drainage and landscaping techniques set forth in Section 3.5.200. Detention facilities shall have no outlet or receiving stream discharge and must be open to allow for evaporative and permeability losses of the detained stormwater. In the case of constructed decorative ponds, permeability loss requirement may be waived; however evaporative loss must be maintained. Methods of detention, other than mentioned in this section, may be considered for approval.
- F. Variance from Table 3.5.100C.** Variance from Table 3.5.100C will be considered with the following information submitted for review and approval as a Class A Variance defined in 5.1.300 (F). all variance requests must submit;
- 1) Site specific permeability data credibly indicating permeability rates higher than those used in the development of Table 3.5.100C;
 - 2) Site specific data of more exact build out impervious area square footages less than the 1,000 square foot increments provided in the tables, and which are calculated in the methods used in the development of Table 3.5.100C;
 - 3) Specific data on permeability rates of alternate paving methods allowing for full or partial permeability of the paving method to be credited as non-impervious surface;
 - 4) Evidence the methods proposed are not classified as a Class V injection system by Oregon Administrative Rule Chapter 340 Division 44;

3.5.300 – Grading and Drainage

- A. Purpose.** The Grading and Drainage for any particular development is an essential function for review and approval. The method of grading to provide drainage, which meets the intent of the stormwater management strategy and wind erosion abatement requirements of the City, will require significant cooperation between City staff and the developer. Minimal grading and surface disturbance from existing topography is generally the best strategic approach to stormwater management and wind erosion concerns within the City of Boardman. However, to accommodate other provisions within the zoning and development codes, to allow for placement of utility and transportation infrastructure, and to allow for effective stormwater management, grading and drainage must be assessed and a plan to manage stormwater and wind erosion shall be developed. This plan shall be developed to negate or minimize impacts from the development during construction and long term operation and occupancy of the development.
- B. Public Infrastructure and Rights-Of-Way.** Grading plans for public and utility infrastructure shall include topographical information of existing property and a planned topographical profile at the completion of the development. The plan shall address how the provisions of section 3.5.100 will be included in the final topographical profile, as these provisions may require altering existing topography to meet the criteria. Creating the maximum drainage areas of 3,500 square feet impervious surface, may require grading to meet a “rolling topography” or some level of “terracing” to maintain the maximum areas of drainage.

3.5.300 – Grading and Drainage (continued)

- C. **Lot Development.** Lot development shall submit a grading and drainage plan that meets the provisions of Section 3.5.100 based upon the projected total of impervious surface of the lot at build out. This grading and drainage can be incorporated into the landscape plans required in Section 4.2.500 (5). Stormwater detention areas and sizes shall be identified in this plan. The total detention area on a lot shall be equal to or greater than the requirements in Table 3.5.100C. The detention area(s) can be singular in nature or numerous smaller areas can be created to meet the total detention volume requirements. The grading and drainage plans shall indicate how storm water shall be conveyed to the areas of detention and the areas of detention shall be located to accommodate the proportional amount of impervious surface which is drained to any detention area.
- D. **Changes in Impervious Surface Areas.** Whenever there is a proposed increase in the amount of impervious surface area, a plan for grading, drainage and detention shall be submitted for review and approval. This review is to assure the provisions for detention volumes contained in Table 3.5.100C are met.
- E. **Changes In Grading or Drainage.** When there is a proposed change to the grading and drainage of an existing development, a plan shall be submitted for review and approval to assure compliance with the detention provisions contained with Table 3.5.100C. Graded depressions for the detention of stormwater shall not be filled or altered without submission of a plan for approval.
- F. **Variance From Grading and Drainage Requirements.** Variance from the grading and drainage requirements will be considered when conditions prevent meeting the criteria set forth in this section. The following conditions will be cause for consideration of alternatives from the standards in this section as a Class A Variance;
- 1) Topographical constraints do not allow for the requirements of this section to met; or
 - 2) Geological conditions prevent meeting the criteria in this section; or
 - 3) Other physical constraints preventing the adherence to the criteria of this section.

At a minimum, variance from the grading and drainage plan will be conditioned upon the total amount of detention area being increased to the corresponding impervious surface area detention requirements set in Table 3.5.100C.

3.5.400 – Landscaping Requirements

- A. **Purpose.** The purpose of these landscaping requirements is to provide an effective treatment barrier for protection of groundwater in areas of stormwater detention. This treatment barrier is comprised of vegetative materials to act as a bio-filter for the purpose of filtering stormwater contaminants.
- B. **Landscape Area Standards.** The landscape area percentages in Section 3.2.200 (C) and 3.2.200 (E) (2) of this code shall be in effect unless the following conditions are experienced; in which case the detention area criteria contained in Table 3.5.100C will be followed;
- 1) The percentage of landscape area is not sufficient to provide adequate detention of stormwater “on-site,”
 - 2) Site specific permeability rates are not adequate to allow for detention and drainage of collected stormwater;
 - 3) Impervious surface area creates detention volumes greater than the 5% requirement for parking lot landscaping.

3.5.400 – Landscaping Requirements *(continued)*

- C. **Landscape Materials.** Landscape materials in detention areas shall be turf grasses or drought tolerant grasses providing a root system to act as a bio filter for any water, which percolates into the soils. Shallow rooting shrubbery, shade trees, groundcover plants and decorative plants, which do not interfere with utilities, may also be used on individual lot development. Shade trees with turf grass cover between them may be used in large detention areas on individual lot developments. Landscaping within the right-of-way shall be turf and drought tolerant grasses, shallow rooting shrubbery, ground cover plants and decorative plants with shallow rooting to prevent damage to utilities routed within the right-of-way.
- D. **Landscape Maintenance.** The grasses in the detention areas shall be mowed periodically and shall be irrigated to maintain plant health. Landscaping shall be maintained in accordance with the landscaping requirements outlined in Section 3.2.200.
- E. **Detention Area Landscape Fertilization.** The detention areas shall not be fertilized.
- F. **Variance To Landscape Requirements.** Variance from the landscape requirements will be considered, as a Class A Variance, when conditions prevent meeting the criteria set forth in this section. A variance request shall be accompanied by the following information for review and subsequent action;
- 1) The physical reason the criteria can not be met;
 - 2) A description of the alternate method being proposed; and
 - 3) How the alternate method meets the purpose of Section 3.5.300, stormwater management strategies of the City;
 - 4) Other information pertinent to the allowance of variance from the standards set in this section.

3.5.500 – Curb and Sidewalk Design

- A. **Purpose.** In order to facilitate the stormwater management strategies being defined within this chapter of the zoning codes the design of streets, curbs and sidewalks have been designed, approved and included in construction standards. The design standards being identified in this section show the design characteristics to allow for the standards defined in this chapter.
- B. **Curb Standards.** The curb designs outlined in this section are consistent with the street design standards of the Transportation System Plan for Local Streets, Neighborhood Collectors, Collectors and Arterial streets. These curb designs will apply to all new construction or reconstruction of streets as classified in the Transportation System Plan.
- 1) **Residential Zones.** Curbs within the residential areas on streets classified as Local or Neighborhood Collector shall be a mountable face curb constructed of concrete as set in City construction standards.
 - 2) **All Other Zones.** Curbs will be a square face curb and will be constructed of concrete as set in City construction standards.
 - 3) **Curb Openings.** Curb openings will be constructed in accordance with City construction standards and will be spaced at the frequencies listed in Table 3.5.400B. This table is to indicate the distance between curb openings while maintaining the maximum impervious area of 3,500 square feet and a minimum spacing for aesthetics and safety when following prescribed street standards.

**Table 3.5.400B
Curb Opening Spacing**

Street Classification	Area Drained Including Sidewalk (Square feet)	Maximum Spacing (feet)	Minimum Spacing (feet)	Area Drained Including Sidewalk (Square feet)
Local Street	3,500	156	65'	1,138
Neighborhood Collector	3,500	143	65'	1,560
Collector	3,500	135	65'	1,690
Arterial	3,500	135	65'	1,690

C. Sidewalk Standards. Sidewalks will be constructed of concrete or brick/masonry pavers in accordance with City construction standards and will meet all American with Disabilities Act requirements. Sidewalk construction will be consistent with Table 7 of the Transportation System Plan Technical appendix A for each street classification;

- 1) **Local Street.** Sidewalks will be sloped at 2% grade away from the curb in accordance with City construction standards.
- 2) **Local Street (Optional/Conditional).** Sidewalks will be sloped at 2% towards the planter strip.
- 3) **Neighborhood Collector Street.** Sidewalks will be sloped at 2% grade away from the curb in accordance with City construction standards.
- 4) **Minor Collector Street.** Sidewalks will be sloped at 2% grade towards the median strip in accordance with City construction standards.
- 5) **N. Main Arterial.** Sidewalks will be sloped at 2% towards the street in accordance with City construction standards.
- 6) **Arterial Street.** Sidewalks will be sloped at 2% grade towards the median strip in accordance with City construction standards.
- 7) **E. Columbia Ave., Wilson Rd., and S. Main St.** Sidewalk will be sloped at 2% towards the planter strips, in accordance with City construction standards.
- 8) **Exemptions.** Sidewalks in existing sub-divisions may match the existing sidewalk widths and construction methods to maintain aesthetic uniformity. Use of the standards above is highly preferable to this exemption.

D. Variance from Curb and Sidewalk Design Standards. Variance from the standards set in this section will be considered by technical staff as a Class A Variance for action, when adherence to these standards is not feasible for physical or practical reasons which include but may not be limited to the following;

- 1) Topographical constraints;
- 2) Provision of utilities can not be accomplished;
- 3) Existing utilities prevent use of the design standards;
- 4) Other physical constraints preventing the use of the design standards.

3.5.600 – Water Quality Easements

Purpose of Water Quality Easements. There may be times where physical or other constraints prevent meeting the detention criteria set forth in Section 3.5.100 of this chapter. In those instances, larger areas of detention than can be accomplished either on-lot or within the right-of-way may be required to meet the stormwater management provisions of this chapter. This may require the developer to obtain and dedicate water quality easements to allow for necessary detention volumes outlined in section 3.5.100. These water quality easements will be for locations such as but not limited to;

3.5.600 – Water Quality Easements *(continued)*

- 1) Topographical constraints do not allow development of smaller detention areas in accordance with Section 3.5.200 – Grading and Drainage; or
 - 2) Geologic constraints which do not allow for soils permeability which is prescribed in section 3.5.100 – Detention Criteria and Requirements; or
 - 3) Sensitive lands, i.e. wetlands, do not allow for the use of this type of detention; or
 - 4) Other physical or practical constraints which preclude the smaller detention areas.
- A. Sizing the Water Quality Easement.** Easements shall be sized to be proportional with the amount of impervious surface area drained in accordance with the methods set in section 3.5.100 and Table 3.5.100C. Additional requirements of meeting all applicable federal, state, local laws and rules will be applied and reviewed for compliance prior to approval of water quality easements as an acceptable alternative to the provisions set in this chapter. All water quality easements shall be recorded with property platting in accordance with Chapter 4.3 of this code.
- B. Maintenance Agreement for Water Quality Easements.** A signed maintenance agreement shall be submitted for review and approval for the use of water quality easements. The agreement will detail the party or entity responsible for the maintenance, care and assurance of compliance with the provisions of this chapter for the water quality easement.

3.5.700 – Plans Submission and Approval

Stormwater plans shall be submitted in accordance with the provisions for development review and site design review established in 4.2.300 – 4.3.600. These plans shall include the areas of detention defined in 3.5.200, the grading and drainage plan defined in 3.5.300, the landscaping plans defined in 3.5.400 and any potential water quality easements as defined in 3.5.500.

3.5.800 – Variances and Exceptions

Variances for this chapter shall be classified as a Class A variance in accordance with 5.1.300 (F) of this code. All procedures for applicability of any requested variance will be in accordance with the provisions of Chapter 4.1, Chapter 4.2 and Chapter 5.1 of this code.

Chapter 3.6 - Other Standards

Sections:

3.6.100 - Density Transfer

3.6.200 - Telecommunication Facilities

3.6.300 - Solid Waste Storage

3.6.400 - Environmental Performance

3.6.500 - Signs

3.6.100 Density Transfers

- A. Purpose.** The purpose of this chapter is to implement the comprehensive plan and encourage the protection of open spaces through the allowance of housing density transfers. “Density transfers” are the authorized transfer of allowed housing units (per Chapter 2) from one portion of a property to another portion of the same property, or from one property to another property.
- B. Determination of Allowable Housing Units.** The number of allowed housing units on a property is based on the surface area of the property (acres) times the maximum allowed housing density in Chapter 2.
- C. Density Transfer Authorized.** Allowed housing units may be transferred from one portion of a property to another portion of the same property, or from one property to another property. A density transfer shall not be approved unless it meets one or more of the criteria in 1-2 below, and it conforms to subsections D-E:
1. Protection of sensitive land areas as defined in Chapter 3.7 (and listed below) either by dedication to the public or a land trust, or by a non-revocable conservation easement. Sensitive land areas include:
 - a. Land within the 100-year floodplain;
 - b. Land or slopes exceeding 20%;
 - c. Drainage ways;
 - d. Wetlands.
 2. Dedication of land to the public for park or recreational purposes; that meets the following minimum criteria:
 - a. Size 5,000 square feet or more guaranteed;
 - b. Location within ½ mile walking distance from sending site;
 - c. Public access 24 hours a day.
- D. Prohibited Density Transfers.** Density shall not be transferred from land proposed for street right-of-way, storm water detention facilities, private streets, and similar areas which do not provide open space or recreational values to the public.

3.6.100 Density Transfers *(continued)*

E. Density Transfer Rules. All density transfers shall conform to all of the following rules:

1. Allowed housing units shall be transferred only to buildable lands (“receiving areas”). The number of allowed housing units shall be reduced on properties from which density is transferred (“sending areas”) based on the number of housing units transferred. The new number of housing units allowed on the sending area shall be recorded on a deed for the property that runs with the land. The deed shall state that the number of allowed housing units is subject to review and approval by the City, in accordance with current zoning and development codes;
2. The number of units which can be transferred is limited to the number of units which would have been allowed on 100 percent of the unbuildable area if not for these regulations;
3. The total number of housing units per property or development site shall not exceed 100 percent of the maximum number of units per gross acre permitted under the applicable comprehensive plan designation; except as otherwise permitted through the Master Planned Development process (Chapter 4.5); and
4. All density transfer development proposals shall comply with the development standards of the applicable land use district, except as otherwise allowed by the Master Planned Development process (Chapter 4.5).

3.6.200 Telecommunication Facilities**A. Purpose**

The purpose of this Chapter is to administer the development of Communications or Telecommunications facilities within the City and to preserve neighborhood characteristics while providing essential telecommunication services to the citizens.

B. Definitions

1. Antenna; shall mean a device supported by a structure or tower designed for transmitting or receiving radio waves in telephone, television, radio, microwave or other wireless communication technologies.
2. Antenna Tower; shall mean a freestanding pole or structure designed for supporting an antenna, or antenna array, as defined in 3.6.200(B)(1).
3. Broadcast Facility; shall mean any facility designed to broadcast radio waves through wireless technologies for the purpose of commercial broadcast to AM or FM radio receivers, or television receivers.
4. Receiving Facilities; shall mean any facility designed to receive privately transmitted radio waves not intended for commercial broadcast. This shall include System Control and Data Acquisition systems, telephone relay systems, wireless communication relay systems and similar systems.
5. Special Use Permit; shall mean a Type III procedure as governed by Chapter 4.1.500 of the Boardman Development Code. A Special Use Permit is reviewed every 5 years with an opening clause to address negative impacts associated with operations of the communication/telecommunication facility such as radio interference.

3.6.200 Telecommunication Facilities (*continued*)

6. Transmission Facilities; shall mean a facility designed to transmit radio waves for private commercial applications not intended for commercial broadcast. This shall include System Control and Data Acquisition systems, telephone relay systems, wireless communication relay systems, and similar systems.

