Title 18

ZONING

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Division 1. Introduction

Chapter 18.05

HOW TO USE THE DEVELOPMENT CODE

Sections:

18.05.010 How to use the development code.

18.05.010 How to use the development code.

Welcome to the city of Philomath development code. This is a comprehensive land use and development code that governs all of the land within the incorporated limits of the city of Philomath and its urban growth boundary. The five divisions of the code are used together to review land use applications. They are organized as follows:

A. Division 1. In addition to this brief introduction, Division 1 provides definitions for selected terms and information on the legal construct of the title. It also explains the city's authority to enforce this title.

B. Division 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.) Division 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 city of Philomath comprehensive plan. The districts reserve land for planned land uses, provide compatibility between different uses, and implement planned housing densities.

C. Division 3. The design standards contained in Division 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.

D. Division 4. Division 4 provides all of the application requirements and procedures for obtaining permits required by this title. Four types of permit procedures are covered: Type I (nondiscretionary, "ministerial" decision); Type II (discretionary, "administrative" decision); Type III (discretionary, administrative decision with public hearing); and Type IV ("legislative" decision by city council).

E. Division 5. Division 5 provides standards and procedures for variances and nonconforming situations (i.e., existing uses or development that do not comply with the code). This title cannot provide standards to fit every potential development situation. The city's varied geography, and complexities of land development, requires flexibility. Division 5 provides that flexibility while maintaining the purposes and intent of this title. [Ord. 720 § 7[1.1], 2003.]

Chapter 18.10

GENERAL ADMINISTRATION

Sections:

18.10.010 Severability.
18.10.020 Compliance and scope.
18.10.030 Consistency with plan and laws.
18.10.040 Use of a development.
18.10.050 Preexisting approvals.
18.10.060 Building permit and certificate of occupancy.
18.10.070 Official action.

18.10.010 Severability.

The provisions of this title are severable. If a court of competent jurisdiction adjudges any section, sentence, clause or phrases of this title to be invalid, that decision shall not affect the validity of the remaining portion of this title. [Ord. 720 § 7[1.2.1], 2003.]

18.10.020 Compliance and scope.

A. Land and structures may be used or developed by construction, reconstruction, alteration, occupancy, use or otherwise, only as this title or any amendment thereto permits. No plat shall be recorded or no building permit shall be issued without compliance with the provisions of this title.

B. The requirements of this title apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons' successors in interest.

C. Where this title 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. The provisions of Chapter 18.155 PMC shall govern variances.

E. No lot area, yard or other open space or off-street parking or loading area which is required by this title 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 title.

F. When this title provides for a specific use in a particular district, such a use shall only be made in such district where it is expressly permitted by the code. A specific use identified in one or more specific district(s) shall not be allowed in any other district, notwithstanding that another district might describe the same general type of use. [Ord. 812 § 1, 2016; Ord. 734 § 1, 2005; Ord. 720 § 7[1.2.2], 2003.]

18.10.030 Consistency with plan and laws.

Each development and use application and other procedure initiated under this title shall be consistent with the adopted comprehensive plan of the city of Philomath as implemented by this title, and with applicable state and federal laws and regulations. All provisions of this title shall be construed in conformity with the adopted comprehensive plan. [Ord. 734 § 1, 2005; Ord. 720 § 7[1.2.3], 2003.]

18.10.040 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 title (including nonconforming uses subject to Chapter 18.160 PMC) and is not prohibited by law. [Ord. 734 § 1, 2005; Ord. 720 § 7[1.2.4], 2003.]

18.10.050 Preexisting approvals.

A. 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 the ordinance codified in this title, may occur pursuant to such approvals; except that modifications to development approvals shall comply with Chapter 18.130 PMC, Modifications to Approved Plans and Conditions of Approval.

B. All development proposals received by the city after the adoption of this title shall be subject to review for conformance with the standards under this title or as otherwise provided by state law. [Ord. 734 § 1, 2005; Ord. 720 § 7[1.2.5], 2003.]

18.10.060 Building permit and certificate of occupancy.

A. A building permit shall not be issued until the planning official has issued a development permit in accordance with the provisions of Division 4, Applications and Review Procedures, or other-

wise found that a development permit is not required.

B. 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 or other approval following completion of the work in substantial conformance to the applicable land use and building permits.

C. 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. [Ord. 737 § 1, 2006; Ord. 734 § 1, 2005; Ord. 720 § 7[1.2.6], 2003.]

18.10.070 Official action.

A. All officials, departments, employees (including contractors) of the city vested with authority to issue permits or grant approvals shall adhere to and require conformance with this title, 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 title.

B. Any permit or approval issued or granted in conflict with the provisions of this title shall be void.

C. The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this title. [Ord. 734 § 1, 2005; Ord. 720 § 7[1.2.7], 2003.]

Chapter 18.15

DEFINITIONS

Sections:

18.15.010 Definitions.

18.15.010 Definitions.

"Abutting" means contiguous or adjoining. It shall include the terms "adjacent," "adjoining" and "contiguous."

"Access easement" means 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" means 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 PMC 18.65.020.

"Accessible" means approachable and usable by people with disabilities. Complies with the Americans with Disabilities Act.

"Accessory dwelling" means a small, secondary housing unit on a single-family lot. See PMC 18.35.100(B).

"Accessory use" or "accessory structure" means a use or structure which is incidental or subordinate to the primary use of the property. See PMC 18.35.100(J).

Adjacent. See "Abutting."

"Administrative" means a discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal.

"Adverse impact" means 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.

"Agriculture," as used in this title, is the same as "farm use." See also ORS 215.203(2)(a).

"Alley" means a public or private right-of-way designed and intended to serve as alternate access to the side or rear of properties.

"Ambient" means something that surrounds, as in the level of light, dust or noise.

"Arcade" means an arched or covered passageway, often along building fronts or between streets.

"Arterial" means those roads or streets that interconnect and support the arterial highway system and link major commercial, residential, industrial, and institutional areas.

"Articulate" or "articulation" means the jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.

"Automobile-oriented use" means a use or activity where automobiles and/or other motor vehicles are an integral part of the use, including repair shops and drive-through services.

"Bed and breakfast inn" provides overnight accommodations on a daily or weekly basis in an 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.

"Berm" means a small rise or hill in a landscape that is intended to buffer sound or visually screen certain developments, such as parking areas.

"Beveled building corner" means 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" means a parcel of land or group of lots bounded by intersecting streets. See also PMC 18.65.020(J).

"Boarding house" means any structure, other than a "residential facility" or "residential treatment home" as those terms are defined in ORS 443.400, where rooms for sleeping and dwelling, along with common, shared or joint living and/or sanitation and/or eating and/or cooking facilities, are provided for hire or by separate rental agreement or separate lease, sublease or contractual assignment to more than three people. Children and adults are counted to determine whether there are more than three people. A house in which family members jointly share and contribute to the costs of the home under a single tenancy is not a boarding house. A structure with separate sleeping, bathroom and kitchen facilities for each dwelling unit is not a boarding house.

"Bollard" means 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" means a street with broad open space areas; typically with planted medians.

"Building footprint" means the outline of a building, as measured around its foundation.

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

"Building pad" means a vacant building site on a lot with other building sites.

"Building scale" means the dimensional relationship of a building and its component parts to other buildings.

"Bulkhead" means the wall below ground-floor windows on a building (i.e., may be differentiated from other walls by using different materials or detailing).

"Capacity" means the maximum holding or service ability, as used for transportation, utilities, parks and other public facilities.

"Centerline radius" means the radius of a centerline of a street right-of-way.

"Child care center" and "family child care" means 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 Chapter 657A for certification requirements.

"City" means the city of Philomath, Oregon.

"Civic center" means a building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

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

"Club" means a group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

"Commercial" means land uses involving buying/selling of goods or services as the primary activity.

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

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

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

"Cornice" means the projecting horizontal element that tops a wall or flat roof. See PMC 18.40.070.

"Cottage" means a small house that may be used as an accessory dwelling in conformance with PMC 18.35.100(B).

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

"Criteria" are the elements required to comply with a particular standard.

"Curb cut" means a driveway opening where a curb is provided along a street.

"Day care facility" means any facility that provides day care to adults or children, including a child day care center, group day care home, home of a family day care provider, including those known under a descriptive name such as nursery school, preschool, or kindergarten.

"Day care home" means a day care facility located in a building constructed as a single-family dwelling that is certified to care for no more than 12 adults or children at any given time.

"Deciduous" means a tree or shrub that sheds its leaves seasonally.

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

"Developable" means 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" means 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" means a use that has ceased to be used for its legally intended purpose for a period of greater than six months. See Chapter 18.160 PMC.

"Discretionary" describes a permitted action or decision that involves substantial judgment or discretion.

"Drip-line" means an imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

"Drive lane" or "travel lane" means an improved (e.g., paved) driving surface for one-line vehicles.

"Driveway" means areas that provide 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 space areas.

"Driveway apron/approach" means the edge of a driveway where it abuts a public way; usually constructed of concrete.

Drought-Tolerant/Drought-Resistant Plants. Refer to Sunset Western Garden Book (latest edition).

"Duplex" means a building with two attached housing units on one lot or parcel that need not have a common wall.

"Dwelling unit" means a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family or a congregate residence for three or less persons.

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

"Elevation" refers to a building face, or scaled drawing of the same, from grade to roof ridgeline.

"Enhancement" means an activity that improves one or more specific functions or values of an existing wetland.

"Environmentally sensitive areas" means land areas that have some potential development constraint normally associated with riparian corridors, wetlands, critical habitat, or slope. See "Sensitive lands."

"Evidence" means application materials, plans, data, testimony and other factual information used to demonstrate compliance or noncompliance with a code standard or criterion.

"Family" means a group of individuals related by blood, marriage or legal document recognized by the state of Oregon that live in a single-family dwelling; or four or more unrelated persons living in a single-family dwelling that can attest to the fact that they all: share the entire house, excluding private sleeping quarters; and live and cook together as a single housekeeping unit the majority of the time; and jointly contribute and share expenses for food, rent, utilities or other household expenses; and do not expect to dissolve the relationship within the next six months; and have at least one primary person living on site who is responsible for the tenant's duties under the lease, including paying rent, utilities, etc.; and jointly have a single tenancy under a single lease, without any separate leases, subleases or contractual assignments of rooms and space within the dwelling.

"Family day care" or "babysitting" means care of 12 or fewer children, including resident family members, as accessory to any residential use. Family day care is not subject to the definition of "home occupation." See "Child care center."

"Fish habitat" means those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

"Flag lot" means a lot or parcel that has access to a road, street or easement by means of a narrow strip of lot or easement.

"Frontage" means the dimension of a property line abutting a public or private street.

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

"Functions" and "values" means the environmental roles served by wetlands and buffer areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, flood storage, nutrient attenuation, and sediment trapping. "Values" refers to the qualities ascribed to a wetland such as educational and recreational opportunities, open space, and visual aesthetic qualities.

"Functional classification" means the classification given to streets (e.g., "local/collector/arterial") by the city's comprehensive plan and transportation system plan.

"Garage, private" means an accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

"Garage, public" means a building other than a private garage used for the care and repair of motor vehicles where such vehicles are owned or used or stored for compensation, hire or sale.

"Grade" means the average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five feet of a sidewalk, the above ground level should be measured at the sidewalk.

"Ground cover" means a plant material or nonplant material (e.g., mulch, bark chips/dust) that is used to cover bare ground. See also Chapter 18.70 PMC, Landscaping, Street Trees, Fences and Walls.

"Hardscape" means nonplant landscape materials, including pathways, decorative pavers, benches, drinking fountains, arbors, pergolas, playgrounds, plazas, and similar amenities.

"Height" means the vertical distance of a structure measured from the original grade to the highest point of the structure.

"Home occupation" or "home occupation site" means the incidental use of a residential dwelling for commercial purposes subject to the provisions of PMC 18.145.020.

"Human-scale design/development" means 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 side-

walks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those that are primarily intended to accommodate automobile traffic.

"Impervious surface" means development which does not allow for water infiltration (e.g., pavement, roofs, etc.).

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

"Industry" means those fields of economic activity related to forestry, fishing, hunting and trapping; mining; construction; manufacturing; transportation, communication, electric, gas, and sanitary services; and wholesale trade.

"Infill" means the development of vacant, bypassed lands located in an area that is mainly developed.

"Jail or correction facility" means any building or other facility used permanently or temporarily by city, county, state, or federal law enforcement or similar or related entities to detain, confine, or incarcerate individuals after arrest, pending trial, or after conviction of any alleged or actual crime.

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined motor vehicles, or motor vehicle parts, iron, steel or other old or scrap ferrous or nonferrous material, metal or nonmetal materials.

"Junkyard" means any establishment or place of business where there is accumulated on the premises eight or more motor vehicles or an equivalent volume of junk that is maintained, operated or used for storing, keeping, buying or selling of junk and the term includes automobile graveyards, wrecking yards, and salvage yards.

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"Land division" means the process of dividing land to create parcels or lots.

"Land use" means 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 title is the same as a zone district.

"Landing" means a level part of a staircase, as at the end of a flight of stairs.

"Landscaping" means 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 inanimate materials such as bark, rock, irrigation systems, mulches, and topsoil.

"Lane" or "mid-block lane" means a narrow, limited-use roadway facility usually used to access a limited number of dwelling units. Similar to an alley in design. See PMC 18.35.050(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 PMC 18.105.060.

"Level of service" means, 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).

"Livestock" means domestic animal types customarily raised or kept on farms.

"Lot" means a unit of land that is created by a subdivision of land (ORS 92.010(3)). See also Chapter 18.115 PMC.

"Lot area" means the total surface area (measured horizontally) within the lot lines of a lot.

"Lot, corner" means a lot abutting on two intersecting streets other than an alley; provided, that the streets do not intersect at an angle greater than 135 degrees.

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

"Lot depth" means the horizontal distance ordinarily measured from the midpoint of the front lot line to the midpoint of the rear lot line.

"Lot, interior" means a lot other than a corner lot.

"Lot line" means the property line bounding a lot.

"Lot line, front" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner or through lot, the lot line along a street other than an alley over which the primary vehicular access to the property is gained.

"Lot line, rear" means the lot line that is opposite and most distant from the front lot line. Where a rear lot line cannot be determined, it shall be developed by striking a cord 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

"Lot line, side" means any lot line not a front or rear lot line.

"Lot width" means the horizontal distance between the side lot lines ordinarily measured at the front lot line.

"Lot line adjustment" means 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.

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

"Manufactured home" means a transportable single-family dwelling conforming to the Manufactured Housing Construction and Safety Standards Code of the U.S. Department of Housing and Urban Development, but is not regulated by the Oregon State Structural Specialty Code and Fire Life Safety Regulations and is intended for permanent occupancy.

"Manufactured home park" means any tract, lot, or parcel of land maintained, offered or used for the purpose of parking four or more mobile homes as dwelling units.

"Manufacturing" means establishments engaged in the mechanical or chemical transforma-

tion of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

"Mini-warehouse" means a structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

"Ministerial" means a routine governmental action or decision that involves little or no discretion. The issuance of a building permit is such an action. See also PMC 18.105.030.

"Mitigation" means 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).

"Multifamily housing" means three or more dwelling units on the same parcel. See PMC 18.35.100(F).

"Natural hazard" means natural areas that can cause dangerous or difficult development situations. For example, natural hazard areas include steep slopes, unstable soils, landslides, and flood areas.

"Neighborhood" means a geographic area lived in by neighbors and usually having distinguishing character.

"Neighborhood-scale design" means 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 that are primarily intended to accommodate automobile traffic.

"Nonconforming use or development" means a land use or structure lawfully existing at the effective date of adoption or amendment of this title that could not be built or used under the terms of this title by reason of restrictions on use, lot area, lot coverage, height, yard, equipment, its location on the lot or other requirements concerning the structure or use. See Chapter 18.160 PMC.

Non-Native Invasive Plants. See Oregon State University Extension Service Bulletin (latest edition) for Philomath area.

"Off-street parking" means 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 18.75 PMC.

"On-street parking" means 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 18.75 PMC.

"Open space (common/private/active/passive)" means land within a development that 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 similar use.

"Orientation" means to cause to face toward a particular point of reference (e.g., a building oriented to the street).

"Outdoor commercial use" means a use supporting a commercial activity that provides goods or services that are stored or displayed outside of an enclosed structure. Examples of outdoor commercial uses include automobile sales or services, nurseries, lumberyards and equipment rental businesses.

"Overlay zone/district" means additional zoning to that of the underlying base zone that provide regulations that address specific subjects that may be applicable in more than one land use district such as flooding or wetlands. See also Chapter 18.55 PMC.

"Parcel" means a unit of land that is created by a partitioning of land (ORS 92.010(6)).

"Parking lot perimeter" means the boundary of a parking lot area that usually contains a landscaped buffer area.

Parking versus Storage. "Parking" is the area used for leaving motor vehicles for a temporary time. "Storage" is to place or leave in a location for maintenance, repair, sale, rental, or future use.

"Partition" means 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. A pathway or multi-use pathway may be used to satisfy the requirements for access ways in the Transportation Planning Rule (OAR 660-012-045). See PMC 18.65.030(A).

"Pier" means exterior vertical building element that frame each side of a building or its ground-floor windows (usually decorative).

"Planter strip, tree cutout" means a landscape area for street trees and other plantings within the public right-of-way, usually between the street and a sidewalk.

"Plat" means a map of subdivision, prepared as specified in ORS 92.080 and recorded with the Benton County assessor's office. All plats shall also conform to Chapter 18.115 PMC, Land Divisions and Lot Line Adjustments.

"Plaza" means 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 PMC 18.40.080.

"Primary" means 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" means a legal boundary for a lot or parcel.

"Property line, front" means that property line abutting a street, other than an alley, over which primary vehicular access is gained.

"Property line, rear" means that property line that is opposite and most distant from the front property line.

"Property line, side" means that property line other than a front or rear.

"Property line, side street" means that property line adjacent to a street other than the front property line.

"Quasi-judicial" refers to an action or decision that requires substantial discretion or judgment in applying the standards or criteria of this title and usually involves a public hearing. See PMC 18.105.050.

"Recreational vehicle" means a vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

"Residential care facility" means a facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 through 443.460, which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to 15 individuals who need not be related.

"Residential care home" means a home licensed by or under the authority of the Department of Human Resources under ORS 443.400 through 443.825, which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related.

"Residential caretaker unit" means a dwelling of generally a temporary nature providing security for an existing land use activity.

"Restoration" means to improve a disturbed wetland by returning wetland parameters that may be missing; adding soils, water, or plants. The restoration may return a missing or damaged wetland function to achieve a desired outcome.

"Ridgeline (building)" means the top of a roof at its highest elevation.

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

"Riparian area" means the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

"Riparian corridor" means a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

"Riparian corridor boundary" means an imaginary line that is a certain distance upland from the top bank, for example, as specified in PMC 18.55.020(B).

"Roof pitch" means the slope of a roof, usually described as ratio (e.g., one foot of rise per two feet of horizontal distance).

"Rooftop garden" means a garden on a building terrace or at the top of a building with a flat roof (usually on a portion of a roof).

"Rubbish" means a general term for solid waste, excluding food waste and ashes, taken from residences, commercial establishments and institutions.

"Scrap" means discarded or rejected materials that result from manufacturing or fabricating operations.

"Screening" means a method of visually shielding or obscuring one abutting or nearby structure or

use from another by fencing, walls, berms or densely planted vegetation.

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

"Sensitive lands" means wetlands, significant trees, steep slopes, floodplains and other natural resource areas designated for protection or conservation by the comprehensive plan.

"Setback" means the distance between the property line and the building foundation, excluding uncovered steps.

"Shared driveway" means 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" means off-street parking utilized by two or more separate entities. See PMC 18.75.030(C)(4).

"Single-family attached housing (townhomes)" means two or more single-family dwellings with common end-walls. See also PMC 18.35.020 and 18.35.100.

"Single-family detached house" means a single-family dwelling that does not share a wall with any other building. See also PMC 18.35.020.

"Single-family detached zero lot line house" means a single-family detached house with one side yard setback equal to zero. See also PMC 18.35.020 and 18.35.100.

"Site" means a property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this title.

"Spot zoning" means rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive zoning plan.

"Standards" are code requirements. Criteria are the elements required to comply with a particular standard.

"Steep slopes" means slopes of greater than 25 percent.

"Storefront character" means 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 entries, and similar features.

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

"Story" means that portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

"Stream" means a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding manmade irrigation and drainage channels.

"Street" means any vehicular way which is an existing state, county or municipal roadway and is shown on a plat duly filed and recorded in the office of the county recording officer and includes the land between the street lines, whether improved or unimproved, which meets the city standards in PMC 18.80.020.

"Street, arterial" means a street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets.

"Street, collector" means a street that collects traffic from local streets and connects with minor and major arterials.

"Street connectivity" means 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, cul-de-sac" means a street with a single common ingress and egress and with a turnaround at the end.

"Street furniture/furnishings" means benches, lighting, bicycle racks, drinking fountains, mailboxes, kiosks, and similar pedestrian amenities located within a street right-of-way. See also PMC 18.40.080.

"Street, local" means a street designed to provide vehicular access to abutting property and to discourage through traffic.

"Street stub" means 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" means a tree planted in a planter strip or tree cutout.

"Structural alteration" means a change to the supporting members of a structure including the supporting parts of foundations, bearing walls or partitions, columns, beams, girders or the roof.

"Structure" means that which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.