C. Telecommunications Facilities Permitted:

1. Residential Districts:

- a) free standing antennas of <35-feet or <25-feet from highest building height elevation
- b) antennas 25-feet or less from highest building height
- c) free standing antennas >35-feet or > 25-feet from highest building height (Special Use)

2. Commercial Districts

Commercial District and City Center Subdistrict

- a) free standing antennas <70-feet in height or < 35-feet from highest building height elevation
- b) free standing antennas >70-feet in height or > 35-feet from highest building height elevation (Special Use)
- c) antennas <35-feet from highest structure height
- d) antennas >35-feet from highest structure height (Special Use)

Tourist Commercial Subdistrict

- e) free standing antennas <70-feet in height or < 35-feet from highest building height elevation
- f) free standing antennas >70-feet in height (Special Use)
- g) antennas <35-feet from highest building height
- h) antennas >35-feet from highest building height (Special Use)
- i) Broadcast/Receiving/Transmission Facilities (Special Use)

Service Center Subdistrict

- j) free standing antennas <100-feet in height or < 50-feet from highest building height elevation
- k) free standing antennas >100-feet in height (Special Use)
- l) antennas <50-feet from highest building height
- m) antennas >50-feet from highest building height (Special Use)
- n) Broadcast/Receiving/Transmission Facilities (Special Use)

3. General Industrial Districts

- a) Antenna height unlimited
- b) Broadcast/Receiving/Transmission Facilities (Special Use)

Port Industrial

- c) Antenna height unlimited
- d) Broadcast/Receiving/Transmission Facilities (Special Use)

4. Light Industrial District

- a) free standing antennas <100-feet in height or < 50-feet from highest building height elevation
- b) free standing antennas >100-feet in height (Special Use)

3.6.200 Telecommunication Facilities *(continued)*

- c) antennas <50-feet from highest building height
- d) antennas >50-feet from highest building height
- e) Broadcast/Receiving/Transmission Facilities (Special Use)

Note: Special Use Permits will be a Type III Procedure as defined in 4.1.500

D. General Provisions:

1. All antenna supporting structures shall meet all applicable structural and electrical codes for telecommunications support structures.
2. All antenna supporting structures shall meet all applicable Federal Aviation Administration and Federal Communications Commission regulations.
3. All antenna supporting structures shall have restricted access making the structure inaccessible to the public.
4. All antenna supporting structures or building structures shall obtain all applicable building permits through the Boardman Building Department.
5. All communications or telecommunications structures or facilities shall submit an overall coverage plan indicating tower locations for coverage area within 1 mile of the Boardman Urban Growth Boundary, a specific site plan for each tower location which includes distance from any residential, commercial or industrial structure or structures, a narrative of the function and need for the facility or structure and any other pertinent information deemed relevant to the Boardman Planning Department for review and approval.
6. All communications or telecommunication buildings shall meet all relevant sections of building criteria for the zone in which they are located.

E. Special Use Approval Criteria:

1. Application shall follow a Type III Procedure as identified in Chapter 4.1.500.
2. Special Permit will be granted for a 5 year period with an opening provision to review and address unforeseen negative impacts associated with the operation of the facility, which may include but not be limited to radio or television interference, or other valid unanticipated damages brought forth through experience.
3. Application shall meet all of the provisions of General Provisions, 3.6.200(D).
4. Application shall not be a visual detriment to the surrounding neighborhood.
5. Application may be conditioned to provide screening or other aesthetic mitigation to adjacent properties.
6. Applications exceeding allowable heights shall indicate the reasons for the height adjustment and shall be the minimum variance from allowable height.
7. Application shall include different tower types available to meet the height and structure criteria.
6. Other conditions may be set by the Planning Commission in the Conditional Use permit process.

3.6.300 Solid Waste Storage

[Reserved for standards for solid waste storage and recycling facilities, if Boardman chooses to adopt them. Note: Chapter 3.2 requires landscaping or other screening of these facilities.]

3.6.400 Environmental Performance

[Reserved for reference to state and federal standards for air quality, water quality, emissions, and similar environmental concerns.]

3.6.500 Signs

A. Purpose. The purpose of this section is to provide for the regulation, control and permit process which will maintain the town character of the City of Boardman while providing adequate identification of businesses, enterprises and other entities located within the City of Boardman which depend upon signs for recognition; and also to provide equity for each requiring signs within the several land use zones of the city. All requests for permits for the construction, erection, placement or movement of signs will be submitted to the city of Boardman building official, and will be issued only in compliance with the provisions of this Development Code.

1. The International Conference of Building Officials Uniform Sign Code Publication date May 1st, 1994, a copy of which is located in the administrative offices of the city building official, is hereby adopted by reference and incorporated as a part of this Development Code.

2. Signs erected prior to _____ (Development Code adoption date) are governed under non-conforming rules in Section 5.2.

B. Sign Classifications.

1. Permanent signs. Signs placed for a period of 31 days or longer within one calendar year shall be classified as permanent; shall advertise or provide direction to the premises of the identified business located within the City of Boardman; shall be subject to a permanent sign permit; and shall conform to this and other City of Boardman ordinances.

a. On-premises signs shall be permitted within the regulations of this ordinance, with any exceptions subject to the requirements set forth within this ordinance for requesting variances or, where conditional use is specified, the provisions for such as set forth in the zoning ordinance.

b. Off-premises signs shall be subject to conditional use provisions; as such, the provisions and procedures as set forth in Chapter 4.4 of the Boardman Development Code; and approval of the Planning Commission of the City of Boardman is required prior to issuance of permit or installation.

2. Temporary signs. Signs placed for 30 days or less in a calendar year are temporary; and shall not be displayed for an aggregate total of greater than 30 days within a calendar year; and shall be subject

3.6.500 Signs *(continued)*

to a temporary sign permit; and shall conform to all City of Boardman ordinances. These provisions apply equally to both on and off premise signs.

C. Permits Required.

The following permits are required for all new signs, for all signs being altered due to change in ownership, business name or business type and for all signs being altered structurally.

- 1) Structural Building Codes Permit
- 2) Electrical Building Codes Permit (if lighted)
- 3) Sign Permit for Planning of Planning Review and Approval

D. General Provisions. Construction plans and materials lists must be presented to the building official for verification of adequacy according to the state uniform building code and public safety standards at the time of application for permits. Signs may be erected/constructed immediately upon obtaining sign permit providing verification of conformity with the following specifications:

1. On-premises signs.
2. Maximum sign area for free-standing signs in the General Commercial District and City Center Sub District shall be 100 square feet. Signs over 100 square feet in size are subject to a Type III Conditional Use Permit in accordance with Chapter 4.4, Chapter 4.1.500 and Chapter 3.6.500(E)(1)(d).
3. Service Center and Highway Commercial Sub Districts and Industrial Districts shall have no size limit.
4. The supporting structure of the sign is not to be considered part of the measurable sign area, and shall not extend upwards over 40 feet from ground level in General Commercial District.
5. Surface signs shall be limited to the surface of the structure, and shall not extend beyond that surface. The area of freestanding signs shall be measured by the rectangle which encloses the entire sign surface.
6. Window signs shall be considered surface signs, except those which are subject to the temporary or informational sign standards.
7. Each entity for which a sign is permitted is allowed one sign per face of each building.
8. Signs shall be designed to use materials in keeping with the visual character of the City of Boardman.
9. Signs which are lighted shall be illuminated for visibility only, and shall not disturb neighboring property and shall create no safety or traffic hazard. Flashing lights shall not be allowed.
10. Apartment, condominium or business complex location signs shall not exceed 35 square feet in size, and one such sign shall be allowed each complex, which shall not apply toward the allowance for signs for each/any business located therein.

3.6.500 Signs (continued)

11. Areas of shared signs shall be pro-rated to business involved, and shall be included within the permissible sign area of each.
12. Where a provision of this ordinance is less restrictive than another ordinance or requirement of the City, the provision or requirement which is more restrictive shall govern.

E. Sign-type Specific Definitions and Applicable Regulations.

1. Off-premise signs are as defined within Oregon state administrative rules:
 - a. The premises on which any activity is conducted is determined by the physical facts rather than property lines. It is the land occupied by the buildings or physical uses that are necessary or customarily incident to the activity, including such open spaces are arranged and designed to be used in connection with such buildings or uses;
 - b. The following will not be considered to be a part of the premises on which the activity is conducted and signs located on such land considered outdoor advertising signs:
 - (1) Any land which is not used as an integral part of the principal activity, including but not limited to:
 - (a) land which is separated from the activity by a public road
 - (b) land which is separated by obstruction, not used by activity; and
 - (c) land that is undeveloped highway frontage adjacent to the land actually used by the advertised activity, even though it might be undertake same ownership.
 - (2) Any land which is used for, or devoted to, a separate purpose unrelated to the advertised activity would not be part of the premises on which the activity is conducted even though same ownership;
 - (3) Any land which is separated from the principle activity, and is developed or used only at the sign site by structures which are only incidental to the principle activity, and which serves no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for signing purposes;
 - (4) Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes except the major entrance or exit roadway to or from the premises which serves only the advertised activity.
 - c. Off premises signs shall be reviewed as a Conditional Use, as required by Chapter 5. The provisions of Section C, General Provisions shall apply in addition to any conditions required pursuant to the Conditional Use process; however, a petition for relief from the provisions of Section C, General Provisions may be sought by application to the Planning Commission pursuant to the Exception and Variance processes, as provided by this Section D.4 Non-Conforming Permanent Signs.
 - d. The provisions of Section A, Purpose shall apply equally for off-premise signs as well as on-premise signs, as related to providing adequate identification to businesses, enterprises and

3.6.500 (E) Signs (continued)

- other entities located within the City of Boardman; and in this regard sign size located within the Commercial Districts may be conditionally approved up to 200 square feet where, to the Planning Commission satisfaction, such size is necessary for the adequate provision of directions to such businesses, enterprises and other entities.
- e. Off-premise signs which are visible from Interstate/Freeway routes shall be subject to approval of, and permitted by, the State of Oregon, in addition to any approvals granted by the City of Boardman.
2. **Informational Signs.** Signs whose sole purpose is to provide information, but no advertising, concerning services offered, with such as menus, business hours, OLCC regulations as examples, are considered informational signs for which neither permit nor Planning Commission approvals are required in instances where the following standards are met:
- a. Total sign square footage within this category shall not exceed 18 square feet per business, shall have no flashing lights, and shall not reduce the permitted advertising sign size as established within this Ordinance.
 - b. OPEN signs, MENUS, PARKING signs and similar informational signs shall be no larger than 6 square feet, with one parking sign allowed for each 4 spaces.
 - c. VACANCY signs (only) shall be no larger than 10 square feet.
3. **Non-conforming permanent signs.** Non-Conforming Permanent Signs are those that do not conform to the specifications of this Chapter and require specific exception, granted by the authorization of the Planning Commission. To gain such an exception, the applicant shall complete the permit application for the Building Official.
- a. Applicants shall also submit a scale plan of the building elevation with proposed sign and a written statement of the justification for exception, and request a sign permit exception from the Planning Commission. At its earliest meeting, the Planning Commission shall evaluate the application in terms of aesthetics, design and visual impact on the immediate vicinity and adjoining property.
 - b. Exception to the height above street level may be allowed by administrative action directed by the Planning Commission if problems could be caused by the terrain on which it is located, by the configuration of the sign, by disruption of pedestrian flow, or by vandalism.
 - c. The review body may grant exceptions (other than height, and for height where the following issues are factors) in compliance with the provisions set forth for variances if the following is demonstrated:
 - (1) Conformance with provisions herein would constitute economic hardship in identifying the business.
 - (2) Need for visibility at greater distances is demonstrated.
 - (3) The impact on the community is as favorable as allowed signs.
4. **Residential Signs.** Residential Signs are those that the purpose of which are to identify residence, or any conditional use permitted by the Boardman Development Code in that particular zone do not require approval and permit if in compliance with all of the following:

3.6.500 (E) Signs *(continued)*

- a. Signs may not have special lighting, and be within setbacks; and
 - b. One 4 square foot (maximum) sign per home or conditional use; and
 - c. Sign located on-premises, 6 feet or less height from ground.
5. **Temporary Signs.** Temporary Signs may be placed for 31 days or less in a calendar year, unless otherwise specified in this section, require no approvals if conforming with all of the following:
- a. Freestanding, or displayed inside windows and no larger than 4 square feet, and aggregate of all signs no more than 12 square feet. Overall height of freestanding signs is not to exceed 3 1/2 feet.
 - b. No lighting intended solely to illuminate sign; flashing lights not allowed.
 - c. Political Signs:
 - 1) Residential District: signs not to exceed 6 square feet maximum, or 36 square feet in aggregate, advertising an issue or candidate meeting the provisions of 3.6.500 (E)(5)(a-c) are permitted on any individual property. Signs shall be placed no less than 10 feet from paved surfaces, 3 feet from sidewalks. The 31-day limit shall not apply. Approval must be obtained from the property owner, who must accept responsibility for removal of sign within two days after the election polling is closed, in the event those placing the sign fail to do so.
 - 2) Non-Residential Zoning Districts: signs not to exceed 32 square feet maximum, or 100 square feet in aggregate, advertising issues or candidates meeting the provisions of 3.6.500 (E)(5)(a-c) are permitted on any individual property. Signs shall be placed no less than 10 feet from paved surfaces, 3 foot from sidewalks. The 31-day limit shall not apply. Approval must be obtained from the property owner, who must accept responsibility for removal of sign within two days after the election polling is closed, in the event those placing the sign fail to do so.
 - 3) Lots in excess of 10 acres in Non Residential Zoning Districts: signs not to exceed 32 square feet maximum, or 256 square feet in aggregate per 10 acres of vacant ground, advertising issues or candidates meeting the provisions of 3.6.500 (E)(5)(a-c) are permitted on any individual property. Signs shall be placed no less than 10 feet from paved surfaces, including sidewalks. The 31-day limit shall not apply. Approval must be obtained from the property owner, who must accept responsibility for removal of sign within two days after the election polling is closed, in the event those placing the sign fail to do so.
 - d. Real Estate signs shall not exceed 8 square feet for residential lots and 32 square feet for subdivisions and in commercial zones, placed on the property, are permitted during period that specific property is for sale or lease. Signs must be removed upon sale. One open house sign without advertising also permitted on premises during such periods. The 31-day limit shall not apply.
6. **Sandwich Board.** Sandwich Board signs shall be no larger than 15 square feet per side. For local nonprofit, community service groups, location of such may be allowed on public rights-of-way and property, subject to Building Official or Manager written approval which will establish any conditions.

7. Garage Sale. Garage sale signs shall be in compliance with residential sign requirements; off premises directional signs for such garage sales and similar residential temporary sales, shall have express written owners' permission of property upon which located and is subject to the provisions of City of Boardman Ordinance #5-2004.
8. Prime building contractor signs. Prime building contractor signs of less than 16 square feet in residential zones and 32 feet in commercial and industrial zones may be placed upon a project while under construction after building permit has been posted. Removal is required immediately following Building Inspector certifying completion.
9. Handbills and flyers. Handbills and flyers are permitted inside building or other community billboards only, and permission for any other method of display will be approved only by Manager, subject to Council endorsement.
10. Non-conforming temporary signs. Non-conforming Temporary Signs may be granted an exception to the requirements in writing by City Manager if the impact on the community is as favorable as that of signs allowed outright using a Type I process.