"Subdivision" means to divide land into four or more lots within a single calendar year. (ORS 92.010(13)).

"Swale" means a type of stormwater facility. Usually a broad, shallow depression with plants that filter and process contaminants.

"Tangent" means meeting a curve or surface in a single point.

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

"Top of bank" shall have the same meaning as "bankfull stage" defined in OAR 141-085-0010(11).

"Topographical constraint" means where existing slopes prevent conformance with a code standard.

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

"Transportation facilities" means 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 mode" means the method of transportation (e.g., automobile, bus, walking, bicycling, etc.).

"Triplex" means a building with three attached housing units on one lot or parcel.

"Unstable soil" means soil types that pose severe limitations upon development or create a groundwater pollution hazard due to poor filtration, high water table and/or cemented hardpan as defined by the U.S. Soil Conservation Service.

"Use" means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

"Variance" means an administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this title. See Chapter 18.155 PMC.

"Vision clearance area" means a triangular area on a lot at the intersection of two streets or a street and an alley, driveway, other point of vehicular access or railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot adjoining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings, walls, structures, or temporary or permanent obstructions exceeding three and one-half feet in height measured from the grade of the street centerline.

"Water area" means the area between the banks of a lake, pond and log pond, river, perennial or fish-bearing intermittent stream, excluding man-made farm ponds.

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

"Wildlife habitat" means an area upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range and nesting and roosting sites.

"Wireless communication equipment" includes cell towers, antennas, monopoles, and related facilities used for radio signal transmission and receiving.

"Yard" means an open space on a lot that is unobstructed with buildings from the ground upward, except as otherwise provided in this title.

"Yard, front" means a yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the foundation of a building.

"Yard, rear" means a yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the foundation of a building.

"Yard, side" means a yard between the front and rear yards measured horizontally and at right angles to the side lot lines from the side lot line to the nearest point of the foundation of a building.

Zero Lot Line House. See PMC 18.35.100(A). [Ord. 812 § 2, 2016; Ord. 799 § 1, 2015; Ord. 737 § 1, 2006; Ord. 720 § 7[1.3], 2003.]

Chapter 18.20

ENFORCEMENT

Sections:

18.20.010 Provisions of this title declared to be minimum requirements.
18.20.020 Violation of code prohibited.
18.20.030 Penalty.
18.20.040 Complaints regarding violations.
18.20.050 Inspection and right of entry.
18.20.060 Abatement of violations.
18.20.070 Stop-order hearing.

18.20.010 Provisions of this title declared to be minimum requirements.

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

B. When the requirements of this title vary from other provisions of this title or with other applicable standards, the most restrictive or that imposing the highest standard shall govern. [Ord. 720 § 7[1.4.1], 2003.]

18.20.020 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 title or any amendment thereto. [Ord. 720 § 7[1.4.2], 2003.]

18.20.030 Penalty.

A. A violation of this title shall constitute a Class 1 civil infraction that shall be processed accordingly.

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

C. A finding of a violation of this title 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. If a firm or corporation violates a provision of this title, the officer or officers, or person or persons responsible for the violation shall be subject

to the penalties imposed by this section. [Ord. 720 § 7[1.4.3], 2003.]

18.20.040 Complaints regarding violations.

A. Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a signed, written complaint.

B. Such complaints, stating fully the causes and basis thereof, shall be filed with the planning official. The planning official shall properly record such complaints, investigate and take action thereon as provided by this title. [Ord. 720 § 7[1.4.4], 2003.]

18.20.050 Inspection and right of entry.

The planning official or designee may enter upon land subject to a land use application or to enforce any provision of this title to make examination and surveys in the performance of their functions. [Ord. 720 § 7[1.4.5], 2003.]

18.20.060 Abatement of violations.

Any development or use that occurs contrary to the provisions of this title or contrary to any permit or approval issued or granted under this title is unlawful, and may be abated by appropriate proceedings. [Ord. 720 § 7[1.4.6], 2003.]

18.20.070 Stop-order hearing.

A. Whenever any work is being done in violation of the provisions of this title or a condition of any permit or other approval granted pursuant hereto, the planning or building official 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. The planning or building official shall schedule a hearing if requested on the stop order for the earliest practicable date, but not more than seven days after the effectiveness of any required notice. At the discretion of the city manager, such hearing may be:

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 15 days. Upon a finding of no violation, the city manager 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 city manager that the violation has been abated. The city manager's decision is subject to review under PMC 18.105.050, Type III procedure (quasi-judicial). [Ord. 720 § 7[1.4.7], 2003.]

Chapter 18.25

ESTABLISHMENT OF ZONES

Sections:

18.25.010 Classification of zones.
18.25.020 Location of zones.

18.25.010 Classification of zones.

For the purposes of this title, the following zones are hereby established:

R-1	Low-Density Residential
R-2	Medium-Density Residential
R-3	High-Density Residential
C-1	Downtown Commercial
C-2	General Commercial
O-R	Office Residential
P	Public
LI	Light Industrial
HI	Heavy Industrial
IP	Industrial Park
/PUD	Planned Unit Development
/HEC	Hillside and Erosion Control Overlay
/NH	Sensitive Lands and Natural Resources Overlay
/FH	Flood Hazard Overlay

[Ord. 720 § 7[1.5.1], 2003.]

18.25.020 Location of zones.

The zones listed in this title are applied to areas within the city as shown on the city of Philomath zoning map of 2002, which is hereby adopted by reference. The boundaries of these zones may be modified in accordance with the legislative provisions of this title. A print of the adopted zoning map, with amendments, shall be maintained in the office of the city recorder. [Ord. 720 § 7[1.5.2], 2003.]

Division 2. Land Use Districts

Chapter 18.30

LAND USE DISTRICT ADMINISTRATION

Sections:

18.30.010 Classification of land use districts.
18.30.020 Land use district map.
18.30.030 Determination of land use district boundaries.

18.30.010 Classification of land use districts.

All areas within the corporate limits of the city of Philomath are divided into land use districts. The use of each lot, parcel and tract of land is limited to the uses allowed 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 division. [Ord. 720 § 7[2.0.1], 2003.]

18.30.020 Land use district map.

A. The boundaries of each of the land use districts contained within this division 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 title. The city shall maintain a certified print of the adopted land use district map and any map amendments.

B. 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. All amendments to the city land use district (zoning) map shall be made in accordance with the provisions of Chapter 18.135 PMC.

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, as applicable. [Ord. 720 § 7[2.0.2], 2003.]

18.30.030 Determination of 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 planning official in accordance with the following:

A. Boundaries indicated as approximately following the center lines of streets, highways, railroad tracks or alleys shall be constructed to follow such center lines;

B. Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be constructed as following such boundaries;

C. Boundaries indicated as approximately following a city boundary, or the urban growth boundary, shall be constructed as following said boundary;

D. 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

E. 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. [Ord. 720 § 7[2.0.3], 2003.]

Chapter 18.35

RESIDENTIAL DISTRICTS

Sections:

18.35.010 Purpose.
18.35.020 Allowed uses.
18.35.030 Building setbacks.
18.35.040 Lot standards.
18.35.050 Flag lots and lots accessed by mid-block lanes.
18.35.060 Maximum lot coverage.
18.35.070 Building height.
18.35.080 Building orientation.
18.35.090 Architectural standards.
18.35.100 Special standards for certain uses.

18.35.010 Purpose.

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

A. Make efficient use of land and public services and implement the comprehensive plan by providing minimum and maximum density standards for housing.

B. Accommodate a range of housing needs, including owner-occupied and rental housing.

C. Provide for compatible building and site design at an appropriate neighborhood scale.

D. Reduce reliance on the automobile for neighborhood travel and provide options for walking, bicycling and transit use.

E. Provide direct and convenient access to schools, parks and neighborhood services.

F. Maintain and enhance the city's historic architecture and uses. [Ord. 720 § 7[2.1.100], 2003.]

18.35.020 Allowed uses.

The land uses listed in Table 18.35.020 are allowed in the residential districts subject to the provisions of this chapter. Only land uses that are specifically listed in Table 18.35.020, and land uses that are approved as "similar" to those in Table 18.35.020, may be allowed.

Table 18.35.020
Land Uses and Building Types Allowed in the Residential Districts

R-1 Residential	**R-2 Residential**	**R-3 Residential**
A. Allowed Uses 1) Accessory uses and structures.* 2) Duplex, on corner lots only with a minimum of 10,000 square feet. 3) Family day care home. 4) Governmental structure or use of land that do not receive the public.* 5) Home occupations; subject to PMC 18.145.020. 6) Manufactured dwelling.* 7) Residential care home.* 8) Single-family dwelling. 9) Zero lot line dwelling.*	A. Allowed Uses 1) R-1 allowed uses. 2) Accessory dwelling.* 3) Duplexes. 4) Single-family attached (townhomes) and triplexes.* 5) Zero lot line houses.*	A. Allowed Uses 1) R-2 allowed uses. 2) Multifamily dwelling.* 3) Residential care home.* 4) Residential care facility.* 5) Church, nonprofit religious or philanthropic institution. 6) Day care facility. 7) Nursery school, day nursery, kindergarten, or similar facility. 8) Manufactured home park.*
B. Conditional Uses The planning commission may grant a conditional use permit for the following uses: 1) Accessory dwelling. 2) Church, nonprofit religious or philanthropic institution. 3) Community center. 4) Day care facility. 5) Golf course or country club, but excluding golf driving range, miniature golf course, or similar facility. 6) Governmental structure or use of land, including park, playground, fire station or library.* 7) Nursery school, day nursery, kindergarten, or similar facility. 8) Nursing or retirement home. 9) Professional office, except veterinarian. 10) Public and private schools. 11) Recreational club such as tennis, swimming, or archery club, but excluding commercial amusement enterprise. 12) Residential care facility. 13) Single-family attached (townhomes), duplexes and triplexes.*	B. Conditional Uses The planning commission may grant a conditional use permit for the following uses: 1) R-1 conditional uses unless allowed above. 2) Bed and breakfast. 3) Manufactured home parks.* 4) Neighborhood commercial. 5) Fourplex.*	B. Conditional Uses The planning commission may grant a conditional use permit for the following uses: 1) R-2 conditional uses unless allowed above.

Uses marked with an asterisk (*) are subject to the standards in PMC 18.35.100, Special standards for certain uses. Home occupations and temporary uses are subject to the standards in Chapter 18.145 PMC. [Ord. 737 § 1, 2006; Ord. 734 § 1, 2005; Ord. 720 § 7[2.1.110], 2003.]

18.35.030 Building setbacks.

Building setbacks provide space for private yards and building separation for fire protection/security, building maintenance, sunlight 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 nonresidential uses. The standards encourage placement of residences close to the street for public safety and neighborhood security.

Building setbacks are measured from the foundation wall to the respective property line. Setbacks for decks and porches requiring building permits are measured from the front edge of the deck or porch to the property line. The setback standards apply to primary structures and accessory structures.

A. Front Yard Setbacks.

1. Residential Uses (Single-Family, Duplex and Triplex, Multifamily Housing Types).

a. A minimum setback of 15 feet is required, except that an unenclosed porch may be within 10 feet, as long as it does not encroach into a public utility easement. See also subsection (F) of this section, which provides standards for setbacks for established residential areas.

b. Garages and carports shall be accessed from alleys or otherwise set back 20 feet.

c. Multifamily housing shall also comply with the building orientation standards in PMC 18.35.080.

2. Public, Institutional, and Conditional Uses. The standards in subsection (A)(1) of this section shall not be required for buildings that do not receive the public (e.g., buildings used solely for storage or housing mechanical equipment, and similar uses).

B. Rear Yard Setbacks. The minimum rear yard setback shall be 15 feet for street-access lots and six feet for alley-access lots (all structures). For structures higher than one story, the rear yard setback shall be increased one foot for each additional foot in height over 25 feet, but not to exceed a 25-foot rear setback.

C. Side Yard Setbacks. The minimum side yard setback shall be five feet on interior side yards and 15 feet on street side yards; or when zero lot line development is allowed, the minimum side yard setbacks shall be 10 feet minimum on one side of the dwelling unit. (See standards for zero lot line housing in PMC 18.35.100.)

D. Setback Exceptions. The following architectural features are allowed to encroach into the setback yards no more than two feet: eaves, chimneys, bay windows, overhangs, uncovered or unenclosed porches and decks less than 30 inches in height and similar architectural features. Walls and fences may be placed on property lines, subject to the standards in Chapter 18.72, Fences, Hedges and Walls. Walls and fences within front yards shall additionally comply with the vision clearance standards in PMC 18.65.020(N).

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 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 the ordinance codified in this chapter. In such areas, the following setback standards shall apply:

1. When an existing single-family residence on the same street is located within 20 feet of the subject site, a front yard setback similar to that of the nearest single-family residence may be used. “Similar” means the setback is within 10 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 of 25 feet, then the new building may have a front yard setback between 15 feet and 35 feet. If the new building is to be located between two existing residences, then the setback for the new building

may 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 15 feet. Zero lot line houses shall comply with the standards for zero lot line housing in PMC 18.35.100. [Ord. 799 § 2, 2015; Ord. 734 § 1, 2005; Ord. 720 § 7[2.1.120], 2003.]

18.35.040 Lot standards.

Table 18.35.040 – Lot Standards

Land Use District	Lot Area	Lot Width/Depth	Related Standards
R-1 Single-Family Residential	Minimum: 7,000 square feet. 10,000 square feet for duplex dwellings. Maximum: 150 percent of minimum.	Minimum width: 16 feet. Maximum depth: Three times the lot width; except as may be required by this title (e.g., to protect sensitive lands, etc.).	Lot coverage: 35 percent. Building height: 30 feet.
R-2 Duplex-Residential	Minimum: 6,000 square feet. 8,000 square feet for duplex dwellings and 3,600 square feet for each additional dwelling. Maximum: 150 percent of minimum.	Minimum width: 16 feet. Maximum depth: Three times the lot width; except as required to protect sensitive lands, etc.	Lot coverage: 40 percent. Building height: 30 feet.
R-3 Multifamily Residential Housing (More than Three Units)	Minimum: 5,000 square feet. 7,200 square feet for duplex dwellings and 2,500 square feet for each additional dwelling. High Density Development*: Studio/1 BD – 1,500 SF 2 BD – 1,800 SF 3 BD – 2,100 SF 4+ BD – 2,400 SF Maximum area: None.	Minimum width: 16 feet. Maximum depth: None.	Lot coverage: 80 percent – inclusive of impervious vehicular surfaces. Building height: 40 feet.
Manufactured Home Parks	See PMC 18.35.100 for manufactured home park standards.		

Table 18.35.040 – Lot Standards (Continued)

Land Use District	Lot Area	Lot Width/Depth	Related Standards
Allowed Public, Institutional, or Conditional Uses	Minimum area: None. Maximum area: None.	Minimum width: None. Maximum depth: None.	Lot coverage: Underlying zone. Building height: Underlying zone.

* Restricted to properties adjacent to collector and arterial streets as identified in the city's transportation system plan (TSP).

[Ord. 806 § 1, 2016; Ord. 799 § 3, 2015; Ord. 720 § 7[2.1.130], 2003.]

18.35.050 Flag lots and lots accessed by mid-block lanes.

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:

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. Mid-block lanes shall be required whenever practicable as an alternative to approving flag lots.

B. Flag Lots. Flag lots may be created only when mid-block lanes or alleys cannot be extended to serve future development. A flag lot must have at least 16 feet of frontage on a public way and may serve no more than two dwelling units, including accessory dwellings and dwellings on individual lots or other commercial or industrial uses. A minimum width of 12 feet of frontage for each lot shall be required when three or more flag lots are using a shared access. In no instance may more than four parcels utilize a joint access; in such instances the properties shall be served by a public or private street as the case may dictate.

C. Dedication of Shared Drive Lane. 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. The owner shall record an easement 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.

D. 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 drive, and 400 feet for a shared rear lane.

E. Future Street Plans. Building placement and alignment of shared drives shall be designated so that future street connections can be made as surrounding properties develop. [Ord. 799 § 4, 2015; Ord. 778 § 1, 2011; Ord. 720 § 7[2.1.140], 2003.]

18.35.060 Maximum lot coverage.

See Table 18.35.040. [Ord. 737 § 1, 2006; Ord. 720 § 7[2.1.160], 2003.]

18.35.070 Building height.

See Table 18.35.040.

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 districts shall be no more than 30 feet in height; except buildings within the multi-family subdistrict may be up to 40 feet. Building height may be restricted to less than these maximums to comply with the building height transition standard in subsection (C) of this section.

B. Method of Measurement. Building height shall be measured from the average original grade at the building foundation to the highest point of the roof.

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.

2. The building height transition standard is met when the height of the taller building ("x") does not exceed ("y"), the distance between the buildings. [Ord. 799 § 5, 2015; Ord. 737 § 1, 2006; Ord. 720 § 7[2.1.170], 2003.]

18.35.080 Building orientation.

A. Purpose. The following standards are intended to orient buildings close to streets 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 attached townhomes that are subject to site design review (three or more attached units); multifamily housing; neighborhood commercial buildings; and public and institutional buildings, which receive the public.

C. Building Orientation Standards. All developments listed in subsection (B) of this section 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 PMC 18.35.030.

2. All buildings shall have their primary entrance(s) oriented to the street. Multifamily 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 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 18.65 PMC, 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, drives or other vehicle areas shall not be placed between buildings and streets unless otherwise required. [Ord. 737 § 1, 2006; Ord. 720 § 7[2.1.180], 2003.]

18.35.090 Architectural 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:

1. Single-family attached townhomes that are subject to site design review (three or more attached units);

2. Multifamily housing; and

3. Public and institutional buildings.

C. Standards. All buildings that 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 may be used to comply with more than one standard.

D. Building Form. The continuous horizontal distance (i.e., as measured from end-wall to end-wall) of individual buildings shall not exceed 80 feet. 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 the above figure. 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:

1. Recess (e.g., deck, patio, courtyard, entrance or similar feature) that has a minimum depth of four feet;

2. Extension (e.g., floor area, deck, patio, entrance, or similar feature) that projects a minimum of two feet and runs horizontally for a minimum length of four feet; and/or

3. Offsets or breaks in roof elevation of two feet or greater in height.

E. 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 40 percent of front (i.e., street-facing) elevations and a minimum of 30 percent of side and rear building elevations, as applicable, 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.

F. 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 three 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):

1. Dormers.
2. Gables.
3. Recessed entries.
4. Covered porch entries.
5. Cupolas or towers.
6. Pillars or posts.
7. Eaves (minimum six-inch projection).
8. Offsets in building face or roof (minimum 16 inches).
9. Window trim (minimum four inches wide).
10. Bay windows.
11. Balconies.

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12. Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation, and similar features).

13. Decorative cornices and roof lines (e.g., for flat roofs).

14. An alternative feature providing visual relief, similar to subsections (F)(1) through (F)(13) of this section. [Ord. 720 § 7[2.1.190], 2003.]

18.35.100 Special standards for certain uses.

This section supplements the standards contained in PMC 18.35.010 through 18.35.090. 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 Courtyard 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 allowed to allow development on smaller (i.e., narrower) lots and still provide usable outdoor living area in side-oriented courtyards. The following standards are intended to promote compatibility and privacy between adjacent buildings and allow for building maintenance:

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 set back 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.

B. Accessory Dwelling (Attached, Separate, Cottage, or Above Detached Garage). An accessory dwelling is a small, secondary housing unit on a single-family lot. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. The housing density standard of the residential district does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots, so as to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

1. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code;

2. Owner-Occupied. The primary or accessory dwelling shall be owner-occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the principal house and manager of the accessory dwelling;

3. One Unit. A maximum of one accessory dwelling unit is allowed per lot;

4. Floor Area. The maximum floor area of the accessory dwelling shall not exceed 600 square feet;

5. Building Height. The building height of new detached accessory dwellings (i.e., separate cottages) shall not exceed 25 feet or the height of primary dwelling, whichever is less; and

6. Buffering. A minimum four-foot hedge or fence may be required to buffer a detached accessory dwelling from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas by either the occupants or adjacent residents.

C. Manufactured Homes on Individual Lots. Manufactured homes are allowed on individual lots, subject to all of the following design standards consistent with ORS 197.307(5).

1. Floor Plan. The manufactured home shall be multisectional and have an enclosed floor area of not less than 1,000 square feet.

2. Roof. The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees).

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).

4. Garages and Carports. The manufactured home shall have a garage or carport constructed of like materials when nearby residences within 200 feet of the property have carports or garages. 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 manufacturers 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 complies with the minimum setup standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home.

7. Foundation Skirt. The foundation area of the manufactured home shall be fully skirted.

8. Prohibited. The manufactured home shall not be located in a designated historic district.

D. Manufactured Home Park. Manufactured home parks are allowed on parcels of one acre or larger, subject to compliance with subsections (D)(1) through (D)(5) of this section:

1. Allowed Uses. Single-family residences, 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).

2. 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(1)(c).

3. Setbacks and Building Separation. The minimum setback between park structures and abutting properties is 10 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 five feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than six feet to any other structure or dwelling, except that a double carport or garage may be built which serves two dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least three feet.

4. 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 six-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.

5. House Design (Parks Smaller Than Three Acres). Manufactured homes in parks smaller than 3 acres shall meet the following design standards, consistent with ORS 197.314(6):

a. The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees); and

b. 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).