3.6.500 (E) Signs <i>(continued)</i>

F. Administration

1. Responsibility. The Building Department of the City of Boardman shall be responsible to the City Manager for the regulation of signs, administration of requests for permits, conditional uses, exceptions and variance, and for the issuance of permits. Fee schedules established by Resolution of the City Council will be maintained by the Building Official, and available upon request.
2. Pre-Existing Non-Conforming Signs. Pre-existing non-conforming signs which predate this Ordinance shall continue as permitted signs. Signs permitted within the provisions of this Ordinance shall continue as permitted signs for the zone in which located as long as the property retains that zoning. Permits issued shall contain provisions, which must be considered a condition of applicant's acceptance of the permit, which shall require modification into compliance with the sign requirements of the zone in which located within a reasonable period subsequent to any future zone change. Variances and exceptions may be requested in compliance with the provisions of this Ordinance.
3. Permit Applications. Applicants requiring permission and/or permits will be provided a current copy of this Ordinance.
4. Transfer of Signs. Signs may be transferable at change of business or property ownership without permit if they meet the provisions of 3.6.500(C).
5. Alteration of Signs. Alteration of existing signs beyond maintenance shall conform to provisions of this Chapter.
6. Building Official Notification. Building Official shall notify owners of any sign, or the business, or the real property, where a sign has been abandoned or allowed to become in state of disrepair,

unsightly, or hazardous; reasonable remedies shall be accomplished within 30 days from date of notice or posting, as certified by Building Official. Failure to comply authorizes Building Official to cause removal of such signs. Expenses incurred incident to this removal shall be paid by the owner of the real property upon which sign is located and from which it was removed, regardless of sign ownership, providing that said real property owner has been provided a copy of the 30 day notice at the time it was posted.

7. **Violations.** Owners of signs erected in violation of the provisions of this Ordinance must remove such signs within 48 hours of notification; following the elapse of the 48 hours without appropriate action, the Building Official may cause such to be accomplished at the expense of the real property owner.
8. **Records.** Records of action on all variances or exceptions shall be maintained by the City and copies provided to the applicant upon request.

G. Violations. No person shall erect, maintain, or use, nor shall any person in control of any premises, permit the erection, maintenance, or use of any sign which does not conform to and comply with the

3.6.500 Signs <i>(continued)</i>

provisions of this Ordinance. Nothing contained in this Ordinance is intended to permit erection or maintenance of any sign in violation of any other Ordinances or State or Federal law. Violation of this Ordinance shall be subject to the penalties provided hereinafter.

- H. Penalty.** Any person who violates any of the provisions of this Ordinance, upon conviction thereof, shall be punished by a fine of not more than \$250.00. Conviction of any provision of this Ordinance shall be considered a violation as defined by ORS 161.565. Each calendar day that a sign is in violation of this Ordinance shall constitute a separate violation.
- I. Release from liability.** Neither the Building Official, nor City Manager acting for either the Planning Commission or City Council, nor the City nor any of its authorized representatives shall be liable for any damages, costs, or expenses for any failure to enforce the provisions of this Ordinance.
- J. Severability.** The provisions of this Ordinance are severable. If a section, sentence, clause or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.

Chapter 3.7 - Flood Plain Overlay Zone

Sections:

- 3.7.400: Authorization, Findings, Purpose and Objectives
- 3.7.410: Definitions
- 3.7.420: General Provisions
- 3.7.430: Administration
- 3.7.440: Variance Procedure
- 3.7.450: Provisions For Flood Hazard Reduction
- 3.7.460: Wellhead Protection Provisions (Reserved)

3.7.400. – Authorization, Findings, Purpose and Objectives

A) AUTHORIZATION

The State of Oregon has in the Oregon Constitution, Article XI Section 2 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry in accordance with the approved Boardman Charter of 1985.

B) FINDINGS OF FACT

- (1) The flood hazard areas of the City of Boardman are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C) STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

3.7.400. – Authorization, Findings, Purpose and Objectives

- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D) METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

3.7.400. – Definitions

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

“APPEAL” means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

“AREA OF SHALLOW FLOODING” means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

“AREA OF SPECIAL FLOOD HAZARD” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

3.7.410 – Definitions *(continued)*

“BASE FLOOD” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letters A or V.

“BASEMENT” means any area of the building having its floor subgrade (below ground level) on all sides.

“BREAKAWAY WALL” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“COASTAL HIGH HAZARD AREA” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

“CRITICAL FACILITY” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

“DEVELOPMENT” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“ELEVATED BUILDING” means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

“EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“FLOOD” OR “FLOODING” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

3.7.410 – Definitions *(continued)*

“FLOOD INSURANCE RATE MAP (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“FLOOD INSURANCE STUDY” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

“FLOODWAY” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 5.2-1(2).

“MANUFACTURED HOME” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“NEW CONSTRUCTION” means structures for which the “start of construction” commenced on or after the effective date of this ordinance.

“NEW MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

“RECREATIONAL VEHICLE” means a vehicle which is:

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“START OF CONSTRUCTION” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the

3.7.410 – Definitions *(continued)*

installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“STRUCTURE” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“SUBSTANTIAL DAMAGE” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“VARIANCE” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

“WATER DEPENDENT” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

3.7.420 - General Provisions**A) LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of City of Boardman.

B) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Boardman," dated December 18, 2007, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at Boardman City Hall. The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section 4.3-2.

C) PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements may be issued a citation for a Class D Violation, in accordance with Oregon Revised Statue 153, for each day in violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Boardman from taking such other lawful action as is necessary to prevent or remedy any violation.

D) ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E) INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit or repeal any other powers granted under State statutes.

F) WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods

3.7.420 – General Provisions *(continued)*

can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

3.7.430 - Administration**A) ESTABLISHMENT OF DEVELOPMENT PERMIT****1) Development Permit Required**

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.7.430. The permit shall be for all structures including manufactured homes, as set forth in the “DEFINITIONS,” and for all development including fill and other activities, also as set forth in the “DEFINITIONS.”

2) Application for Development Permit

Application for a development permit shall be made on forms furnished by the Community Development or Planning Department and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b) Elevation in relation to mean sea level to which any structure has been floodproofed;
- c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and
- d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B) DESIGNATION OF THE CITY MANAGER OR THEIR DESIGNEE AS A LOCAL ADMINISTRATOR.

The City Manager or their designee is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

C) DUTIES AND RESPONSIBILITIES OF THE CITY MANAGER OR THEIR DESIGNEE AS A LOCAL ADMINISTRATOR.

3.7.430 – Administration *(continued)*

Duties of the City manager or their designee shall include, but not be limited to:

1) Permit Review

- a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.3(1) are met.

2) Use of Other Base Flood Data (In A and V Zones)

- a) When base flood elevation data has not been provided (A and V Zones) in accordance with Section 3.7.430 (C)(2), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the city manager or their designee shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 3.7.450(B), SPECIFIC STANDARDS, and 3.7.430 (C)(2) FLOODWAYS.
- b) In a letter dated September 6, 2007, from the United States Army Corps of Engineers, Engineering and Construction Division, “the calculated 1% chance exceedance stage at river mile 270.3 based on most recent data available to USACE is 269.7 NGVD (National Geodetic Vertical Datum)”.
- c) Qualified survey information showing elevations above 269.7 feet NGVD or 273.01 feet NAVD (North American Vertical Datum) will be considered by the city to begin the amendment process to amend the Federal Emergency Management Administration FIRM (flood insurance rate map) to reflect specific data and remove the area from the Zone A flood zone.

3) Information to be Obtained and Maintained

- a) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.3-2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.3-2:
 - (i) Verify and record the actual elevation (in relation to mean seal level), and
 - (ii) Maintain the floodproofing certifications required in Section 4.1-2(3).
- c) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4) Alteration of Watercourses

3.7.430 – Administration (*continued*)

- a) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5) Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.4.

NOTE: If you do not include Section 4.4 (Variance Procedure), end the above sentence after the word “interpretation,” and add the following sentence: “such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).”

3.7.440. – Variance Procedure**A) Appeal Board**

- 1) The Boardman City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- 2) The Boardman City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City of Boardman in the enforcement or administration of this ordinance.
- 3) Those aggrieved by the decision of the Boardman City Council, or any taxpayer, may appeal such decision to the Morrow County District Court.
- 4) In passing upon such applications, the Boardman City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Development Code Chapter, and:
 - a) The danger that materials may be swept onto other lands to the injury of others;
 - b) The danger to life and property due to flooding or erosion damage;
 - c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d) The importance of the services provided by the proposed facility to the community;
 - e) The necessity to the facility of a waterfront location, where applicable;
 - f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g) The compatibility of the proposed use with existing and anticipated development;
 - h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

3.7.440 - Variance Procedure *(continued)*

- j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- 5) Upon consideration of the factors of Section 3.7.440 (4) and the purposes of this ordinance, the Boardman City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
 - 6) The City Clerk and/or Community Development Department shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

B) Conditions for Variances

- 1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.4-1(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- 2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
- 3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- 4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 5) Variances shall only be issued upon:
 - a) A showing of good and sufficient cause;
 - b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.1-4(4), or conflict with existing local laws or ordinances.
- 6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- 7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4.4-2(1), and otherwise complies with Sections 5.1-1 and 5.1-2 of the GENERAL STANDARDS.
- 8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the

3.7.450 – Provisions for Flood Hazard Reduction

cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

A) GENERAL STANDARDS

In all areas of special flood hazards, the following standards are required:

1) Anchoring

- a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2) AH Zone Drainage

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

3) Construction Materials and Methods

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4) Utilities

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5) Subdivision Proposals

- a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

3.7.450 - Provisions for Flood Hazard Reduction *(continued)*

- d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

6) Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

B) SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, Use of Other Base Flood Data (In A and V Zones), the following provisions are required:

1) Residential Construction

- a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
- b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2) Nonresidential Construction

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

- a) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3.7.450 - Provisions for Flood Hazard Reduction *(continued)*

- c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.3-3(2);
- d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2);
- e) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below).

3) Manufactured Homes

(a) All manufactured homes to be placed or substantially improved on sites:

- (i) Outside of a manufactured home park or subdivision,
- (ii) In a new manufactured home park or subdivision,
- (iii) In an expansion to an existing manufactured home park or subdivision, or
- (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

- (i) The lowest floor of the manufactured home is elevated one foot above the base flood elevation, or
- (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

4) Recreational Vehicles

Recreational vehicles placed on sites are required to either:

- (a) Be on the site for fewer than 180 consecutive days,
- (b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (c) Meet the requirements of 5.2-3 above and the elevation and anchoring requirements for manufactured homes.

3.7.450 - Provisions for Flood Hazard Reduction *(continued)***C) BEFORE REGULATORY FLOODWAY**

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

D) FLOODWAYS

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.

E) STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

- (1) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).
- (2) New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - (i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 - (ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects

3.7.450 - Provisions for Flood Hazard Reduction *(continued)*

- of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 5.2-2(3).
- (3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
 - (4) Recreational vehicles placed on sites within AO Zones on the community's FIRM either:
 - (i) Be on the site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - (iii) Meet the requirements of 5.5 above and the elevation and anchoring requirements for manufactured homes.

F) COASTAL HIGH HAZARD AREAS

Located within areas of special flood hazard established in Section 3.2 are Coastal High Hazard Areas, designated as Zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this ordinance, the following provisions shall also apply:

- (1) All new construction and substantial improvements in Zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
 - (i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level; and
 - (ii) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in and given year (100-year mean recurrence interval);
- (2) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (i) and (ii) of this Section.
- (3) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- (4) All new construction shall be located landward of the reach of mean high tide.
- (5) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more

3.7.450 - Provisions for Flood Hazard Reduction *(continued)*

than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- a) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- (6) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- (7) Prohibit the use of fill for structural support of buildings.
- (8) Prohibit man-made alteration of sand dunes which would increase potential flood damage.
- (9) All manufactured homes to be placed or substantially improved within Zones V1-V30, V, and VE on the community's FIRM on sites:
- a) Outside of a manufactured home park or subdivision,
 - b) In a new manufactured home park or subdivision,
 - c) In an expansion to an existing manufactured home park or subdivision, or
 - d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;
- meet the standards of paragraphs 5.6(1) through (8) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the FIRM meet the requirements of Section 5.2-3.
- (10) Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either:
- a) Be on the site for fewer than 180 consecutive days,
 - b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c) Meet the requirements of Section 4.1-1(Permitting requirements) and paragraphs 5.6(1) through (8) of this section.

G) CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits

3.7.450 - Provisions for Flood Hazard Reduction *(continued)*

of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Chapter 3.8 - Loading Standards

Sections:

3.8.000 - Purpose and Intent

3.8.100 - Loading Standards

3.8.00 Purpose and Intent

The purpose of this section of the code is to provide standards (1) for the minimum number of loading spaces that will ensure adequate loading areas for large uses and developments, and (2) to ensure that the appearance of loading areas is consistent with that of parking areas.

3.8.100 Loading Standards

A. Number of Loading Spaces

1. Residential buildings. Buildings where all of the floor area is in residential uses must meet the following standards:
 - a. No loading spaces are required where there are fewer than 50 dwelling units in the building and the site abuts a local street.
 - b. One loading space is required for all other buildings.
2. Non-residential buildings. Buildings where any of the floor area is in non-residential uses must meet the following standards:
 - a. No loading spaces are required for buildings with less than 20,000 square feet of floor area.
 - b. One loading space is required for buildings with 20,000 or more square feet of floor area.
 - c. Two loading spaces are required for buildings with more than 50,000 square feet of floor area.

B. Size of Loading Spaces. Required loading spaces must be at least 35 feet long, ten feet wide, and have a height clearance of at least thirteen feet.

C. Placement, Setbacks and Landscaping. Loading areas must comply with the setback and perimeter-landscaping standards in Chapters 2 & 3. When parking areas are prohibited or not allowed between a building and a street, loading areas are also prohibited or not allowed.

Chapter 3 - Design Standards

- 3.0 - Design Standards Administration**
- 3.1 - Access and Circulation**
- 3.2 - Landscaping, Street Trees, Fences and Walls**
- 3.3 - Vehicle and Bicycle Parking**
- 3.4 - Public Facilities Standards**
- 3.5 - Reserved for Surface Water Management**
- 3.6 - Other Design Standards**
- 3.7 - Reserved for Sensitive Lands**
- 3.8 - Loading Standards**

Chapter 3.0 - Design Standard Administration

Sections:

- 3.0.100 - Applicability**
- 3.0.200 - Types of Design Standards**

3.0.100 Applicability

All developments within the City must comply with the provisions of Chapters 3.1 through 3.6. Some developments, such as major projects requiring land division and/or site design review approval, may require detailed findings demonstrating compliance with each chapter of the code. For smaller, less complex projects, fewer code provisions may apply. Though some projects will not require land use or development permit approval (e.g., building of single family houses on platted lots, that are not subject to Chapter 3.7 - Sensitive Lands), they are still required to comply with the provisions of this Chapter.

3.0.200 Types of Design Standards

The City's development design standards are contained in both Chapter 2 and Chapter 3. It is important to review both chapters, and all relevant code sections within the chapters, to determine which standards apply. The City may prepare checklists to assist property owners and applicants in determining which sections apply.

- A. Chapter 3.** The design standards contained within the following chapters apply throughout the City, for all land use types:
 - 3.1 - Access and Circulation
 - 3.2 - Landscaping, Street Trees, Fences and Walls
 - 3.3 - Automobile and Bicycle Parking
 - 3.4 - Public Facilities Standards

3.0.200 Types of Design Standards *(continued)*

3.5 - Surface Water Management

3.6 - Other Design Standards

3.7 - Sensitive Lands

- B. Chapter 2.** Each land use district (Chapter 2) provides design standards that are specifically tailored to the district. For example, the Residential District contains building design guidelines that are different than those provided in the Downtown District, due to differences in land use, building types, and compatibility issues. In addition, each district provides special standards that are meant to address the impacts or characteristics of certain land uses.

Chapter 4.0 - Applications and Review Procedures

Sections:

- 4.0 - Administration of Land Use and Development Permits**
- 4.1 - Types of Applications and Review Procedures**
- 4.2 - Development Review and Site Design Review**
- 4.3 - Land Divisions and Lot Line Adjustments**
- 4.4 - Conditional Use Permits**
- 4.5 - Master Planned Developments**
- 4.6 - Modifications to Approved Plans and Conditions of Approval**
- 4.7 - Land Use District Map and Text Amendments**
- 4.8 - Code Interpretations**
- 4.9 - Miscellaneous Permits**
- 4.10 - Traffic Impact Study**

4.0 - Administration of Land Use and Development Permits

4.0.100 Introduction

Chapter 4 provides all of the application requirements and procedures for obtaining permits required by this code. Please refer to Table 4.1.200 in Chapter 4.1 for a key to determining which land use permits and procedures are required, and the decision-making body for a particular type of permit application.

Chapter 4.10 - Traffic Impact Study

Sections:

4.10.100 - Purpose

4.10.200 - When Required

4.10.300 - Traffic Impact Study Requirements

4.10.400 - Approval Criteria

4.10.100 Purpose

- A. **Purpose.** The purpose of this section of the code is to implement Section 660-012-0045 (2) (e) of the State Transportation Planning Rule, which requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.
- B. **Typical Average Daily Trips.** Standards by which to gauge average daily vehicle trips include: 10 trips per day per single family household, 5 trips per day per apartment; and 30 trips per day per 1,000 square feet of gross floor area such a new supermarket or other retail development.

4.10.200 When Required

- A. **When a Traffic Impact Study is Required.** A Traffic Impact Study shall be prepared and submitted to the City with the application, for review by the City and the Oregon Department of Transportation, when the following apply:
1. The development application involves one or more of the following actions:
 - a. A change in zoning or a plan amendment designation; or
 - b. Any proposed development or land use action that ODOT states may have operational or safety concerns along a state highway; and
 2. The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and/or information and studies provided by the local reviewing jurisdiction and/or ODOT:
 - a. An increase in site traffic volume generation by 500 Average Daily Trips (ADT) or more; or
 - b. An increase in ADT volume of a particular movement to and from the State highway by 20% or more; or
 - c. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 20 vehicles or more per day; or

4.10.200 When Required

- d. The location of the access driveway does not meet minimum site distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or
- e. A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area.

4.10.300 Traffic Impact Study Requirements

A. Preparation. A Traffic Impact Study shall be prepared by a professional engineer in accordance with OAR 734-051-180.

B. Transportation Planning Rule Compliance. See Chapter 4.7. 600.

4.10.400 Approval Criteria

A. Criteria. When a Traffic Impact Study is required, approval of the development proposal requires satisfaction of the following criteria:

1. The Traffic Impact Study was prepared by a professional engineer in accordance with OAR 734-051-180; and
2. If the proposed development shall cause one or more of the effects in Section 4.10.200A.5. above, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Study includes mitigation measures satisfactory to the City Engineer, and ODOT when applicable; and
3. The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:
 - a. Have the least negative impact on all applicable transportation facilities; and
 - b. Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable; and
 - c. Make the most efficient use of land and public facilities as practicable; and
 - d. Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and
 - e. Otherwise comply with applicable requirements of the City of Boardman Development Code, including Chapters 3.1 Access and Circulation, 3.2. Landscaping, 3.3 Vehicle and Bicycle Parking, 3.4 Public Facilities Standards, 3.5 Stormwater Management, and 3.8 Loading Standards.

B. Conditions of Approval. The City may deny, approve, or approve the proposal with appropriate conditions.

Chapter 4.1 - Types of Applications and Review Procedures

Sections:

- 4.1.100 - Purpose
- 4.1.200 - Description of Permit Procedures
- 4.1.300 - Type I Procedure
- 4.1.400 - Type II Procedure
- 4.1.500 - Type III Procedure
- 4.1.600 - Type IV Procedure
- 4.1.700 - General Provisions
- 4.1.800 - Special Procedures

4.1.100 Purpose

The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way.

4.1.200 Description of Permit/Decision-Making Procedures

All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this Chapter. General provisions for all permits are contained in Section 4.1.700. Specific procedures for certain types of permits are contained in Section 4.1.200 through 4.1.600. The procedure “type” assigned to each permit governs the decision-making process for that permit. There are four types of permit/decision-making procedures: Type I, II, III, and IV. These procedures are described in subsections A-D below. In addition, Table 4.1.200 lists all of the City’s land use and development applications and their required permit procedure(s).

- A. **Type I Procedure (Ministerial).** Type I decisions are made by the City Manager or his/her designee without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria, and applies city standards and criteria that require no use of discretion;
- B. **Type II Procedure (Administrative).** Type II decisions are made by the City Manager or his/her designee with public notice, and an opportunity for a public hearing if appealed. The appeal of a Type II decision is heard by the Planning Commission;
- C. **Type III Procedure (Quasi-Judicial).** Type III decisions are made by the Planning Commission after a public hearing, with appeals heard by the City Council. Type III decisions generally use discretionary approval criteria;

4.1.200 Description of Permit/Decision-making Procedures *(continued)*

- D. Type IV Procedure (Legislative).** Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments which apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

Table 4.1.200 Summary of Development Decisions/Permit by Type of Decision-making Procedure		
Action	Decision Type	Applicable Regulations
Access Permit (public street)	Type I	Chapters 3.1, 4.2, 4.3
Annexation	Type III/IV	Comprehensive Plan and city/county intergovernmental agreement(s), as applicable.
Building Permit	N/A	Building Code
Code Interpretation	Type II	Chapter 4.8
Code Amendment	Type IV	Chapter 4.7
Comprehensive Plan Amendment	Type IV	Comprehensive Plan
Conditional Use Permit	Type III	Chapter 4.4
Master Planned Development	Type III	Chapter 4.5
Modification to Approval	Type II/III	Chapter 4.6
Land Use District Map Change		
Quasi-Judicial (no plan amendment required)	Type III	Chapter 4.7
Legislative (plan amendment required)	Type IV	Chapter 4.7
Lot Line Adjustment	Type I	Chapter 4.3
Non-Conforming Use or Development Confirmation	Type I	Chapter 5.2
Partition	Type II	Chapter 4.3
Sensitive Lands Permit	Type III	Chapter 3.7
Sign Permit	Type I/II	Chapter 3.6
Development Review	Type I	Chapter 4.2, Building Code
Site Design Review		
Type II	Type II	Chapter 4.2
Type III	Type III	Chapter 4.2
Subdivision	Type II/III	Chapter 4.3
Temporary Use Permit	Type II/III	Chapter 4.9
Transportation Facilities and Improvements	Type II/III	Chapter 4.4
Traffic Impact Study	Type I	Chapter 4.10
Tree Removal	Type I/II	Chapter 3.2 (may require Sensitive Land development permit first)
Variance		
Class A	Type I	Chapter 5.1
Class B	Type II	Chapter 5.1
Class C	Type III	Chapter 5.1

*The City shall send ODOT notice of all Type II, III and IV land use applications and Traffic Impact Study applications.

4.1.300 Type I Procedure (Ministerial)**A. Application Requirements.**

1. Application Forms. Type I applications shall be made on forms provided by the City Manager or his/her designee.
2. Application Requirements. Type I applications shall:
 - a. Include the information requested on the application form;
 - b. Address the criteria in sufficient detail for review and action; and
 - c. Be filed with the required fee.

B. Administrative Decision Requirements. The decision of the City Manager or his/her designee shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Manager or his/ her designee shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at city hall.

C. Final Decision. The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first.

D. Effective Date. The decision is effective the day after it is final.

E. Notice of Decision.

1. Within five (5) days after the City Manager or designee signs the decision, a Notice of Decision shall be posted on the property and sent by mail to:
 - a. Any person who submits a written request to receive notice;
 - b. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
 - c. Any City-recognized neighborhood group or association whose boundaries include the site;
 - d. Any governmental agency that is entities to notice under an intergovernmental agreement entered into with the City.
2. The City Manager or designee shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted and the names and addresses of the people to whom it was mailed.

4.1.300 Type I Procedure (Ministerial) (continued)

3. The Type I Notice of Decision shall contain:

- a. A brief description of the applicant's proposal and the City's decision to approve or deny the proposal;
- b. The address or other brief geographic description of the property proposed for development;
- c. A statement of where the City's decision can be obtained;
- d. The date the decision shall become final, unless appealed;
- e. A statement that the applicant and any persons who are adversely affected or aggrieved by the decision may appeal the decision; and
- f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process.

F. Final Decision and Effective Date. A Type I administrative decision is final for purposes of appeal, when it is mailed by the City. A Type I administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

G. Appeal. A Type I administrative decision may be appealed to the Planning Commission as follows:

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

- a. The applicant; and
- b. Any persons who are adversely affected or aggrieved by the decision.

2. Appeal procedure.

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type I Administrative Decision by filing a Notice of Appeal according to the following procedures;
- b. *Time for filing.* A Notice of Appeal shall be filed with the City Manager or designee within 14 days of the date the Notice of Decision was mailed;
- c. *Content of notice of appeal.* The Notice of Appeal shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;

4.1.300 Type I Procedure (Ministerial) (continued)

- (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific issues raised on appeal;
 - (4) Filing fee.
3. Determination of Filing Fee. The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing for and conducting the hearing, or the statutory maximum, whichever is less.
4. Scope of appeal. The appeal of a Type I Ministerial Decision by a person with standing shall be through a Type III public hearing before the Planning Commission. The Planning Commission may allow evidence or testimony concerning any relevant issue.
5. Appeal procedures. Type III notice and hearing procedures shall be used for all Type I Ministerial Appeals, as provided in Section 4.1.500.C - E;
6. Final decision and effective date. The decision of the Planning Commission regarding an appeal of a Type I Ministerial Decision is the final decision of the City, unless appealed to the City Council.
7. Appeal to the City Council. The decision of the Planning Commission regarding an appeal of a Type I Ministerial Decision may be appealed to the City Council following a Type III process.
 - a. Who may appeal. The following have legal standing to appeal a Type III Appeal Decision of a Type I Administrative Decision:
 - (1) The applicant;
 - (2) Any person who was mailed written notice of the Type III appeal decision or Type I Administrative Decision;
 - (3) Any person who participated in the appeal proceeding through testimony or submission of evidence.
 - (4) Any person who is adversely affected or aggrieved by the decision.
 - b. Appeal procedure.
 - (1) The requirements for the Notice of Appeal, time for filing, content of Notice of Appeal, and determination of filing fee are the same as for the appeal of a Type II decision, as provided in Section 4.1.400G, sub-sections 2 and 3.

4.1.300 Type I Procedure (Ministerial) (continued)

- (2) Scope of appeal. The appeal by a person with standing of a Type I decision to the City Council shall follow Type III appeal decision process and shall be a hearing *de novo* before the City Council. The appeal shall not be limited to the specific issues raised and evidence and testimony presented in the appeal to the Planning Commission.
- (3) Appeal procedures. Type III notice, hearing and decision procedures shall be used for appeals of Planning Commission appeal decisions to the City Council, as provided in Section 4.1.500, sub-sections C-E.
- c. Final decision and effective date. The decision of the City Council on a Type III appeal of a Type I application is final and effective on the date it is mailed by the City. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 – 197.860.

4.1.400 Type II Procedure (Administrative)

- A. Pre-application conference. A pre-application conference may be required for Type II applications. Pre-application conference requirements and provisions are in Section 4.1.700(C-E).
- B. Application requirements.
 - 1. Application Forms. Type II applications shall be made on forms provided by the City Manager or his/her designee;
 - 2. Submittal Information. The application shall:
 - a. Include the information requested on the application form;
 - b. Be filed with 3 copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
 - c. Be accompanied by the required fee.
 - d. Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application as required in Section 4.1.400.C. The records of the Morrow County Assessor's Office records are the official records for determining ownership. The applicant shall produce the notice list. At the applicant's request, and upon payment of a fee noted on the city's fee list, the city shall prepare the public notice mailing list. The city or the applicant shall use the most current County real property assessment records to produce the notice list;

4.1.400 Type II Procedure (Administrative) (continued)

- e. Include an impact study for all land division applications. The impact study shall quantify and assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the City shall either (1) include in the written decision evidence that shows that the required property dedication is roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval.

C. Notice of Application for Type II Administrative Decision

1. Before making a Type II Administrative Decision, the City Manager shall mail notice to:
 - a. All owners of record of real property within 250 feet (measured from the property line) of the subject site;
 - b. All City-recognized neighborhood groups or associations whose boundaries include the site;
 - c. Any person who submits a written request to receive a notice; and
 - d. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies; ODOT shall be notified when there is a land division abutting a State facility, for review of the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process.
3. Notice of a pending Type II Administrative Decision shall:
 - a. Provide a 20-day period for submitting written comments before a decision is made;
 - b. List the relevant approval criteria by name and number of code sections;
 - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;

4.1.400 Type II Procedure (Administrative) (continued)

- d. Include the name and telephone number of a contact person regarding the Administrative Decision;
 - e. Identify the specific permits or approvals requested;
 - f. Describe the street address or other easily understandable reference to the location of the site;
 - g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 - h. State that all evidence relied upon by the City Manager or his/her designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
 - i. State that after the comment period closes, the City Manager or designee shall issue a Type II Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
 - j. Contain the following notice: "Notice to mortgagee, lienholder, vendor, or seller: The City of Boardman Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
- D. Administrative Decision Requirements.** The City Manager or his/her designee shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the City Manager or his/her designee shall approve, approve with conditions, or deny the requested permit or action. The decision may include a requirement for non-remonstrance for future road improvements.

E. Notice of Decision

- 1. Within five (5) days after the City Manager signs the decision, a Notice of Decision shall be posted on the property and sent by mail to:
 - a. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - b. The applicant and all owners or contract purchasers of record of the site which is the subject of the application;
 - c. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - d. Any City-recognized neighborhood group or association whose boundaries include the site;

4.1.400 Type II Procedure (Administrative) (continued)

- e. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies which were notified or provided comments during the application review period.
 2. The City Manager shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted, and shall demonstrate that the notice was mailed to the people and within the time required by law.
 3. The Type II Notice of Decision shall contain:
 - a. A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary);
 - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
 - c. A statement of where the City's decision can be obtained;
 - d. The date the decision shall become final, unless appealed;
 - e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;
 - f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and
 - g. A statement that unless appellant (the person who files the appeal) is the applicant, the hearing on the appeal shall be limited to the specific issues identified in the written comments submitted during the comment period. Additional evidence related to the Notice of Appeal (See subsection G.2.a, below) may be submitted by any person during the appeal hearing, subject to any rules of procedure adopted by the Planning Commission.
- F. Final decision and effective date.** A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.
- G. Appeal.** A Type II administrative decision may be appealed to the Planning Commission as follows:
1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:
 - a. The applicant;

4.1.400 Type II Procedure (Administrative) (continued)

- b. Any person who was mailed written notice of the Type II administrative decision;
 - c. Any other person who participated in the proceeding by submitting written comments.
2. Appeal procedure.
- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;
 - b. *Time for filing.* A Notice of Appeal shall be filed with the City Manager within 21 days of the date the Notice of Decision was mailed;
 - c. *Content of notice of appeal.* The Notice of Appeal shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific issues raised on appeal;
 - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
 - (5) Filing fee.
3. Determination of Filing Fee. The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing, or the statutory maximum, whichever is less.
4. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under Section 4.1.400.C, unless the Planning Commission allows additional evidence or testimony concerning any other relevant issue. The Planning Commission may allow such additional evidence if they determine that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II Administrative Appeals by encouraging persons with standing to submit their specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II Administrative Decision;

4.1.400 Type II Procedure (Administrative) (continued)

5. Appeal procedures. Type III notice and hearing procedures shall be used for all Type II Administrative Appeals, as provided in Sections 4.1.500.C - E;
6. Appeal to City Council. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission hearing.

4.1.500 Type III Procedure (Quasi-Judicial)

A. Pre-application conference. A pre-application conference may be required for Type III applications. The requirements and provisions for a pre-application conference are described in Section 4.1.700.C.