E. Single-Family Attached (Townhomes), Duplexes and Triplexes. Single-family attached housing (townhomes on individual lots), duplex and triplex developments shall comply with the standards in subsections (E)(1) through (E)(4) of this section. 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. Building Mass Supplemental Standard. Within the residential district, the maximum number and width of consecutively attached townhomes (i.e., with attached walls at property line) shall not exceed four units, or 80 feet (from end-wall to end-wall), whichever is less. Within the multifamily subdistrict, the number and width of

consecutively attached townhome units shall not exceed eight units, or 120 feet, whichever is less.

2. Alley Access. Townhomes, duplex and triplex subdivisions (four 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 PMC 18.80.020, Transportation improvements, and Chapter 18.115 PMC, Land Divisions and Lot Line Adjustments. Alleys are not required when existing development patterns or topography make construction of an alley impracticable (see subsection (E)(3) of this section for standards). As necessary, the city shall require dedication of rights-of-way or easements and construction of pathways between townhomes lots (e.g., between building breaks) to implement the standards in Chapter 18.65 PMC, Access and Circulation).

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, and minimize paved surfaces for better stormwater management.

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 four feet.

b. 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 garage 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) shall be maintained by a homeowner’s association or other legal entity. A homeowner’s 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.

F. Multifamily Housing. Multifamily housing is allowed within the R-3 multifamily district. Multifamily housing means housing that provides three or more dwellings on an individual lot (e.g., multiplexes, apartments, condominiums, etc.). New multifamily developments shall comply with all of the following standards:

1. Building Mass Supplemental Standard. Within the residential districts, the maximum width or length of a multiple-family building shall not exceed 80 feet (from end-wall to end-wall). Within the R-3 multifamily subdistrict, the width or length shall not exceed 120 feet.

2. Common Open Space Standard. 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.

3. Private Open Space Standard. Private open space areas shall be required for ground-floor and upper-floor housing units based on all of the following standards:

a. All ground-floor housing units shall have front or rear patios or decks measuring at least 48 square feet. Ground-floor housing means the housing unit entrance (front or rear) is within five 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 24 square feet. Upper-floor housing means housing units which are more than five feet above the finished grade; and

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.

4. Exemptions. Exemptions to the common open space standard may be granted for multi-unit

developments of up to 10 units. Exemptions may be granted for the first 20 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 areas, sports courts, walking/fitness courses, or similar facilities.

5. 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 five feet in height.

G. Residential Care Homes and Facilities. Residential care homes are residential treatment or training homes 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 five or fewer individuals (homes) or six 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 through 197.670:

1. Licensing. All residential care homes shall be duly licensed by the state of Oregon.

2. Parking. A minimum of one parking space shall be provided for each employee and typical number of visitors, in accordance with Chapter 18.75 PMC, Vehicle and Bicycle Parking.

3. 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 title.

H. Agriculture, Horticulture and Livestock. The city allows for agriculture, horticulture and livestock uses, subject to the following standards which are intended to provide buffering between these uses and residences:

1. Prohibited Areas. Livestock shall not be kept within multifamily complexes or manufactured housing parks, due to the higher intensity living environments of these areas.

2. Minimum Lot Size. No livestock shall be kept on any lot less than one acre in area.

3. Density. No more than two head of livestock over the age of six months may be maintained per acre. No more than five fowl may be maintained per acre. No more than one swine may be maintained per two acres.

4. Farm Structures. New barns, stables, and other buildings or structures used to house livestock shall not be developed closer than 40 feet to any property line.

I. Public and Institutional Land Uses. Public and institutional land uses (as listed in Table 18.35.020) 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 four 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 18.120 PMC, Conditional Use Permits, or as part of a master planned development, in accordance with Chapter 18.125 PMC.

2. Building Mass. The maximum width or length of a building shall not exceed 120 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. 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 six feet in height.

J. 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, greenhouses and similar structures. (For standards applicable to accessory dwellings, please refer to subsection (B) of this section.)

All accessory structures shall comply with all of the following standards:

1. Primary Use Required. An accessory structure shall not be allowed without another allowed use.

2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way without approval of the city.

3. 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.

4. Floor Area. The maximum floor area of the accessory structure shall not exceed 1,000 square feet unless otherwise approved via the conditional use permit process.

5. Building Height. The building height of a detached accessory structure shall not exceed 25 feet or the height of the primary structure, whichever is less.

6. Buffering. The city may require a hedge or fence 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.

K. Neighborhood Commercial Land Use. Small-scale neighborhood commercial uses are allowed within the residential districts. 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:

1. Vertical and Horizontal Use. 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 18.15 PMC, are expressly prohibited.

2. 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.

3. Location and Access. Neighborhood commercial developments shall have frontage onto a collector or arterial street and shall conform to the building orientation and parking location standards in PMC 18.35.080.

4. Building Mass Supplemental Standard. The maximum width or length of a neighborhood commercial or mixed-use (residential and commercial) building shall not exceed 120 feet (from end-wall to end-wall).

5. Floor Area Supplemental Standards. The maximum commercial floor area shall not exceed 4,000 square feet total per neighborhood commercial site within the residential districts and the neighborhood commercial district. Floor area is measured by totaling the interior floor area of all building stories, except crawl spaces (i.e., with less than seven and one-half feet of vertical clearance).

6. Hours of Operation. Neighborhood commercial land uses shall be limited to the following hours of operation: 7:00 a.m. to 10:00 p.m. [Ord. 799 § 6, 2015; Ord. 778 § 2, 2011; Ord. 720 § 7[2.1.200], 2003.]

Chapter 18.40

COMMERCIAL DISTRICTS

Sections:

18.40.010 Purpose.
18.40.020 Allowed land uses.
18.40.030 Building setbacks.
18.40.040 *Reserved.*
18.40.040 Block layout and building orientation.
18.40.050 Building height.
18.40.060 Large scale buildings and developments.
18.40.070 Pedestrian and transit amenities.
18.40.080 Special standards for certain uses.

18.40.010 Purpose.

A city goal is to strengthen commercial centers of the city. Commercial districts are intended to support this goal through elements of design and appropriate mixed-use development. This chapter provides standards for the orderly improvement of the commercial districts based on the following principles:

A. Efficient use of land and urban services;

B. A mixture of land uses to encourage walking as an alternative to driving, and provide more employment and housing options;

C. There is a distinct storefront character which identifies the central commercial district;

D. The commercial districts are connected to neighborhoods and other employment areas;

E. Provide visitor accommodations and tourism amenities; and

F. Transit-oriented development reduces reliance on the automobile and reduces parking needs in and along Main Street. [Ord. 720 § 7[2.2.100], 2003.]

18.40.020 Allowed land uses.

The land uses listed in Table 18.40.020 are allowed in the commercial district, subject to the provisions of this chapter. Only land uses that are specifically listed in Table 18.40.020 and land uses that are approved as “similar” to those in Table 18.40.020 may be allowed. The land uses identified under conditional uses require conditional use permit approval prior to development or a change in use, in accordance with Chapter 18.120 PMC.

Table 18.40.020
Land Uses and Building Types Allowed in the Commercial Districts

C-1 Central Commercial	C-2 General Commercial	O-R Office/Residential
Allowed Uses (A) Bank or financial institution. (B) Church. (C) Day care centers, including family day care homes. (D) Drive-in or drive-through facilities.* (E) Funeral parlor. (F) Fraternal lodge. (G) Membership club. (H) Multifamily and row housing. (I) Retail sales and service establishments that do not require the outside storage of goods, supplies or equipment not otherwise identified in this section. (J) Offices. (K) Professional offices. (L) Public buildings and uses including public park, post office, public office, fire station, public community center, public parking lot, and public library. (M) Residences, provided they are in conjunction with another use that is allowed or allowed by an approved conditional use permit. Residences must be located above the allowed use. (N) Recreation vehicles, including travel trailers, camping trailers, fifth-wheel trailers, motor homes, and/or other vehicles designed for temporary occupancy may not be stored or occupied in the zone. (O) Residential care facility. (P) Restaurants including takeout only establishments. (Q) Taverns. (R) Sidewalk displays.	Allowed Uses (A) All uses allowed in the C-1 zone. (B) Assembly of products. (C) Automobile or trailer sales and service. (D) Car wash. (E) Motels. (F) Service station and vehicle repair shop. Conditional Uses (A) Light manufacturing.	Allowed Uses (A) Church, nonprofit religious or philanthropic institution. (B) Office. (C) Home occupation; subject to PMC 18.145.020. (D) Multifamily dwelling.** (E) Family day care home or facility. (F) Parking lot. (G) Residential or child care home or facility. Conditional Uses The planning commission may grant a conditional use permit for the following uses: (A) Research laboratories. (B) Tower, water tank, or similar structure in conjunction with a building or buildings on the same lot. (C) Funeral parlor. (D) Pharmacy. (E) Community center. (F) Governmental structure or use of land, including park, playground, fire or police station, library, or City Hall. (G) Nursing home, rest home, retirement home, residential care facility, convalescent hospital or similar facility. (H) Membership club. (I) Public and private schools.

Uses marked with an asterisk (*) are subject to the standards in PMC 18.40.090, Special standards for certain uses. Home occupations and temporary uses are subject to the standards in Chapter 18.145 PMC.

** Multifamily dwellings in the O-R zone are subject to the standards of the R-3 zone in Chapter 18.35 PMC. [Ord. 799 § 7, 2015; Ord. 737 § 1, 2006; Ord. 734 § 1, 2005; Ord. 720 § 7[2.2.110], 2003.]

18.40.030 Building setbacks.

In the commercial districts, buildings are placed close to the street to create a vibrant pedestrian environment, to slow traffic down, provide a storefront character to the street, and encourage walking. The setback standards are flexible to encourage public spaces between sidewalks and building entrances (e.g., extra-wide sidewalks, plazas, squares, outdoor dining areas, and pocket parks). The standards also encourage the formation of solid blocks of commercial and mixed-use buildings for a walkable community.

Building setbacks are measured from the nearest vertical wall or foundation to the respective property line. Setbacks for porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed in this section, apply to primary structures as well as accessory structures. The standards may be modified only by approval of a variance, in accordance with Chapter 18.155 PMC.

A. Front Yard Setbacks.

1. Minimum Setback. There is no minimum front yard setback required, except in the O-R zone that shall be a minimum of 10 feet.

2. Maximum Setback. There is no maximum front yard setback required, except in the C-1 zone that shall be a maximum of 20 feet. This standard is met when a minimum of 50 percent of the front building elevation is placed no more than 20 feet back from the front property line. On parcels with more than one building, this standard applies to the building closest to the street. 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 PMC 18.40.080, and architectural standards in PMC 18.40.070 for related building entrance standards.)

B. Rear Yard Setbacks.

1. Minimum Setback. The minimum rear yard setback for all structures shall be zero feet for street-access lots, and six feet for alley-access lots (distance from building to rear property line or alley easement) in order to provide space for parallel parking. However, for those properties abutting a residential zone or separated by only an alley, the setback shall be 25 feet.