B. Application requirements.

1. Application forms. Type III applications shall be made on forms provided by the City Manager;
2. Content. Type III applications shall:
 - a. Include the information requested on the application form;
 - b. Be filed with copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
 - c. Be accompanied by the required fee;
 - d. Include one set of Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application as required in Section 4.1.400.C. The records of the Morrow County Assessor's Office records are the official records for determining ownership. The applicant shall produce the notice list. At the applicant's request, and upon payment of a fee noted on the city's fee list, the city shall prepare the public notice mailing list. The city or the applicant shall use the most current County real property assessment records to produce the notice list;

4.1.500 Type III Procedure (Quasi-Judicial) (continued)

- e. Include an impact study for all land division applications. The impact study shall quantify and assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the City shall either (1) include in the written decision evidence that shows that the required property dedication is roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval.

C. Notice of Hearing.

1. Mailed notice. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Manager in the following manner:
 - a. At least 20 days before the hearing date, notice shall be mailed to:
 - (1) The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
 - (2) All property owners of record within 250 feet of the property line of the site;
 - (3) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175;
 - (4) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
 - (5) Any person who submits a written request to receive notice;
 - (6) For appeals, the appellant and all persons who provided testimony; and
 - (7) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - b. The City Manager shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was posted on the property and mailed to the persons who must receive notice;
 - c. At least 20 business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record;

4.1.500 Type III Procedure (Quasi-Judicial) (continued)

- d. At least 20 business days before the hearing, the applicant shall post notice of the hearing on the property per Subsection 2 below. The applicant shall prepare and submit an affidavit of posting of the notice which shall be made part of the administrative record.
2. Content of Notice. Notice of appeal of a Type II Administrative decision or a Type III hearing to be mailed, posted and published per Subsection 1 above shall contain the following information:
 - a. The nature of the application and the proposed land use or uses which could be authorized for the property;
 - b. The applicable criteria and standards from the development code(s) that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;
 - d. The date, time, and location of the public hearing;
 - e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
 - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
 - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Boardman City Hall at no cost and that copies shall be provided at a reasonable cost;
 - h. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
 - i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
 - j. The following notice: "Notice to mortgagee, lienholder, vendor, or seller: The City of Boardman Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

D. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state the following to those in attendance:

4.1.500 Type III Procedure (Quasi-Judicial) (continued)

- a. The applicable approval criteria and standards that apply to the application or appeal;
 - b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;
 - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;
 - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
 3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Planning Commission shall reopen the record per subsection E of this section;
 - a. When the Planning Commission re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to Section D is subject to the limitations of ORS 227.178 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
 - c. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence.
 - d. The record shall contain all testimony and evidence that is submitted to the City and the hearings body and not rejected;

4.1.500 Type III Procedure (Quasi-Judicial) (continued)

- e. The hearings body may take official notice of judicially cognizable facts under the applicable law. If the review authority takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
 - f. The review authority shall retain custody of the record until the City issues a final decision.
4. Participants in the appeal of a Type II Administrative decision or a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Section 6 below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
- a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section 6 below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
 - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
 - c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
 - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
 - e. If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;
 - f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.
5. Ex parte communications.
- a. Members of the hearings body shall not:

4.1.500 Type III Procedure (Quasi-Judicial) (continued)

- (1) Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Section 5 above;
 - (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
 - b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
 - (1) Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
 - (2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
 - c. A communication between City staff and the hearings body is not considered an ex parte contact.
6. Presenting and receiving evidence.
 - a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
 - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section D;
 - c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the hearings body may visit the property to familiarize him or herself with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, he or she shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.

4.1.500 Type III Procedure (Quasi-Judicial) (continued)**E. The Decision Process**

1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City Manager within ten business days after the close of the deliberation.
5. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within five business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice. The decision may include a requirement for non-remonstration for future road improvements.
6. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing.

4.1.600 Type IV Procedure (Legislative)

- A. Pre-Application conference. A pre-application conference is required for all Type IV applications. The requirements and provisions for a pre-application conference are described in Section 4.1.700.C.
- B. Timing of Requests. The City Manager or designee shall review proposed Type IV actions no more than twice yearly, based upon the City's approved schedule for such actions.

4.1.600 Type IV Procedure (Legislative) (continued)**C. Application requirements.**

1. Application forms. Type IV applications shall be made on forms provided by the City Manager or designee;
2. Submittal Information. The application shall contain:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c. The required fee; and
 - d. 10 copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

D. Notice of Hearing.

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications, except annexations where only a hearing by the City Council is required.
2. Notification requirements. Notice of public hearings for the request shall be given by the City Manager in the following manner:
 - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - (1) Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
 - (2) Any affected governmental agency.
 - (3) Recognized neighborhood groups or associations affected by the ordinance;
 - (4) Any person who requests notice in writing;
 - (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

4.1.600 Type IV Procedure (Legislative) (continued)

- (6) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175;
 - b. At least 14 days before the scheduled Planning Commission public hearing date, and 10 days before the City Council hearing date, notice shall be published in a newspaper of general circulation in the City.
 - c. The City Manager shall:
 - (1) For each mailing of notice, file an affidavit of mailing in the record as provided by Subsection a; and
 - (2) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
 - d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.
 - e. Notifications for annexation shall follow the provisions of this Chapter.
3. Content of notices. The mailed and published notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of the City Manager's office where additional information about the application can be obtained;
 - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
 - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See subsection E below); and
 - e. Each mailed notice required by section D shall contain the following statement: "Notice to mortgagee, lienholder, vendor, or seller: The Boardman Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

4.1.600 Type IV Procedure (Legislative) (continued)

4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
 - a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
 - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 - (1) Regulate the course, sequence, and decorum of the hearing;
 - (2) Direct procedural requirements or similar matters; and
 - (3) Impose reasonable time limits for oral presentations.
 - b. No person shall address the Commission or the Council without:
 - (1) Receiving recognition from the presiding officer; and
 - (2) Stating their full name and address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council, shall conduct the hearing as follows:
 - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
 - b. The City Manager's report and other applicable staff reports shall be presented;
 - c. The public shall be invited to testify;
 - d. The public hearing may be continued to allow additional testimony or it may be closed; and

4.1.600 Type IV Procedure (Legislative) (continued)

- e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.
- F. Continuation of the Public Hearing.** The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- G. Decision-Making Considerations.** The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
 - 1. Approval of the request is consistent with the Statewide Planning Goals;
 - 2. Approval of the request is consistent with the Comprehensive Plan; and
 - 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.
- H. Approval Process and Authority.**
 - 1. The Planning Commission shall:
 - a. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
 - b. Within 10 business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the City Manager.
 - 2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Manager before the Council public hearing on the proposal. The City Manager shall send a copy to each Council member and place a copy in the record;
 - 3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 60 days of its first public hearing on the proposed change, the City Manager shall:
 - a. Report the failure together with the proposed change to the City Council; and
 - b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.

4.1.600 Type IV Procedure (Legislative) (continued)**4. The City Council shall:**

- a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
- b. Consider the recommendation of the Planning Commission; however, it is not bound by the Commission's recommendation; and
- c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

I. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

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

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the City Manager to the hearings body regarding the application;

4.1.600 Type IV Procedure (Legislative) (continued)

- c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
- d. The final ordinance;
- e. All correspondence; and
- f. A copy of the notices which were given as required by this Chapter.

4.1.700 General Provisions

- A. 120-day Rule.** The City shall take final action on permit applications which are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions - plan and code amendments - under ORS 227.178.)
- B. Time Computation.** In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Saturday or legal holiday.
- C. Pre-application Conferences.**
 - 1. Participants. When a preapplication conference is required, the applicant shall meet with the City Manager or his/her designee(s);
 - 2. Information provided. At such conference, the City Manager or his/her designee shall:
 - a. Cite the comprehensive plan policies and map designations applicable to the proposal;
 - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
 - c. Provide available technical data and assistance which will aid the applicant;
 - d. Identify other governmental policies and regulations that relate to the application; and
 - e. Reasonably identify other opportunities or constraints concerning the application.
 - 3. Disclaimer. Failure of the City Manager or his/her designee to provide any of the information required by this Section C shall not constitute a waiver of any of the standards, criteria or requirements for the application;

4.1.700 General Provisions *(continued)*

4. Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

D. Applications.

1. Initiation of applications:
 - a. Applications for approval under this chapter may be initiated by:
 - (1) Order of City Council;
 - (2) Resolution of the Planning Commission;
 - (3) The City Manager;
 - (4) A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.
 - b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.
2. Consolidation of proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.
 - a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the City Manager.
 - b. When proceedings are consolidated:
 - (1) The notice shall identify each application to be decided;
 - (2) The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
 - (3) Separate findings and decisions shall be made on each application.
3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

4.1.700 General Provisions *(continued)*

- a. Acceptance. When an application is received by the City, the City Manager shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant;
 - (1) The required form;
 - (2) The required fee;
 - (3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.
- b. Completeness.
 - (1) Review and notification. After the application is accepted, the City Manager shall review the application for completeness. If the application is incomplete, the City Manager shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
 - (2) When application deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the City Manager of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the City Manager in (1), above. For the refusal to be valid, the refusal shall be made in writing and received by the City Manager no later than 14 days after the date on the City Manager's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on 31st day after the City Manager first accepted the application.
 - (3) Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.
 - (4) Coordinated Review. The City shall also submit the application for review and comment to the City Engineer, ODOT, and other applicable County, State and federal review agencies.
4. Changes or additions to the application during the review period. Once an application is deemed complete:

4.1.700 General Provisions *(continued)*

- a. All documents and other evidence relied upon by the applicant shall be submitted to the City Manager at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by City Manager, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;
- b. When documents or other evidence are submitted by the applicant during the review period, but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see “d”, below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
- d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:
 - (1) Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
 - (2) Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section A., above) on the existing application. If the applicant does not consent, the City shall not select this option;
 - (3) Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence;
- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

4.1.700 General Provisions *(continued)***E. City Manager's Duties.** The City Manager shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City's comprehensive plan, and implementing ordinance provisions;
2. Accept all development applications which comply with Section 4.1.700;
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report should also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;
4. Prepare a notice of the proposal decision:
 - a. In the case of an application subject to a Type I or II review process, the City Manager shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
 - b. In the case of an application subject to a hearing (Type III or IV process), the City Manager shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 4.1.400.C (Type II), 4.1.500.C (Type III), or 4.1.600.D (Type IV);
5. Administer the hearings process;
6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;
7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and
8. Administer the appeals and review process.

F. Amended Decision Process.

1. The purpose of an amended decision process is to allow the City Manager to correct typographical errors, rectify inadvertent omissions and/or make other minor changes which do not materially alter the decision.

4.1.700 General Provisions *(continued)*

2. The City Manager may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 10 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 10-day appeal period shall begin on the day the amended decision is issued.
3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures contained in Section 4.6. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

G. Re-submittal of Application Following Denial. An application which has been denied, or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final City action is made denying the application, unless there is substantial change in the facts or a change in City policy which would change the outcome, as determined by the City Manager.

4.1.800 Special Procedures

A. Expedited Land Divisions. An Expedited Land Division (“ELD”) shall be defined and may be used as in ORS 197.360, which is expressly adopted and incorporated by reference here.

1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;
2. Review procedure. An ELD shall be reviewed in accordance with the procedures in ORS 197.365;
3. Appeal procedure. An appeal of an ELD shall be in accordance with the procedures in ORS 197.375.

4.1.900 Neighborhood Meetings

- A. **Procedure.** Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input and exchange information about the proposed development. In some cases, the City Manager may require the applicant to meet with a City-recognized neighborhood association or group prior to accepting an application as complete.

Community Impact. A Neighborhood Meeting may be required for development applications that are likely to have neighborhood or community-wide impacts (e.g. traffic, parking, noise or similar impacts), as determined by the City Manager or designee.

Chapter 4.2 - Development Review and Site Design Review

Sections:

4.2.100 - Purpose

4.2.200 - Applicability

4.2.300 - Development Review Approval Criteria

4.2.400 - Site Design Review - Application Review Procedure

4.2.500 - Site Design Review - Application Submission Requirements

4.2.600 - Site Design Review Approval Criteria

4.2.700 - Bonding and Assurances

4.2.800 - Development in Accordance With Permit Approval

4.2.100 Purpose

The purpose of this Chapter is to:

1. Provide rules, regulations and standards for efficient and effective administration of site development review.
2. Carry out the development pattern and plan of the City and its comprehensive plan policies;
3. Promote the public health, safety and general welfare;
4. Lessen or avoid congestion in the streets, and secure safety from fire, flood, pollution and other dangers;
5. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage;
6. Encourage the conservation of energy resources; and
7. Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

4.2.200 Applicability

Development Review or Site Design Review shall be required for all new developments and modifications of existing developments described below. Regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt.

4.2.200 Applicability (continued)

A. Site Design Review. Site Design Review is a discretionary review conducted by the City Manager or his/her designee without a public hearing. (See Chapter 4.1 for review procedure.) It applies to all developments in the City, except those specifically listed under “B” (Development Review). Site Design Review ensures compliance with the basic development standards of the land use district (e.g., building setbacks, lot coverage, maximum building height), as well as the more detailed design standards and public improvement requirements in Chapters 2 and 3.

B. Development Review. Development Review is a non-discretionary or “ministerial” review conducted by the City Manager without a public hearing. (See Chapter 4.1 for review procedure.) It is for less complex developments and land uses that do not require site design review approval. Development Review is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions of Chapter 2. Development Review is required for all of the types of development listed below, except that all developments in sensitive land areas shall also use the development review procedures specified for those districts.

1. Single-family detached dwelling (including manufactured homes);
2. A single duplex, up to two single family attached (townhome) units, or a single triplex which is not being reviewed as part of any other development, and accessory parking on the same lot;
3. Building additions up to 500 square feet, and Minor Modifications to development approvals as defined by Chapter 4.6;
4. Any proposed development which has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 4.4 - Conditional Use Permits;
5. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in Chapter 4.9;
6. Other developments when required by a condition of approval;

4.2.300 Development Review Approval Criteria

Development Review shall be conducted only for the developments listed in Section 4.2.200.B, above, and it shall be conducted as a Type I procedure, as described in Chapter 4.1.300. Prior to issuance of building permits, the following standards shall be met:

1. The proposed land use is permitted by the underlying land use district (Chapter 2);
2. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any sub-district(s) are met (Chapter 2);

4.2.300 Development Review Approval Criteria *(continued)*

3. The standards in Chapter 3.2.200 New Landscaping ; 3.2.400 Fences and Walls and 3.3 Vehicle and Bicycle Parking are met;
4. All applicable building and fire code standards are met; and
5. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Site Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

4.2.400 Site Design Review – Application Review Procedure

- A. Site Design Review is subject to either a Type II or Type III procedure as determined by the criteria listed in “B,” and using the submittal requirements and approval criteria contained in Section 4.2.500 to 4.2.600.
- B. Site Design Review applications that do not meet any of the following criteria shall be conducted as a Type II procedure; those that meet one or more of the following criteria shall be conducted as a Type III procedure:
 1. Residential buildings with greater than 3 units;
 2. Commercial, industrial, public/semi-public, and institutional buildings with greater than 5,000 square feet of gross floor area;
 3. Developments with more than one building (e.g., two duplex buildings or an industrial building with accessory workshop);
 4. Developments with more than 4 off-street vehicle parking spaces;
 5. Developments involving the clearing and/or grading of ½ acre or greater area;
 6. Developments in designated sensitive land districts (see Chapter 3.7).

4.2.500 Site Design Review - Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

- A. **General Submission Requirements.** The applicant shall submit an application containing all of the general information required by Section 4.1.400 (Type II application) or Section 4.1.500 (Type III application), as applicable. The type of application shall be determined in accordance with subsection B of Section 4.2.400.

4.2.500 Site Design Review - Application Submission Requirements *(continued)*

B. Site Design Review Information. An application for site design review shall include the following additional information, as deemed applicable by the City Manager:

1. Site analysis map. At a minimum the site map shall contain the following:
 - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
 - b. Topographic contour lines at intervals determined by the City;
 - c. Identification of slopes greater than 5 percent;
 - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
 - e. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;
 - f. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
 - g. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
 - h. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
 - i. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed.
 - j. Other information, as determined by the City Manager. The City may require studies or exhibits prepared by qualified professionals to address specific site features.
2. Proposed site plan. The site plan shall contain the following information, if applicable:
 - a. The proposed development site, including boundaries, dimensions, and gross area;
 - b. Features identified on the existing site analysis map which are proposed to remain on the site.
 - c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
 - d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;

4.2.500 Site Design Review - Application Submission Requirements *(continued)*

- e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
 - f. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
 - g. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
 - h. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
 - i. Loading and service areas for waste disposal, loading and delivery;
 - j. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements, as applicable;
 - k. Location, type, and height of outdoor lighting;
 - l. Location of mail boxes, if known;
 - m. Name and address of project designer, if applicable.
 - n. Location of bus stops and other public or private transportation facilities.
 - o. Locations, sizes, and types of signs.
 - p. Other information, determined by the City Manager. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this Code.
3. Architectural drawings. The City Manager may request architectural drawings showing one or all of the following::
- a. Building elevations (as determined by the City Manager) with building height and width dimensions;
 - b. Building materials, color and type.
 - c. The name of the architect or designer.
4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required.

4.2.500 Site Design Review - Application Submission Requirements *(continued)*

5. Landscape plan. A landscape plan may be required and at the direction of the City Manager shall show the following:
 - a. The location and height of existing and proposed fences and other buffering or screening materials;
 - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
 - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
 - d. Existing and proposed building and pavement outlines;
 - e. Specifications for soil at time of planting, irrigation if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated planting schedule.
 - f. Other information as deemed appropriate by the City Manager. An arborist's report may be required for sites with mature trees that are protected under Section 3.2.Landscape, Street Trees, Fences and Walls of this Code.
6. Sign drawings shall be required in conformance with the City's Sign Code (Chapter 3.6).
7. Copies of all existing and proposed restrictions or covenants.
8. Letter or narrative report documenting compliance with the applicable approval criteria contained in Sub Section 4.2.600 Approval Criteria.
9. Traffic Impact Study. See Chapter 4.10.

4.2.600 Approval Criteria

The review authority shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application:

1. The application is complete, as determined in accordance with Chapter 4.1 - Types of Applications and Section 4.2.500, above.
2. The application complies with the all of the applicable provisions of the underlying Land Use District (Chapter 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;

4.2.600 Approval Criteria *(continued)*

3. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2, Non-Conforming Uses and Development;
4. The application complies with the Design Standards contained in Chapter 3. All of the following standards shall be met:
 - a. Chapter 3.1 - Access and Circulation;
 - b. Chapter 3.2 – Landscaping, Significant Vegetation, Street Trees, Fences and Walls;
 - c. Chapter 3.3 – Vehicle and Bicycle Parking;
 - d. Chapter 3.4 – Public Facilities and Standards;
 - e. Chapter 3.5 – Stormwater Management;
 - f. Chapter 3.6 – Other Standards, as applicable.
5. Conditions required as part of a Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), Master Planned Development (Chapter 4.5), or other approval shall be met.
6. Exceptions to criteria 4.a-f, above, may be granted only when approved as a Variance (Chapter 5.1).

4.2.700 Bonding and Assurances

- A. **Performance Bonds for Public Improvements.** On all projects where public improvements are required, the City shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of site development approval in order to guarantee the public improvements;
- B. **Release of Performance Bonds.** The bond or assurance shall be released when the City Manager finds the completed project conforms to the site development approval, including all conditions of approval.
- C. **Completion of Landscape Installation.** Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the City Manager or a qualified landscape architect is filed with the City Recorder assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

4.2.700 Bonding and Assurances *(continued)*

- D. Business License Filing.** The applicant shall ensure that all business occupants of the completed project, whether permanent or temporary, shall apply for and receive a City business license prior to initiating business.

4.2.800 Development in Accordance With Permit Approval

Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site design review approval) and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.700. Development Review and Site Design Review approvals shall be subject to all of the following standards and limitations:

- A. Modifications to Approved Plans and Developments.** Minor modifications of an approved plan or existing development, as defined in Section 4.6, shall be processed as a Type I procedure and require only Development Review. Major modifications, as defined in Section 4.6, shall be processed as a Type II or Type III procedure and shall require Site Design Review. For information on Type I, Type II and Type III procedures, please refer to Chapter 4.1. For Modifications approval criteria, please refer to Chapter 4.6.
- B. Approval Period.** Development Review and Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:
1. A building permit has not been issued within a one-year period; or
 2. Construction on the site is in violation of the approved plan.
- C. Extension.** The City Manager shall, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided that:
1. No changes are made on the original approved site design review plan;
 2. The applicant can show intent of initiating construction on the site within the one year extension period;
 3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and
 4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

4.2.800 Development in Accordance With Permit Approval *(continued)*

D. Phased Development. Phasing of development may be approved with the Site Design Review application, subject to the following standards and procedures:

1. A phasing plan shall be submitted with the Site Design Review application.
2. The City Manager shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 2 years without reapplying for site design review.
3. Approval of a phased site design review proposal requires satisfaction of all of the following criteria:
 - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 4.2.400. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the City Manager or his/her;
 - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
 - d. An application for phasing may be approved after Site Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.6).

Chapter 4.3 - Land Divisions and Lot Line Adjustments

Sections:

4.3.100 - Purpose

4.3.110 - General Requirements

4.3.120 - Approvals Process

4.3.130 - Preliminary Plat Submission Requirements

4.3.140 - Approval Criteria: Preliminary Plat

4.3.150 - Variances Authorized

4.3.160 - Final Plat Submission Requirements and Approval Criteria

4.3.170 - Public Improvements

4.3.180 - Performance Guarantees

4.3.190 - Filing and Recording

4.3.200 - Replatting and Vacation of Plats

4.3.210 - Lot Line Adjustments

4.3.100 Purpose

The purpose of this chapter is to:

1. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments, as defined below and in Chapter 1.3:
 - a. Subdivisions involve the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
 - b. Partitions involve the creation of two or three parcels from one parent lot within one calendar year.
 - c. Lot line adjustments involve modifications to lot lines or parcel boundaries which do not result in the creation of new lots (includes consolidation of lots).
2. Carry out the City's development pattern, as envisioned by the Comprehensive Plan.
3. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
4. Promote the public health, safety and general welfare through orderly and efficient urbanization;
5. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
6. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage; and
7. Encourage the conservation of energy resources.

4.3.110 General Requirements

- A. **Subdivision and Partition Approval Through Two-step Process.** Applications for subdivision or partition approval shall be processed through a two-step process: the preliminary plat and the final plat.
1. The preliminary plat shall be approved before the final plat can be submitted for approval consideration; and
 2. The final plat shall include all conditions of approval of the preliminary plat.
- B. **Compliance With ORS Chapter 92.** All subdivision and partition proposals shall be in conformance to state regulations set forth in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- C. **Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted which identifies:
1. Potential future lot division(s) in conformance with the housing and density standards of Chapter 2;
 2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way.
 3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- D. **Lot Size Averaging.** Single family residential lot size may be averaged to allow lots less than the minimum lot size in the Residential district, as long as the average area for all lots is not less than allowed by the district. No lot created under this provision shall be less than 50% of the minimum lot size allowed in the underlying district. For example, if the minimum lot size is 5,000 square feet, one way for three lots to be created from a 15,000 square foot parcel are: 4,000 square feet, 5,000 square feet, and 6,000 square feet.
- E. **Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Chapter 2.1.190, Special Standards for Certain Uses.
- F. **Need for Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to prevent or minimize flood damage to the extent practicable.
- G. **Need for Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required.

4.3.110 General Requirements *(continued)*

- H. Floodplain, Park, and Open Space Dedications.** Where land filling and/or development is allowed within or adjacent to the 100-year flood plain outside the zero-foot rise flood plain, and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway adjoining or within the flood plain. When practicable, this area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the flood plain in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, consistent with Chapter 3.4, and Section 3.4.000.D in particular.
- I. Double Frontage Lots.** The creation of double frontage lots shall be avoided wherever possible.

4.3.120 Approvals Process

- A. Review of Preliminary Plat.** Review of a preliminary plat with 2 or 3 lots (partition) shall be processed by means of a Type II procedure, as governed by Section 4.1.400. Preliminary plats with more than 3 lots (subdivision) shall be processed with a Type III procedure under Section 4.1.500. All preliminary plats shall be reviewed using approval criteria contained in Section 4.3.140. An application for subdivision may be reviewed concurrently with an application for a Master Planned Development under Chapter 4.5.
- B. Review of Final Plat.** Review of a final plat for a subdivision or partition shall be processed by means of a Type I procedure under Section 4.1.300, using the approval criteria in Section 4.3.160.
- C. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of three (3) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within a two (2)-year period.
- D. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.6 - Modifications. The City Manager or his/her designee shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one year; provided that:
1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
 2. The applicant has submitted written intent to file a final plat within the one-year extension period;
 3. An extension of time will not prevent the lawful development of abutting properties;
 4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
 5. The extension request is made before expiration of the original approved plan.

E. Phased Development

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than two years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
 - a. Public facilities shall be constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.180. A temporary public facility is any facility not constructed to the applicable City or district standard;
 - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
 - d. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

4.3.130 Preliminary Plat Submission Requirements

- A. **General Submission Requirements.** For Type II subdivisions (8 lots or fewer) and partitions, the applicant shall submit an application containing all of the information required for a Type II procedure under Section 4.1.400. For Type III subdivisions (9 lots or more), the application shall contain all of the information required for a Type III procedure under Section 4.1.500, except as required for Master Planned Neighborhood Developments:

1. **Master Planned Development.** Submission of a master plan, as provided in Chapter 2 shall be required for:
 - a. Parcels, and development sites with more than one parcel, in the Residential District which are 20 acres or larger; and
 - b. The Master Plan shall be approved either prior to, or concurrent with, the preliminary plat application.

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

1. **General information:**
 - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in the county in which it is located (please check with Morrow County surveyor);
 - b. Date, north arrow, and scale of drawing;

4.3.130 Preliminary Plat Submission Requirements *(continued)*

- c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
- d. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey; and
- e. Identification of the drawing as a “preliminary plat.”

2. Site analysis:

- a. Streets: Location, name, present width of all streets, alleys and rights-of-way on and abutting the site;
- b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- d. Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals for ground slopes of less than 10 percent. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. This requirement may be waived for partitions when grades, on average, are less than 6 percent;
- e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having a high erosion potential;
- g. Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also, Chapter 3.7 and relevant portions of the Comprehensive Plan.);
- h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
- i. Designated historic and cultural resources on the site and adjacent parcels or lots;
- j. North arrow, scale, name and address of owner;
- k. Name and address of project designer, if applicable; and
- l. Other information, as deemed appropriate by the City Manager or his/her. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed improvements:

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

4.3.130 Preliminary Plat Submission Requirements *(continued)*

- d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use: potential location of future buildings;
- e. Proposed improvements, as required by Chapter 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
- f. Preliminary location of development showing that future buildings can meet dimensional standards of base zone.
- g. The proposed source of domestic water;
- h. The proposed method of sewage disposal, and method of surface water drainage and treatment if required;
- i. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
- j. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with Oregon Department of Transportation related to proposed railroad crossing(s);
- k. Changes to navigable streams, or other water courses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable;
- l. Identification of the base flood elevation for development of more than 2 lots or ½ acre, whichever is less. Written evidence of initiation of a Federal Emergency Management Agency (FEMA) flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain. FEMA approval of the amendment shall be a condition of city land use approval;
- m. Evidence of written notice to the Oregon Department of Transportation (ODOT) for any development requiring direct access to a highway under the State's jurisdiction; and
- n. Evidence of written notice to the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Chapter 3.7.

4.3.140 Approval Criteria: Preliminary Plat

- A. General Approval Criteria.** The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:
- 1. The proposed preliminary plat complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Chapter, and the applicable sections of Chapter 2.0 (Land Use Districts) and Chapter 3.0 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 5.0 (Exceptions);
 - 2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;

4.3.140 Approval Criteria: Preliminary Plat *(continued)*

3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat; and
4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat.

B. Block and Lot Standards. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Chapter 2), and the standards of Chapter 3.1.200.J - Street Connectivity and Formation of Blocks.
2. Setbacks shall be as required by the applicable land use district (Chapter 2).
3. Each lot shall conform to the standards of Chapter 3.1 - Access and Circulation.
4. Landscape or other screening may be required to maintain privacy for abutting uses. See also, Chapter 2 - Land Use Districts, and Chapter 3.2 - Landscaping.
5. In conformance with the Uniform Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See also, Chapter 3.1- Access and Circulation.
6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.

D. Conditions of Approval. The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See also, Chapter 3.4.000.D (Public Facilities).

4.3.150 Variances Authorized

Adjustments to the standards of this Chapter shall be processed in accordance with Chapter 5.1 - Variances. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted, and the applications shall be reviewed together.

4.3.160 Final Plat Submission Requirements and Approval Criteria

- A. **Submission Requirements.** Final plats shall be reviewed and approved by the City prior to recording with Morrow County. The applicant shall submit the final plat within one (1) year of the approval of the preliminary plat as provided by Section 4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the City Manager or his/her designee.
- B. **Approval Criteria.** By means of a Type I procedure, the City Recorder and City Engineer shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:
1. The final plat complies with the approved preliminary plat, and all conditions of approval have been satisfied;
 2. All public improvements required by the preliminary plat have been installed and approved by the City Engineer. Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.180.
 3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;
 4. The streets and roads held for private use have been approved by the City as conforming to the preliminary plat;
 5. The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;
 6. The applicant has provided copies of all recorded homeowners association Conditions, Covenants, and Restrictions (CC&R's); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
 7. The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
 8. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the City that such services will be installed in accordance with Chapter 3.4 - Public Facilities, and the bond requirements of Section 4.3.180. The amount of the bond, contract or other assurance by the subdivider/partitioner shall be determined by a registered professional engineer, subject to review and approval by the City;
 9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

4.3.170 Public Improvements

The following procedures apply to subdivisions and partitions when public improvements are required as a condition of approval:

A. Public Improvements Required. Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider/partitioner shall provide a performance guarantee, in accordance with Section 4.3.180.

4.3.180 Performance Guarantee

A. Performance Guarantee Required. When a performance guarantee is required under Section 4.3.170, the subdivider/partitioner shall file an assurance of performance with the City supported by one of the following:

1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
3. Cash.

B. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.

C. Itemized Improvement Estimate. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.

D. Agreement. An agreement between the City and developer shall be recorded with the final plat that stipulates all of the following. It shall be prepared either by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by both the applicant and City Manager or his/her designee.

1. Specifies the period within which all required improvements and repairs shall be completed;
2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
3. Stipulates the improvement fees and deposits that are required.

E. When Subdivider Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.

F. Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

4.3.190 Filing and Recording

- A. **Filing plat with County.** Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to Morrow County for signatures of County officials as required by ORS Chapter 92.
- B. **Proof of recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy and 10 paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly-created lots.
- C. **Prerequisites to recording the plat.**
1. No plat shall be recorded unless all *ad valorem* taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
 2. No plat shall be recorded until it is approved by the County surveyor in the manner provided by ORS Chapter 92.

4.3.200 Replatting and Vacation of Plats

- A. **Replatting and Vacations.** Any plat or portion thereof may be replatted or vacated upon application signed by all of the owners as appearing on the deed.
- B. **Procedure.** All applications for a replat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to replat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Chapter 4.1 - Types of Applications and Review Procedures.)
- C. **Basis for denial.** A replat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.
- D. **Recording of vacations.** All approved plat vacations shall be recorded in accordance with Section 4.3.190 and the following procedures:
1. Once recorded, a replat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
 2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.
- E. **After sale of lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.

4.3.200 Replatting and Vacation of Plats *(continued)*

- F. Vacation of streets.** All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271.
- G. Requirement to Maintain Access.** The City may require accessways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient and direct pedestrian and bicycle circulation system.