2. Through-Lots. For buildings on through-lots (lots with front and rear frontage onto a street), the front yard setbacks in subsection (A) of this section shall apply.

C. Side Yard Setbacks. There is no minimum side yard setback required, except that buildings shall conform to the vision clearance standards in Chapter 18.65 PMC and the applicable fire and building codes for attached structures, firewalls, and related requirements. However, for those properties abutting a residential zone, the setback shall be 10 feet.

D. Setback Exceptions. Eaves, chimneys, bay windows, overhangs, cornices, awnings, canopies, porches, decks, pergolas, and similar architectural features may encroach into setbacks by no more than four feet, subject to compliance with applicable standards of the Uniform Building Code and Uniform Fire Code. Walls and fences may be placed on the property line, subject to the requirements of Chapter 18.72 PMC, Fences, Hedges and Walls. [Ord. 799 § 8, 2015; Ord. 737 § 1, 2006; Ord. 720 § 7[2.2.120], 2003.]

18.40.040 Reserved.

Reserved for future use. [Ord. 720 § 7[2.2.130], 2003.]

18.40.050 Block layout and building orientation.

This section is intended to promote the walkable, storefront character of the commercial districts by forming short blocks and orienting buildings close to streets. Placing buildings close to the street also slows traffic down and provides more "eyes on the street," increasing the safety of public places. The standards, as listed in this section, complement the front yard setback standards in PMC 18.40.030.

A. Applicability. This section applies to new land divisions and all of the following types of development (i.e., subject to site design review):

1. Three or more single-family row houses on their own lots (i.e., townhomes subject to site design review);

2. Multifamily housing;

3. 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

4. Commercial and mixed-use buildings subject to site design review.

Compliance with all of the provisions of subsections (B) through (D) of this section shall be required.

B. Block Layout Standard. New land divisions and developments that are subject to site design review shall be configured to provide an alley or interior parking court. Blocks (areas bound by public street right-of-way) shall have a length not exceeding 400 feet and a depth not exceeding 400 feet. Pedestrian pathways shall be provided from the street right-of-way to interior parking courts between buildings, as necessary, to ensure reasonably safe, direct, and convenient access to building entrances and off-street parking. Exceptions to this standard may be approved when all of the provisions of subsection (C) of this section, Superblock Developments, are met.

C. Superblock Developments. Commercial and mixed-use developments may exceed the block width and depth standards in subsection (B) of this section when the total floor area of those developments (i.e., one or more buildings on one or more lots) exceeds 60,000 square feet on the ground floor. These "superblock developments" require conditional use permit approval and shall conform to all of the standards in subsections (C)(1) and (C)(2) of this section.

1. Create a "Shopping Street." Each development has at least one street or drive designed with the basic elements of a good pedestrian-oriented shopping street: buildings oriented (placed) close to both sides of a "main street," which may be public or private; on-street parking; wide sidewalks (e.g., eight to 12 feet typical); street trees; and pedestrian-scale lighting and other similar enhancements.

2. Provide Usable Pedestrian Space. "Pedestrian space" means a plaza or extra-wide pathway/sidewalk near one or more building entrances. Each development provides street trees or planters, space for outdoor seating, canopies or awnings, and on-street parking (in selected areas) to improve the pedestrian environment along internal private drives.

D. Building Orientation Standard. All of the developments listed in subsection (A) of this section shall be oriented to a street. The building orientation standard is met when all of the following criteria are met:

1. The minimum and maximum setback standards in PMC 18.40.030.

2. 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 not exceeding 20 feet in length is provided between the building entrance and the street right-of-way.

3. 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 (B) of this section. On corner lots, buildings and their entrances shall be oriented to the street corner; parking, driveways and other vehicle areas shall be prohibited between buildings and street corners. [Ord. 799 § 9, 2015; Ord. 720 § 7[2.2.140], 2003.]

18.40.060 Building height.

A. All buildings in the commercial districts shall comply with the following building height standards. The standards are intended to allow for development of appropriately scaled buildings with a storefront character.

B. Maximum Height. Buildings shall be no more than three stories or 40 feet in height, whichever is greater. The maximum height may be increased by 10 feet when housing is provided above the ground floor ("vertical mixed-use"). The building height increase for housing shall apply only to a building that contains housing. [Ord. 799 § 10, 2015; Ord. 720 § 7[2.2.150], 2003.]

18.40.070 Large scale buildings and developments.

A. Design of Large-Scale Buildings and Developments. The standards in subsection (A)(3) of this section shall apply to large-scale buildings and developments, as defined in subsections (A)(1) and (A)(2) of this section:

1. Buildings with greater than 20,000 square feet of enclosed ground-floor space (i.e., large-scale). Multitenant buildings shall be counted as

the sum of all tenant spaces within the same building shell.

2. Multiple-building developments with a combined ground-floor space (enclosed) greater than 40,000 square feet (e.g., shopping centers, public/institutional campuses, and similar developments).

3. All large-scale buildings and developments, as defined in subsections (A)(1) and (A)(2) of this section, shall provide human-scale design by conforming to all of the following criteria:

a. Incorporate changes in building direction (i.e., articulation) and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting or up-lighting); and similar features.

b. Every building elevation adjacent to a street with a horizontal dimension of more than 100 feet, as measured from end-wall to end-wall, shall have a building entrance; except that building elevations that are unable to provide an entrance due to the internal function of the building space (e.g., mechanical equipment, areas where the public or employees are not received, etc.) may not be required to meet this standard. Pathways shall connect all entrances to the street right-of-way, in conformance with Chapter 18.65 PMC, Access and Circulation. [Ord. 720 § 7[2.2.160], 2003.]

18.40.080 Pedestrian and transit amenities.

A. Purpose and Applicability. This section is intended to complement the building orientation standards in PMC 18.40.050, and the street standards in Chapter 18.65 PMC, by providing comfortable and inviting pedestrian spaces within the commercial districts. Pedestrian amenities serve as informal gathering places for socializing, resting, and enjoyment of the city and contribute to a walkable district. This section applies to all of the following types of buildings:

1. Three or more single-family attached townhomes on their own lots (i.e., townhomes subject to site design review) and multifamily dwellings;

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 (e.g., buildings used solely to house mechanical equipment and similar uses); and

3. Commercial and mixed-use buildings subject to site design review.

B. Guidelines and Standards. Every development shall provide pedestrian amenities such as but not limited to the following listed in subsections (B)(1) through (B)(5) of this section. 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 with a minimum width of 10 feet.

2. Sitting space (i.e., dining area, benches or ledges) between the building entrance and sidewalk (minimum of 16 inches in height and 30 inches in width).

3. Building canopy, awning, pergola, or similar weather protection (minimum projection of four feet over a sidewalk or other pedestrian space).

4. Public art that incorporates seating (e.g., fountain, sculpture, etc.).

5. Transit amenity, such as bus shelter or pullout, in accordance with the city's transportation plan. [Ord. 799 § 11, 2015; Ord. 720 § 7[2.2.170], 2003.]

18.40.090 Special standards for certain uses.

A. Residential Uses. Higher density residential uses, such as multifamily buildings and attached townhomes, are allowed to encourage housing near employment, shopping and services. All residential developments shall comply with the standards in subsections (A)(1) through (A)(6) of this section, 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 a storefront character; 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 the ordinance codified in this title are exempt from this section.

1. Mixed-Use Development Required. Residential uses shall be allowed only 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 subsections (A)(2) through (A)(6) of this section.

2. Limitation on Street-Level Housing. No more than 50 percent of a single street frontage may be occupied by residential uses. This standard is intended to reserve storefront space for commercial uses and public/institutional uses; it does not limit residential uses above the street level on upper stories or behind street-level storefronts. For parcels with street access at more than one level (e.g., sloping sites with two street frontages), the limitation on residential building space shall apply to all street frontages.

3. Density. There is no minimum or maximum residential density standard. Density shall be controlled by the applicable lot coverage and building height standards.

4. Parking, Garages, and Driveways. All off-street vehicle parking, including surface lots and garages, shall be oriented to alleys, placed underground, or located in parking areas located behind or to the side of the building; except that side yards facing a street (i.e., corner yards) shall not be used for surface parking. On corner lots, garage entrances shall be oriented to a side street or lower classification street when access cannot be provided from an alley.

5. Creation of Alleys. When a subdivision (e.g., four or more townhome lots) is proposed, a public or private alley shall be created for the purpose of vehicle access. Alleys are not required when existing development patterns or topography makes construction of an alley impracticable. As part of a subdivision, the city may require dedication of right-of-way or easements and construction of pathways between townhome lots (e.g., between building breaks) to provide pedestrian connections through a development site, in conformance with Chapter 18.65 PMC, 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 homeowner's 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.

B. (Reserved.)

C. Public and Institutional Uses. Public and institutional uses as listed in Table 18.40.020 are allowed in the commercial districts, except that automobile-oriented uses shall comply with the standards in subsection (E) of this section. Typical automobile oriented uses in this category include public works yards, equipment storage and repair, school bus companies, and similar facilities that store, repair or service automobiles, trucks, buses, heavy equipment and construction materials.

D. 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 commercial districts include small workshops, greenhouses, studios, storage sheds, and similar structures. Accessory uses and structures are allowed for all permitted land uses within the commercial districts, as identified in Table 18.40.020. 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 18.40.020.

2. Setback Standards. Accessory structures shall comply with the setback standards in PMC 18.40.030, except that the maximum setback provisions shall not apply.

3. Design Guidelines. Accessory structures shall comply with the commercial district design guidelines, as provided in PMC 18.40.070.

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 unless otherwise approved by the city in writing.

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.

E. Automobile-Oriented Uses and Facilities. Automobile-oriented uses and facilities, as defined below, shall conform to all of the following standards in the central commercial district. The stan-

dards are intended to provide a vibrant storefront character, slow traffic down, and encourage walking.

1. Parking, Garages, and Driveways. All off-street vehicle parking, including surface lots and garages, shall be accessed from alleys, placed underground, placed in structures above the ground floor, or located in parking areas located behind or to the side of a building; except that side yards on corner lots shall not be used for surface parking. All garage entrances facing a street (e.g., underground or structured parking) shall be recessed behind the front elevation by a minimum of six feet. On corner lots, garage entrances shall be oriented to a side or lower classified street when vehicle access cannot be provided from an alley. Individual surface parking lots shall not exceed a total of one-half city block. Larger parking areas shall be in multiple story garages.

2. Automobile-Oriented Uses. "Automobile-oriented use" means automobiles and/or other motor vehicles are an integral part of the use. These uses are restricted because, when unrestricted, they detract from the pedestrian-friendly, storefront character of the district and can consume large amounts of land relative to other allowed uses. Automobile-oriented uses shall comply with the following standards:

a. Vehicle Repair. Businesses that repair or service automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, and similar vehicles and equipment are allowed when the use is contained within an enclosed building.

b. Drive-Up, Drive-In, and Drive-Through Facilities. Drive-up, drive-in, and drive-through facilities (e.g., associated with restaurants, banks, car washes, and similar uses) shall conform to the following standards:

i. None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, windows, teller machines, service windows, drop-boxes, and similar facilities) are located within 20 feet of a street and shall not be oriented to a street corner.