4.3.210 Property Line Adjustments

Property Line Adjustments include the consolidation of lots, and the modification of lot boundaries, when no new lots are created. The application submission and approvals process is as follows:

- A. Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Chapter 4.1.300. The application shall include a preliminary lot line map identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; existing fences and walls; and any other information deemed necessary by the City Manager or his/her designee for ensuring compliance with city codes.
- B. Approval Process**
1. Decision-making process. Property line adjustments shall be reviewed by means of a Type I procedure, as governed by Chapter 4.1.300, using approval criteria contained in subsection C, below.
 2. Time limit on approval. The property line adjustment approval shall be effective for a period of one (1) year from the date of approval, during which time it must be recorded.
 3. Lapsing of approval. The property line adjustment approval shall lapse if:
 - a. The property line adjustment is not recorded within the time limit in subsection 2;
 - b. The property line adjustment has been improperly recorded with Morrow County without the satisfactory completion of all conditions attached to the approval; or
 - c. The final recording is a departure from the approved plan.
- C. Approval Criteria.** The City Manager or his/her designee or designee shall approve or deny a request for a lot line adjustment in writing based on findings that all of the following criteria are satisfied:
1. Parcel creation. No additional parcel or lot is created by the property line adjustment; however, the number of lots or parcels may be reduced;
 2. Lot standards. All lots and parcels comply with the applicable lot standards of the land use district (Chapter 2) including lot area and dimensions.

4.3.210 Property Line Adjustments. (continued)

3. Access. All lots and parcels comply with the standards or requirements of Chapter 3.1 – Access and Circulation; and
4. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district (Chapter 2).
5. Non conforming. The resulting lots, parcels, tracts, and building locations may not create development which is non-conforming or closer to non-conformance.
6. Exemptions from Dedications and Improvements. A property line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.
7. Compliance with Oregon Revised Statute. The property line adjustment will meet the provisions stated in ORS Chapter 92.190 (3-4).

D. Recording Property Line Adjustments.

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

E. Extension. The City shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:

1. No changes are made on the original plan as approved by the City;
2. The applicant can show intent of recording the approved partition or property line adjustment within the one-year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the property line adjustment conflicts with a code change, the extension shall be denied; and
4. The extension request is made before expiration of the original approved plan.

Chapter 4.4 - Conditional Use Permits

Sections:

4.4.100 - Purpose

4.4.200 - Approvals Process

4.4.300 - Application Submission Requirements

4.4.400 - Criteria, Standards and Conditions of Approval

4.4.500 - Additional Development Standards for Conditional Use Types

4.4.100 Purpose

There are certain uses which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses” in Chapter 2 - Land Use Districts. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

4.4.200 Approvals Process

- A. **Initial Application.** An application for a new conditional use shall be processed as a Type III procedure (Chapter 4.1.500). The application shall meet submission requirements in Section 4.4.300, and the approval criteria contained in Section 4.4.400.
- B. **Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.6 - Modifications.

4.4.300 Application Submission Requirements

In addition to the submission requirements required in Chapter 4.1, an application for conditional use approval must include the following information (1-8), as applicable. For a description of each item, please refer to Section 4.2.500 - Site Design Review Application Submission Requirements:

1. Existing site conditions;
2. Site plan;
3. Preliminary grading plan;
4. A landscape plan;
5. Architectural drawings of all structures;

4.4.300 Application Submission Requirements *(continued)*

6. Drawings of all proposed signs;
7. A copy of all existing and proposed restrictions or covenants.
8. Narrative report or letter documenting compliance with all applicable approval criteria in Section 4.4.400.

4.4.400 Criteria, Standards and Conditions of Approval

The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following standards and criteria:

A. Use Criteria.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and
3. All required public facilities have adequate capacity to serve the proposal.

B. Site Design Standards. The criteria for Site Design Review approval (Section 4.2.600) shall be met.**C. Conditions of Approval.** The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Review for compatibility with Boardman City Council established Minor Child Safety Areas.
3. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
4. Requiring larger setback areas, lot area, and/or lot depth or width;
5. Limiting the building height, size or lot coverage, and/or location on the site;
6. Designating the size, number, location and/or design of vehicle access points or parking areas;
7. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
8. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height and/or lighting of signs

4.4.400 Criteria, Standards and Conditions of Approval *(continued)*

9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands (Chapter 3.7);
13. Requiring the dedication of sufficient land to the public, and/or construction of a pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of Chapter 3.1, Access and Circulation.

D. Transportation System Facilities and Improvements

1. City or County facilities and improvements. Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the City's adopted Transportation System Plan ("TSP"), or (2) not designed and constructed as part of an approved subdivision or partition, are allowed in all Districts subject to a Conditional Use Permit and satisfaction of all of the following criteria:
 - a. The project and its design are consistent with the City's adopted TSP, or, if the city has not adopted a TSP, consistent with the State Transportation Planning Rule, OAR 660-012 ("the TPR").
 - b. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.
 - c. The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities; and a site with fewer environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.
 - d. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 - e. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.
2. State facilities and improvements. The State Department of Transportation ("ODOT") shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 4.4.400.D. 1.b. – e. above. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.
3. Proposal inconsistent with TSP/TPR. If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:
 - a. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional use permit application; or
 - b. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit if and when the amendment is approved; or

4.4.400 Criteria, Standards and Conditions of Approval (continued)

- c. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall submit a plan/zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 227.178 120-day period within which to complete all local reviews and appeals once the application is deemed complete; or
 - d. If the city determination of inconsistency is part of a final decision on the conditional use permit application, the applicant shall submit a new conditional use permit application, along with a plan/zoning amendment application for joint review and decision.
4. Expiration. A Conditional Use Permit for Transportation System Facilities and Improvements shall be void after three (3) years.

E. Medical Marijuana Dispensaries and Medical Marijuana Grow Facilities

- 1. Facilities will not be sited within Minor Children Safety Areas as defined by Chapter 9.04 of the Boardman Municipal Code.
- 2. No on-site consumption of products.
- 3. All Facilities must be licensed by the Oregon Health Authority.
- 4. Registry Identification Card and Oregon Health Authority license shall be displayed for public view.
- 5. Grow Facilities must be indoors, or sufficiently screened and ventilated to show no outward signs, or odors, of the grow operation.
- 6. Dispensary Facilities must be indoors, and sufficiently screened and ventilated to show no outward signs, or odors, of any product manufacture for edible marijuana products.
- 7. Hours of operation shall be restricted 8 hours per day and no later than 8:00 PM on week days, and no more than 6 hours per day and no later than 6:00 PM on weekends and holidays.
- 8. Shall not be sited within 1,000 feet of another marijuana dispensary.
- 9. Signs will be limited to 100 square feet per building face of the facility, with no more than two faces signed.
- 10. No outdoor storage of products.
- 11. Facilities shall be required to meet other applicable conditions found in Section 4.4.400 of this Chapter.

4.4.500 Additional Development Standards for Conditional Use Types

- A. Concurrent Variance Application(s). A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.
- B. Additional development standards. Development standards for specific uses are contained in Chapter 2 - Land Use Districts.

Chapter 4.5 - Master Planned Developments

Sections:

4.5.100 - Purpose

4.5.110 - Applicability

4.5.120 - Review and Approvals Process

4.5.130 - Applicability of Design Standards

4.5.140 - Overlay Zone and Concept Plan Submission

4.5.150 - Overlay Zone and Concept Plan Approval Criteria

4.5.160 - Administrative Procedures

4.5.170 - Detailed Development Plan Submission Requirements

4.5.180 - Detailed Development Plan Approval Criteria

4.5.190 - Development Review and Building Permit Approvals

4.5.100 Purpose

The purposes of this Section are to:

1. Implement the Development standards of Chapter 2 by providing a means for planned developments;
2. Encourage innovative planning that results in more mixed use development, improved protection of open spaces, and transportation options and site phasing of development;
3. Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified employment environments;
4. Facilitate the efficient use of land;
5. Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
6. Preserve to the greatest extent possible the existing landscape features and amenities, that may not otherwise be protected through conventional development;
7. Encourage energy conservation and improved air and water quality and;
8. Assist the City in planning infrastructure improvements.

4.5.110 Applicability

The master planned development designation is an overlay zone that may be applied over any of the City's land use districts as noted in Chapter 2. An applicant may elect to develop a project as a master planned development in compliance with the requirements of this chapter.

4.5.120 Review and Approvals Process

A. Review Steps. There are three required steps to planned development approval:

1. The approval of a planned development overlay zone and concept plan;
2. The approval of a detailed development plan; and
3. The approval of a preliminary subdivision plat(s) and/or site design review application(s).

B. Approval Process.

1. The Master Planned Development (PD) overlay zone and Concept Plan shall be reviewed together using the Type III procedure in Section 4.1.500, the submission requirements in Section 4.5.140, and the approval criteria in Section 4.5.150.
2. The detailed development plan shall be reviewed using the Type III procedure in Section 4.1.500, to ensure substantial compliance with the approved concept plan.
3. Preliminary subdivision plats and site design review applications for approved planned developments shall be reviewed using a Type II procedure and in accordance with Section 4.2.500.
4. Steps 1-3, above, may be combined in any manner, so long as the decision-making sequence follows that in subsection A, above. Notification and hearings may be combined.

4.5.130 Applicability of Design Standards (Chapter 3)

The design standards of Chapter 3 apply to all master planned developments. Variances shall conform to the standards and procedures of Chapter 5.1 - Variances.

4.5.140 Overlay Zone and Concept Plan Submission

- A. General submission requirements.** The applicant shall submit an application containing all of the general information required for a Type III procedure, as governed by Section 4.1.500. In addition, the applicant shall submit the following:
1. A statement of planning objectives to be achieved by the planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
 2. A development schedule indicating the approximate dates when construction of the planned development and its various phases are expected to be initiated and completed.
 3. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development.
 4. Narrative report or letter documenting compliance with the applicable approval criteria contained in Section 4.5.150.
 5. Special studies prepared by qualified professionals may be required by the City Manager, Planning Commission or City Council to determine potential traffic, geologic, noise, environmental, natural resource and other impacts, and required mitigation.
- B. Additional information.** In addition to the general information described in Subsection “A” above, the concept plan, data, and narrative shall include the following exhibits and information:
1. Existing Conditions map, as defined in Section 4.2.500 - Site Design Review Application Submission Requirements;
 2. Conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);
 3. Grading concept (for hillside or sloping properties, or where extensive grading is anticipated);
 4. Landscape concept (e.g., shows retention of existing vegetation and general planting areas);
 5. Architectural concept (e.g., information sufficient to describe architectural styles, building heights, and general materials);
 6. Sign concept (e.g., locations, general size, style and materials of signs);
 7. Copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

4.5.150 Overlay Zone and Concept Plan Approval Criteria

The City shall make findings that all of the following criteria are satisfied when approving or approving with conditions, the overlay zone and concept plan. The City shall make findings that all of the criteria are not satisfied when denying an application:

- A. **Comprehensive Plan**. All relevant provisions of the Comprehensive Plan are met;
- B. **Land Division Chapter**. All of the requirements for land divisions, as applicable, shall be met (Chapter 4.3);
- C. **Chapter 2 Land Use and Design Standards**. All of the land use and design standards contained in Chapter 2 are met, except as modified in Section 4.5.140.
- D. **Requirements for Common Open Space**. Where common open space is designated, the following standards apply:
 - 1. The open space area shall be shown on the final plan and recorded with the final plat or separate instrument; and
 - 2. The open space shall be conveyed in accordance with one of the following methods:
 - a. By dedication to the City as publicly owned and maintained open space. Open space proposed for dedication to the City must be acceptable to the City Manager with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide a level one environmental assessment), and budgetary and maintenance abilities;
 - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.

4.5.160 Administrative Procedures

- A. **Land use district map designation**. After a planned development overlay zone has been approved, the land use district map shall be amended in accordance with Chapter 4.6, to indicate the approved planned development designation for the subject development site. The approval of the planned development overlay zone shall not expire.
- B. **Time limit on filing of detailed development plan**. Within three (3) years after the date of approval of the concept plan, the applicant or his or her successor shall prepare and file with the City a detailed development plan, in conformance with Section 4.5.190.

4.5.160 Administrative Procedures *(continued)*

- C. **Extension.** The City shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one (1) year provided that:
1. No changes have been made on the original conceptual development plan as approved;
 2. The applicant can show intent of applying for detailed development plan review within the one year extension period;
 3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based; and
 4. The extension request is made before expiration of the original approval period.

4.5.170 Detailed Development Plan Submission Requirements

The contents of the detailed development plan shall be determined based on the conditions of approval for the concept plan. At a minimum, the detailed development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes and other features, prior to approval of a development permit (e.g., Land Division, Development Review, Site Design Review, etc.). The detailed development plan shall be reviewed using a Type III procedure.

4.5.180 Detailed Development Plan Approval Criteria

The City shall approve the detailed development plan upon finding that the final plan conforms with the concept plan and required conditions of approval. Minor changes to the approved concept plan may be approved with the detailed plan, consistent with the following criteria:

1. Increased residential densities or lot coverages by no more than 15 percent, when such change conforms to the Comprehensive Plan;
2. A reduction to the amount of open space or landscaping by no more than 10 percent;
3. An increase in lot coverage by buildings or changes in the amount of parking by no more than 15 percent. Greater changes require a major modification (Chapter 4.6);
4. No change in land use shall be permitted without approving a major modification to the concept plan (Chapter 4.6);
5. No change which places development within environmentally sensitive areas or areas subject to a potential hazard shall be approved without approving a major modification to the concept plan (Chapter 4.6); and

4.5.180 Detailed Development Plan Approval Criteria *(continued)*

6. The location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements shall be as proposed on the concept plan, or as modified through conditions of approval. Changes in the location or alignment of these features by more than 100 feet shall require approval of a major modification, in conformance with Chapter 4.6.
7. Other substantial modifications made to the approved conceptual development plan shall require approval of either a minor modification or major modification, in conformance with Chapter 4.6.

4.5.190 Development Review and Building Permit Approvals

Upon receiving detailed development plan approval, the applicant may apply for development review (e.g., Land Division, Development Review, Site Design Review, etc.). Building permits shall not be issued until all required development permits have been issued and appeal periods have ended.

1. Chapter 4.2 applies to developments requiring Development Review or Site Design Review.
2. Chapter 4.3 applies to Land Divisions.
3. Streamlined review option. Preliminary subdivision plats and site design review applications for approved master planned developments may be reviewed using a Type II procedure, rather than the conventional Type III procedure. This shall be the applicant's option. The variation from the standard procedures of Chapter 4.2 - Site Design Review, and Chapter 4.3 - Land Divisions is intended to streamline review of projects that have received planned development approvals, since those projects have previously been subject to public review and hearings.

Chapter 4.6 - Modifications to Approved Plans and Conditions of Approval

Sections:

4.6.100 - Purpose

4.6.200 - Applicability

4.6.300 - Major Modifications

4.6.400 - Minor Modifications

4.6.100 Purpose

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

4.6.200 Applicability

- A. This Chapter applies to all development applications approved through the provisions of Chapter 4, including:
1. Site Design Review approvals;
 2. Subdivisions, Partitions, and Lot Line Adjustments;
 3. Conditional Use Permits;
 4. Master Planned Developments; and
 5. Conditions of approval on any of the above application types.
- B. This Chapter does not apply to land use district changes, text amendments, temporary use permits, or other permits.

4.6.300 Major Modifications

- A. **Major Modification Defined.** The City Manager or his/her designee shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:
1. A change in land use;
 2. An increase in the number of dwelling units;
 3. A change in the type and/or location of access ways, drives or parking areas that affect off-site traffic;
 4. An increase in the floor area proposed for non-residential use by more than 15 percent where previously specified;
 5. A reduction of more than 10% percent of the area reserved for common open space and/or usable open space;

6. A reduction to specified setback requirements by more than 10% percent, or to a degree that the minimum setback standards of the land use district cannot be met; or
7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.

B. Major Modification Request. An applicant may request a major modification as follows:

1. Upon the City Manager or his/her designee determining that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval, however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated pathways, lighting and landscaping. Notice shall be provided in accordance with the applicable review procedure.