F. Sidewalk Displays. Sidewalk display of merchandise and vendors shall be limited to cards, plants, gardening/floral products, food, books, newspapers, bicycles, and similar small items for sale or rental to pedestrians (i.e., non-automobile oriented). A minimum clearance of six feet shall be maintained. Display of larger items, such as automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, building materials, and similar vehicles and equipment, is prohibited.

G. Light Manufacture. Light manufacture uses are allowed in the C-2 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. Light manufacture uses shall conform to all of the following standards, which are intended to protect the pedestrian-friendly, storefront character of these districts:

1. Retail or Service Use Required. Light manufacture is allowed only when it is in conjunction with an allowed retail or service use.

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 or visible to the general public. [Ord. 734 § 1, 2005; Ord. 720 § 7[2.2.180], 2003.]

Chapter 18.45

INDUSTRIAL DISTRICTS

Sections:

18.45.010 Purpose.
18.45.020 Allowed land uses.
18.45.030 Development setbacks.
18.45.040 Lot coverage.
18.45.050 Development orientation.
18.45.060 Building height.
18.45.070 Special standards for certain uses.

18.45.010 Purpose.

The industrial districts accommodate a range of light and heavy industrial land, as well as industrial park uses. It is intended to segregate less compatible developments from other districts while providing a high-quality business environment for employees and residents. This chapter guides the orderly development of industrial areas based on the following principles:

A. Provide for efficient use of land and public services;

B. Provide transportation options for employees and customers;

C. Locate business and industrial services close to major employment centers;

D. Ensure compatibility between industrial uses and nearby commercial and residential areas; and

E. Provide appropriate design standards to accommodate a range of industrial users, in conformance with the comprehensive plan. [Ord. 720 § 7[2.3.100], 2003.]

18.45.020 Allowed land uses.

The land uses listed in Table 18.45.020 are allowed in the industrial zones, subject to the provisions of this chapter and Chapter 18.110 PMC, Development Review and Site Design Review. Only land uses that are specifically listed in Table 18.45.020 and land uses that are approved as "similar" to those in Table 18.45.020 may be allowed.

Table 18.45.020
Land Uses and Building Types Allowed in the Industrial Districts

LI – Light Industrial	HI – Heavy Industrial	IP – Industrial Park
Allowed Uses (A) Accessory uses. (B) Automobile and equipment repair, sales, rental, storage and service. (C) Caretaker dwelling. (D) Freight and trucking. (E) Government facilities (e.g., public safety, utilities, school district bus facilities, public works yards, transit and transportation, and similar facilities). (F) Light manufacture (e.g., electronic equipment, printing, bindery, furniture, and similar goods). (G) Mini-warehouse and storage. (H) Outdoor commercial uses, storage, and sales. (I) Repair services. (J) Research facilities. (K) RV park facilities. (L) Special district facilities (e.g., irrigation district, and similar facilities). (M) Utility facilities, including distribution plant, substation, and service yard. (N) Vocational schools. (O) Warehousing and distribution. (P) Wholesale trade and services. (Q) Wireless communication equipment. Conditional Uses The planning commission may grant a conditional use permit for the following uses: (A) Auction house (nonlivestock). (B) Private heliport. (C) Horse riding or training facilities or clubs.	Allowed Uses (A) Uses allowed in the LI zone. Conditional Uses The planning commission may grant a conditional use permit for the following uses: (A) Manufacturing, assembly, and processing of raw materials. (B) Cement, lime or similar products manufacture. (C) Chemical manufacture. (D) Explosive storage or processing. (E) Livestock auction. (F) Mineral extraction or processing. (G) Rendering plant, tannery, or slaughter house. (H) Solid waste transfer station.	Allowed Uses (A) Uses allowed in the LI zone when conducted within a building. (B) Commercial uses incidental to and directly related to allowed or conditional uses. (C) Indoor and outdoor recreation facilities. (D) Offices. (E) RV park facilities. Conditional Uses The planning commission may grant a conditional use permit for the following uses: (A) Community center. (B) Governmental structure or use of land, including playground, park, fire or police station, library, or City Hall. (C) Membership club. (D) Public and private schools. (E) Private or nonprofit education facilities.

Industrial uses shall require a conditional use permit when they generate significant noise, light/glare, dust and vibration impacts, or traffic; or when they include resource extraction. The standards for determining "significant" are provided in PMC 18.45.070(A), Uses with Significant Noise, Light/Glare, Dust, Vibration, or Traffic Impacts. Conditional use permits shall be subject to the procedure and standards in Chapter 18.120 PMC, Conditional Use Permits. [Ord. 737 § 1, 2006; Ord. 720 § 7[2.3.110], 2003.]

18.45.030 Development setbacks.

Development setbacks provide separation between industrial and nonindustrial uses for fire protection/security, building maintenance, sunlight 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 nonindustrial 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.

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 nonindustrial districts by a minimum of 20 feet; the side setback in this case shall increase by one foot for every one foot of building height in excess of 30 feet.

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 nonindustrial zoned 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 18.65 PMC, Access and Circulation. [Ord. 734 § 1, 2005; Ord. 720 § 7[2.3.120], 2003.]

18.45.040 Lot coverage.

The maximum allowable lot coverage in the heavy industrial district is 90 percent; in the light industrial district, 80 percent; and in the industrial park, 60 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 title may preclude development of the maximum lot coverage for some land uses. [Ord. 720 § 7[2.3.130], 2003.]

18.45.050 Development orientation.

Industrial developments shall be oriented on the site to minimize adverse impacts (e.g., noise, glare, smoke, dust, exhaust, vibration, etc.), protect the privacy of adjacent uses to the greatest extent possible, and encourage alternative modes of transportation, such as walking, bicycling and use of transit. The following standards shall apply to all development in the industrial districts:

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 Division 3.

B. 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 Division 3.

C. 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 Division 3.

D. Buffers. The city may require a 40-foot landscape buffer between development in the industrial district and adjacent residential district(s) to reduce light, glare, noise, and aesthetic impacts.

E. Commercial Developments. Commercial buildings and uses comprising more than 40,000 square feet of total ground-floor building space shall additionally conform to the block layout and building orientation standards for commercial zones as contained in PMC 18.40.050.

F. Outside Activities and Facilities. Mechanical equipment, lights, 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 nonindustrial areas to the maximum extent practicable. [Ord. 720 § 7[2.3.140], 2003.]

18.45.060 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 50 feet in height and shall comply with the building setback/height standards in PMC 18.45.030.

B. Performance Option. The allowable building height may be increased to 80 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 nonindustrial development. Smokestacks, cranes, roof equipment, and other similar features that are necessary to the industrial operation may not exceed 75 feet in height without approval of a conditional use permit. [Ord. 734 § 1, 2005; Ord. 720 § 7[2.3.150], 2003.]

18.45.070 Special standards for certain uses.

A. Uses with Significant Noise, Light/Glare, Dust, Vibration, or Traffic Impacts. It is anticipated that uses in the light industrial and industrial park zones will not cause significant impacts beyond the subject property. However, in all zones 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 18.120 PMC. The following criteria shall be used in determining the adverse impacts of a use likely to be "significant":

a. Noise. The noise level beyond the property line exceeds 55 dBA in the industrial park; 65 dBA in the light industrial; and 75 dBA in the heavy industrial districts (24-hour average) on a regular basis.

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 exceeds 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 that 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 15 percent or more as a result of the development. 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. Wireless Communication Equipment. Wireless communication equipment, including radio, cellular, television and similar types of transmission and receiving facilities are allowed, subject to the applicable setbacks of the zone. [Ord. 737 § 1, 2006; Ord. 720 § 7[2.3.160], 2003.]

Chapter 18.50

PUBLIC DISTRICTS

Sections:

18.50.010 Purposes.
18.50.020 Allowed uses.
18.50.030 Site plan review.
18.50.040 Property development standards.

18.50.010 Purposes.

The public zone is intended to be applied to publicly owned lands in order to guide the public development of these lands in an appropriate manner that is compatible with adjacent uses. [Ord. 720 § 7[2.4.100], 2003.]

18.50.020 Allowed uses.

The publicly owned or operated land uses listed in Table 18.50.020 are allowed in the public zone, subject to the provisions of this chapter. Only land uses that are specifically listed in Table 18.50.020 and land uses that are approved as similar to those in Table 18.50.020 may be allowed.

Table 18.50.020
Land Uses and Building Types Allowed in the Public District

Allowed Uses	Conditional Uses
The following uses are permitted in this district, subject to site plan review per PMC 18.105.040. (a) Community center. (b) Library. (c) Museum. (d) Offices. (e) Park, including active recreation activities. (f) Performing arts center. (g) Police station. (h) Swimming pool. (i) Shops, motor pool, vehicular maintenance. (j) Water and wastewater treatment or collection facility.	The planning commission may grant a conditional use permit for the following uses: (a) Jail or correction facility. (b) Fire station.

[Ord. 720 § 7[2.4.110], 2003.]

18.50.030 Site plan review.

Any allowed development proposal in this district shall be subject to site plan review in accordance with Chapter 18.110 PMC. [Ord. 720 § 7[2.4.120], 2003.]

18.50.040 Property development standards.

A. Minimum Lot Size and Dimensions. No minimum; provided, all applicable standards of this title are met.

B. Minimum Setbacks. The minimum setback shall conform to that of the abutting property zone requirements. Where two or more different zones are applicable the most restrictive shall apply. There is no maximum setback.

C. Lot Coverage. In the public zone, buildings may occupy 100 percent of the lot area; provided, all applicable standards of this title are met.

D. Building Height. The maximum height shall conform to that of the abutting property zone requirements. Where two or more different zones are applicable the most restrictive shall apply. There shall be no windows or doors in walls facing a residential zone unless greater than 15 feet of separation is provided, except emergency exit doors.

E. Access. Every newly created lot shall have a legal access. No street frontage shall be required by this or any other provision of this title.

F. Exterior Lighting. Exterior lighting shall be located in such a manner as not to face directly, shine or reflect glare onto an adjacent street or property. [Ord. 720 § 7[2.4.130], 2003.]

Chapter 18.55

OVERLAY DISTRICTS

Sections:

Article I. General Provisions

18.55.010 Purpose.
18.55.020 Natural resource overlay zone.
18.55.030 State and federal standards applicable.
18.55.040 Preexisting development.
18.55.050 Procedures.
18.55.060 Regulated uses.
18.55.070 Appeals.
18.55.080 Variances.
18.55.090 Restoration and enhancement exceptions.
18.55.100 *Repealed*.