4.6.400 Minor Modifications

A. Minor modification defined. Any modification to a land use decision or approved development plan which is not within the description of a major modification as provided in Section 4.6.300, above, shall be considered a minor modification.

B. Minor Modification Request. An application for approval of a minor modification is reviewed using Type II procedure in Section 4.1.400. A minor modification shall be approved, approved with conditions, or denied by the City Manager or his/her designee based on written findings on the following criteria:

1. The proposed development is in compliance with all applicable requirements of the Development Code; and
2. The modification is not a major modification as defined in Section 4.6.300, above.

Chapter 4.7 - Land Use District Map and Text Amendments

Sections:

- 4.7.100 - Purpose**
- 4.7.200 - Legislative Amendments**
- 4.7.300 - Quasi-Judicial Amendments**
- 4.7.400 - Conditions of Approval**
- 4.7.500 - Record of Amendments**
- 4.7.600 - Transportation Planning Rule Compliance**

4.7.100 Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and the land use district map. These will be referred to as “map and text amendments.” Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

4.7.200 Legislative Amendments

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1.600 and shall conform to Section 4.7.600.

4.7.300 Quasi-Judicial Amendment

- A. **Quasi-Judicial Amendments.** Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision. Quasi-judicial map amendments shall follow the Type III procedure, as governed by Chapter 4.1.500, using standards of approval in Subsection “D” below. The approval authority shall be as follows:
1. The Planning Commission shall review and recommend land use district map changes which do not involve comprehensive plan map amendments;
 2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and
 3. The Planning Commission shall make a recommendation to the City Council on a land use district change application which also involves a comprehensive plan map amendment application. The City Council shall decide both applications.
- B. **Criteria for Quasi-Judicial Amendments.** A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

4.7.300 Quasi-Judicial Amendment *(continued)*

1. Approval of the request is consistent with the Statewide Planning Goals;
2. Approval of the request is consistent with the Comprehensive Plan; and
3. Approval of the request is consistent with Transportation Planning Rule or Transportation System Plan compliance; and
4. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property; and
5. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application.

4.7.400 Conditions of Approval

A quasi-judicial decision may be for denial, approval, or approval with conditions. A legislative decision may be approved or denied.

4.7.500 Record of Amendments

The City Manager shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

4.7.600 Transportation Planning Rule Compliance

- A. TPR Compliance.** When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060, the Transportation Planning Rule. “Significant” means the proposal would:
1. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal causes future traffic to exceed the capacity of “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the Transportation System Plan; or
 2. Change the standards for implementing a functional classification system; or
 3. Allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
 4. Reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

4.7.600 Transportation Planning Rule Compliance *(continued)*

B. Amendments to the Comprehensive Plan. Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility; or
2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.

Chapter 4.8 - Code Interpretations

Sections:

4.8.100 - Purpose

4.8.200 - Code Interpretation Procedure

4.8.100 Purpose

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

4.8.200 Code Interpretation Procedure

- A. **Requests.** A request for a code interpretation (“interpretation”) shall be made in writing to the City Manager. The City Manager or designee may develop written guidelines for the application process.
- B. **Decision to Issue Interpretation.** The City Manager or designee shall have the authority to review a request for an interpretation. The City Manager or designee shall advise the requester in writing within 14 days after the request is made, on whether or not the City will issue an interpretation.
- C. **Declining Requests for Interpretations.** The City Manager or designee is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject Code section affords only one reasonable interpretation and that interpretation does not support the request. The City Manager or designee decision to issue or decline to issue an interpretation is final when the decision is mailed to the party requesting the interpretation, and the decision is not subject to any further local appeal.
- D. **Written Interpretation.** If the City Manager or designee decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within 14 days after the City advises the requester that an interpretation shall be issued. The decision shall become effective 14 days later, unless an appeal is filed in accordance with E-G below.
- E. **Appeals.** The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the City Council within 14 days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the City Manager or designee pursuant to Chapter 4.1.400.G.

4.8.200 Code Interpretation Procedure *(continued)*

- F. Appeal Procedure.** City Council shall hear all appeals of a City Manager interpretation as a Type III action pursuant to Section 4.1.500, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.
- G. Final Decision/Effective Date.** The decision of the City Council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the City Council's decision is filed, the decision remains effective unless or until it is modified by the Land Use Board of Appeals or a court of competent jurisdiction.
- H. Interpretations On File.** The City shall keep on file a record of all code interpretations.

Chapter 4.9 - Miscellaneous Permits

Sections:

4.9.100 - Temporary Use Permits

4.9.100 Temporary Use Permits

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Five types of temporary uses require permit approval (See A-E):

- A. Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 30 days. Using the Type II procedure under Section 4.1.400, the City shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:
1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);
 2. The applicant has proof of the property-owner's permission to place the use on his/her property;
 3. No parking will be utilized by customers and employees of the temporary use which is needed by the property owner to meet their minimum parking requirement under Chapter 3.3 - Vehicle and Bicycle Parking;
 4. The use provides adequate vision clearance, as required by Section 3.1.200, and shall not obstruct pedestrian access on public streets;
 5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.200 - Vehicular Access and Circulation;
 6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
 7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)
- B. Temporary Sales Office or Model Home.** Using a Type I procedure under Section 4.1.300, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:
1. Temporary sales office and construction storage:
 - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
 - b. The property to be used for a temporary sales office or construction storage shall not be permanently improved for that purpose.

4.9.100 Temporary Use Permits *(continued)***2. Model house:**

- a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
- b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code.

C. Temporary Building. Using a Type II procedure, as governed by Section 4.1.400, the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property such as a construction storage trailer, within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on the following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.200 - Vehicular Access and Circulation
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.3 - Bicycle and Vehicle Parking.
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed 6 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

D. Temporary Use of House Coach or Recreational Vehicle in Residential Districts. Using a Type I procedure, as governed by 4.1.300, the City may approve the use of a house coach or recreational vehicle for temporary occupancy, for no longer a period than 30 days in any consecutive 6 month period, but for no other purpose based upon the following criteria:

1. The house coach or recreational vehicle will be placed in an unobtrusive manner to the properties surrounding the permitted property.
2. The house coach or recreational vehicle shall have valid registration and license, be maintained in good condition and be roadworthy.
3. The house coach or recreational vehicle shall be sited only in a pre-determined and approved location on the lot.
4. The house coach or recreational vehicle shall not use mechanical equipment, such as electrical generators, between the hours of 10:00 P.M and 7:00 A.M.
5. There shall be no permanent hook ups to water or wastewater services for these units.

4.9.100 Temporary Use Permits *(continued)*

E. Hardship Use of House Coach or Recreational Vehicle in Residential Districts. Using a Type II procedure as governed by 4.1.400, the City may approve the use of a house coach or recreational vehicle for temporary occupancy, for hardship cases which require extended temporary living assistance, but for no other purpose based upon the criteria listed in 1 - 5 below. The permit will be valid for up to 60 days with extensions, upon review and approval, not to exceed 180 days total in a calendar year.

1. A demonstrated hardship requiring the use of the house coach or recreational vehicle.
2. The house coach or recreational vehicle will be placed in an unobtrusive manner to the properties surrounding the permitted property.
3. The house coach or recreational vehicle shall have valid registration and license, be maintained in good condition and be roadworthy.
4. The house coach or recreational vehicle shall be sited only in a pre-determined and approved location on the lot.
5. The house coach or recreational vehicle shall not use mechanical equipment, such as electrical generators, between the hours of 10:00 P.M and 7:00 A.M.
6. There shall be no permanent hook ups to water or wastewater services for these units.

Chapter 5.0 - Exceptions to Code Standards

5.0 - Introduction

5.1 - Variances

5.2 - Non-Conforming Uses and Developments

5.0 Introduction

This Chapter provides standards and procedures for variances and non-conforming situations (i.e., existing uses or development that do not comply with the Code). This code cannot provide standards to fit every potential development situation. The City's varied geography and complexities of land development require flexibility. Chapter 5 provides that flexibility, while maintaining the purposes and intent of the Code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other provisions of the Code. The standards for non-conforming uses and development are intended to provide some relief from code requirements for older developments that do not comply.

Chapter 5.1 - Variances

Sections:

5.1.100 - Purpose

5.1.200 - Class A Variance

5.1.300 - Class B Variance

5.1.400 - Class C Variance

5.1.500 - Variance Application and Appeals

5.1.100 Purpose

The purpose of this Chapter is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met. Because some variances are granted using “clear and objective standards,” they can be granted by means of a Type I procedure. Other variances, as identified below, require a Type II or III procedure because they involve discretionary decision-making.

5.1.200 Class A Variances

A. Class A variances. The following variances are reviewed using a Type I procedure, as governed by Chapter 4.1, using the approval criteria in Subsection B, below:

1. Front yard setbacks. Up to a 10 percent change to the front yard setback standard in the base land use district.
2. Interior setbacks. Up to a 10 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
3. Lot coverage. Up to 10 percent increase of the maximum lot coverage permitted in the base land use district .
4. Landscape area. Up to 10 percent reduction in required landscape area (overall area or interior parking lot landscape area).

B. Class A variance approval criteria. A Class A Variance shall be granted if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;
2. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
3. The variance will not result in violation(s) of Chapter 3, or other design standards.

5.1.300 Class B Variances

Due to their discretionary nature, the following types of variances shall be reviewed using a Type II procedure, in accordance with Chapter 4.1:

A. Variance to Vehicular Access and Circulation Standards (Chapter 3.1). Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding the following:

1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
2. There are no other alternative access points on the street in question or from another street;
3. The access separation requirements cannot be met;
4. The request is the minimum adjustment required to provide adequate access;
5. The approved access or access approved with conditions will result in a safe access; and
6. The visual clearance requirements of Chapter 3.1 will be met.

B. Variance to Street Tree Requirements (Chapter 3.2). The City may approve, or approve with conditions, a request for a variance to the street tree requirements in Chapter 3.2, after finding the following:

1. Installation of the tree would interfere with existing utility lines; or
2. The tree would cause visual clearance problems; or
3. There is not adequate space in which to plant a street tree; and
4. Replacement landscaping is provided elsewhere on the site (e.g., parking lot area trees).

C. Variance to Maximum or Minimum Yard Setbacks to Reduce Tree Removal or Impacts to Wetlands (Chapters 2 and 3.2). The City may grant a variance to the applicable setback requirements of this Code for the purpose of preserving a tree or trees on the site of proposed development or avoiding wetland impacts. The modification shall not be more than is necessary for the preservation of trees on the site.

D. Variances to Transportation Improvement Requirements (Chapter 3.4.100). The City may approve, approve with conditions, or deny a variance to the transportation improvement standards of Chapter 3.4.1, based on the criteria for granting variances provided in Section 3.4.100.B. When a variance request cannot be supported by the provisions of that Chapter, then the request shall be reviewed as a Class C variance.

5.1.400 Class C Variances

Due to their discretionary nature and review of special circumstances, the variances in this subsection require a Type III process, as described in Section 5.1.400.C.

5.1.400 Class C Variances *(continued)*

A. Purpose. The purpose of this section is to provide standards for variances which exceed the Class A and Class B variance criteria in Sections 5.1.200 and 5.1.300. Class C variances may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, sensitive lands (Chapter 3.7), or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to “permitted uses” or “prohibited uses” shall be granted.

B. Applicability.

1. The variance standards are intended to apply to individual platted and recorded lots only.
2. An applicant who proposes to vary a specification standard for lots not yet created through a land division process may not utilize the Class C variance procedure.
3. A variance shall not be approved which would vary the “permitted uses” or “prohibited uses” of a land use district (Chapter 2).
4. Variance to Parking Standards (Chapter 3.3).
 - a. The City may approve variances to the minimum or maximum standards for off-street parking in Section 3.3.100 upon finding all of the following:
 - (1) The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity;
 - (2) The need for additional parking cannot reasonably be met through shared parking with adjacent or nearby uses; and
 - (3) All other parking design and building orientation standards are met, in conformance with the standards in Chapter 2 and Chapter 3.
 - b. The City may approve a reduction of required bicycle parking per Section 3.3.200, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
 - c. The City may allow a reduction in the amount of vehicle stacking area required for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.

C. Approvals Process and Criteria.

1. Class C variances shall be processed using a Type III procedure, as governed by Section 4.1.500, using the approval criteria in subsection 2, below. In addition to the application requirements contained in Section 4.1.500, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 2.
2. The City shall approve, or approve with conditions, an application for a variance based on finding that all of the following criteria are satisfied:
 - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;

5.1.400 Class C Variances *(continued)*

- b. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
- c. The use proposed will be the same as permitted under this title, and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- d. Existing physical and natural systems, such as, but not limited to, traffic, drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
- e. The hardship is not self-imposed; and
- f. The variance requested is the minimum variance which would alleviate the hardship.

5.1.500 Variance Application and Appeals

The variance application shall conform to the requirements for Type I, II, or III applications (Sections 4.1.300, 4.1.400, 4.1.500). In addition, the applicant shall provide a narrative or letter explaining the reason for his/her request, alternatives considered, and why the subject standard cannot be met without the variance. Appeals to variance decisions shall be processed in accordance with the provisions of Chapter 4.1.

Chapter 5.2 - Non-Conforming Uses and Developments

Sections:

5.2.100 - Non-conforming Uses

5.2.200 - Non-conforming Developments

5.2.100 -- Nonconforming Uses

Where at the time of adoption of this Code a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. **Creation of nonconforming situations.** Within the districts established by this title or amendments that may later be adopted, there may exist lots, structure, uses of land, and structures which were lawful before the effective date of the ordinance codified in this title, but which would be prohibited regulated or restricted under the terms of the ordinance codified in this title or future amendment;
- B. **Expansion Prohibited.** No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land;
- C. **EXCEPTIONS.** Within the Residential District and Sub-Districts the Non-conforming Use designation shall be applied consistent with the criteria within this section of Chapter 5.2;
 - 1. Prior to any additions to a lot a plot plan shall be submitted to the City of Boardman to allow for identification of "non-conforming" uses or structures on the property.
 - 2. The non-conforming use shall apply only to the primary structure or other structures which are identified as non-conforming, to allow for typical residential uses such as accessory structures to be added to the property.
 - 3. Addition(s) shall comply with all current provisions of applicable Development Code language other than the exceptions identified in this section of Chapter 5.2.
- D. **Location.** No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Code;
- E. **Discontinuation or Abandonment.** The nonconforming use of land shall not be discontinued for any reason for a period of more than 12 months. For purposes of calculating the 12 month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
 - 1. On the date when the use of land is physically vacated;
 - 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;

5.2.200 Nonconforming Uses (continued)

3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

F. Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

5.2.200 Non-conforming Development

Where a development exists at the effective date of adoption or amendment of this title that could not be built under the terms of this Ordinance by reason of restrictions on lot area, lot coverage, height, yard, equipment, its location on the lot or other requirements concerning the structure; and the structure was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming development may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be enlarged or altered in a way that satisfies the current requirements of the Development Code or will decrease its nonconformity;
- B. Should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than 50 percent of its current value as assessed by the Morrow County assessor, it shall be reconstructed only in conformity with the Development Code; and
- C. Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of the Development Code.
- D. Non-conforming street access connections that exist prior to July 1, 2003, which do not conform with the standards in Chapter 3.1 shall be brought into compliance when the following conditions exist:
 1. When a new access connection permit is requested for the subject property; or
 2. When a building permit or land use application is submitted that results in an increase of trip generation by 20% and 100 average daily trips (ADT)

Chapter 6.0 - Map Amendments

6.0 - Purpose and Intent

6.1 - Zone Map Amendments

6.0 Purpose and Intent

The purpose of this section of the code is to create a placeholder for map amendments, including those in place at adoption of this code and future changes. This chapter serves as a placeholder for ordinances to be located for reference for staff and applicants.

The procedures for completing a land use district map and text amendment are located in Chapter 4.7.

The map amendments are located in this section in chronological order based on adoption date.