Article II. Flood Damage Prevention

18.55.110 Authorization, findings of fact, purpose and objectives.
18.55.120 Definitions.
18.55.130 General provisions.
18.55.140 Administration.
18.55.150 Provisions for flood hazard reduction.

Article I. General Provisions

18.55.010 Purpose.

The flood hazard overlay and natural resources overlay zones are created to establish a process and standards that will protect the public health and safety in areas subject to periodic flooding and that contain natural resources. These zones will minimize the degradation and destruction of significant natural resources, and conserve wetland and riparian corridor resources and their functions and values. This title is intended to protect and enhance local water quality; to preserve fish and wildlife habitat; and to provide flood storage capacity, nutrient attenuation, and sediment trapping within the city of Philomath. Therefore, the city has chosen to restrict the filling, grading, excavation, or development of natural resource areas for their protection. [Ord. 720 § 7[2.5.100], 2003.]

18.55.020 Natural resource overlay zone.

A. Significant Wetlands. Significant wetland regulations contained in this chapter apply to those areas identified as significant wetlands on the city of Philomath local wetland inventory map and includes riparian corridors. Precise boundaries may vary from that shown on the local inventory maps. The city may require an on-site delineation or other DSL-approved documentation to indicate more accurate boundaries.

B. Riparian Corridors. The riparian protection zone consists of two component areas: the area within the channel banks and the protective zone. The two components of the riparian protection zone are defined as:

1. The area within the channel limits of a water area (from top of one bank to top of the opposite bank) identified in subsection (B) of this section. For a given stream, river, or channel the top of bank is the same as the "bankfull stage." The "bankfull stage" is defined as the stage or elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland.

2. The protection zone measured 50 feet horizontally upland from the top of bank along those sections of Newton Creek and Mary's River and designated as significant riparian corridors on the city of Philomath local riparian inventory map.

C. Wildlife Habitat. Wildlife habitat under this chapter is defined as areas upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction. The city has inventoried and determined significant wildlife habitat by following the safe harbor methodology. Public disclosure of certain threatened and endangered species inventory information may be limited through procedures to allow limited review by property owners and other specified parties. At a minimum, these inventories include:

1. Threatened, endangered, and sensitive wildlife species habitat information;

2. Sensitive bird site inventories; and

3. Wildlife species of concern and/or habitats of concern identified and mapped by ODFW.

D. Unidentified Natural Resources. Newly identified natural resources, including wildlife and wildlife habitat sites, shall be addressed in the following manner:

1. The site shall be inventoried, incorporating the use of experts, for specific location, quantity and quality. This inventory shall be done in a timely manner. Constraints on access to private lands, availability of qualified experts, and the difficulty of identifying the suspected natural resource at certain times of the year may require an extended time period for the study.

2. Upon completion of the preliminary inventory, the city shall determine whether the identified resource is significant and adopt supporting findings. Significance will be determined on a case-by-case basis, according to whether the resource is on a federal, state, or local listing, and based on the uniqueness or scarcity of the resource locally. If necessary to protect the site, the city

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shall apply interim protection measures. The city shall then notify any interested parties of the decision and any interim protection measures to be undertaken.

3. If a resource is determined significant, the city shall within one year initiate a Goal 5 Environmental, Social, Economic, and Energy (ESEE) conflict resolution analysis. The city will then release a draft working paper with recommendations that will be reviewed by the planning commission and city council.

4. Staff will coordinate with affected property owners and interested parties throughout the process. [Ord. 720 § 7[2.5.200], 2003.]

18.55.030 State and federal standards applicable.

A. The provisions of the natural resources overlay zone do not exempt persons or property from state or federal laws that regulate protected land, water, wetlands, or habitat areas. In addition to the restrictions and requirements of this section, all proposed development activities wholly or partially within areas identified as wetlands are also subject to DSL standards and approval.

B. The city shall provide notice to the Division of State Lands (DSL), the applicant, and the owner of record within five working days of the acceptance of any complete application for subdivisions, building permits for new structures, other development permits and approvals that allow physical alteration of land. This includes excavation and grading, permits for removal or fill or both, or development in floodplains and floodways. This provision does not apply if a permit from DSL has been issued for the proposed activity.

C. No action can be taken on a proposed development until such notification is provided and the action approved by DSL or a response provided from DSL indicating no permit is required until specific proposals are submitted. City approval may be given if DSL fails to respond within 30 days of notice, subject to written notice being provided the applicant and owner of record that the proposed action may require state or federal permits. [Ord. 720 § 7[2.5.201], 2003.]

18.55.040 Preexisting development.

Areas developed prior to adoption of this title are acknowledged as preexisting conditions and are allowed to be maintained in their status at the time of adoption of this title. For the purposes of this section, "development" means buildings and any other development requiring a building permit, or any alteration of the overlay zone by grading or construction of an impervious surface, including paved or gravel parking areas. [Ord. 720 § 7[2.5.202], 2003.]

18.55.050 Procedures.

A. The procedure for reviewing any development within the natural resources overlay zone is as follows:

1. Any development or regulated vegetation removal proposal within the natural resources overlay zone shall be submitted to the planning official. Such development or vegetation removal shall be conducted in a fashion to require minimal exposure of soil during development and designed to mitigate runoff and limit impervious surfaces in or near riparian areas.

2. Depending on the action requested, the planning official may provide an administrative decision on permitted uses, request additional documentation from a qualified expert, or forward the proposal to the planning commission for a decision.

3. The applicant shall be responsible for the preparation of a quality map showing the precise location of the top-of-bank, 100-year flood elevation, wetland edge (if present), riparian setback, significant vegetation, site improvements or other relevant primary features. The specific features to be indicated on the map will differ according to application type; and therefore, the specific information to be provided by the applicant will be identified by the planning official.

4. For any proposed development within 50 feet of identified significant wetlands, the applicant shall be required to have a wetland delineation conducted to determine the precise wetland boundary, and if applicable, the nature and extent of development impacts on adjacent wetlands. The more precise boundaries obtained through a wetland delineation can be identified, mapped, and used for review and development without a change in the comprehensive plan wetlands map. All developments proposed within or adjacent to a designated wetland area shall be subject to the provisions of

this title and development plan reviews pursuant to this title or other applicable codes.

B. At the time of application, the planning official may request that the applicant submit supplemental information, which may include the following:

1. A grading plan that includes information on terrain, drainage, location of proposed and existing structures, and finished elevations.

2. A vegetation report that consists of a survey by a qualified individual of existing native vegetation and proposed alterations. Where the removal of native vegetation is proposed, measures for revegetation and enhancement with native plant species will be included. The city shall have and maintain a list of native vegetation species. [Ord. 720 § 7[2.5.203], 2003.]

18.55.060 Regulated uses.

The following uses are regulated within natural resource overlay areas identified as locally significant, as provided below.

Table 18.55.060
Land Uses and Activities Allowed in the NR Overlay District

Allowed Uses	Conditional Uses	Prohibited Uses
1) All uses permitted outright as provided for in the underlying zone. 2) Filling, grading, and/or excavating wetland areas consistent with state of Oregon removal-fill regulations. 3) Maintenance, repair, or replacement of existing public facilities. 4) Removal of vegetation or invasive plant species or planting or replanting with native plants outside a riparian corridor, except as provided for below. 5) Removal of vegetation from the riparian zone is prohibited, except for the following uses after planning official approval: (a) Non-native or native vegetation removal unless replaced with native riparian plant species. (b) Water-related or water-dependent uses; provided, they are designed and constructed to minimize impact on the existing riparian vegetation. (c) Emergent in-channel vegetation removal which has the potential to cause flooding. (d) Excess debris removal when deposited by a flood event. (e) Vegetation removal demonstrated to be a potential hazard to property or human life. (f) Hazardous tree removal that poses an obvious and immediate health, safety, or welfare threat to persons or property, except in emergency circumstances, is required to be reviewed by city staff. Any tree removed is required to be replaced by like native species equal in diameter to the removed tree, though not necessarily exceeding two inches in diameter at four feet above grade. Such trees shall be replaced as soon as practical, but in no case longer than 150 days after removal. (g) In-channel erosion or flood control measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers or other state or federal regulatory agency.	1) All uses permitted conditionally as provided for in the underlying zone. 2) Nature interpretive centers and wetland research facilities, when specified in or consistent with adopted plans or policies. 3) Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resources. 4) Trails, boardwalks, viewing platforms, information kiosks, and trail signs. 5) Realignments and reconfigurations of channels and pond banks, including the restoration and enhancement of natural functions and values which involve displacement, excavation or relocation of more than 50 cubic yards of earth and which carry out the objectives of this title. 6) Access road construction for maintenance of channels, wetlands and other natural resource areas. 7) Bikeways and other paved pathways. 8) Stormwater quality treatment facilities that use biofiltration methods.	1) Removal or destruction of rare, threatened or endangered plant species or animal habitat of sensitive or threatened species as found on a list determined by the Oregon Natural Heritage Program and kept on file at Philomath City Hall. 2) Storage or use of chemical pesticides, fertilizers, or other hazardous or toxic materials not associated with an approved use. 3) Within riparian corridors, the placement of structures or impervious surfaces, including grading and the placement of fill is prohibited, except replacement of existing structures with structures located on the original building footprint that do not disturb additional riparian surface area. 4) Property line adjustments or land divisions, which would result in lots or parcels that cannot be developed in conformance with the underlying and natural resources overlay zone regulations.

Table 18.55.060 (Continued)
Land Uses and Activities Allowed in the NR Overlay District

Allowed Uses	Conditional Uses	Prohibited Uses
(h) Routine maintenance of existing site improvements including lawns, natural and planted vegetation and landscaping, and structures. Maintenance trimming of existing trees shall be kept at a minimum and under no circumstances can the trimming maintenance be so severe as to compromise the tree's health, longevity, and resource functions. (i) Site management and maintenance practices, whose purpose is to maintain or improve natural functions and values or protect public health and safety, and which are consistent with adopted plans and policies including, but not limited to, perimeter mowing and other cutting necessary for hazard prevention. (j) Wetland and riparian corridor restoration and enhancement of natural functions and values which involve displacement, excavation or relocation of less than 50 cubic yards of earth, and which carry out the objectives of this title and are consistent with adopted policies and plans. (k) Water-related and water-dependent uses, including drainage facilities, water and sewer utilities, flood control projects, and drainage pumps.		

[Ord. 734 § 1, 2005; Ord. 720 § 7[2.5.204], 2003.]

18.55.070 Appeals.

Any decision by the planning official concerning the wetland protection requirements herein may be appealed to the planning commission and city council pursuant to this title governing appeals. [Ord. 720 § 7[2.5.205], 2003.]

18.55.080 Variances.

The property owner may apply for a hardship variance for waiver of land development limitations found under this chapter for any lot or parcel existing at the time of this chapter and demonstrated to have been rendered not buildable by application of this chapter. A decision regarding hardship variances will follow the procedures and standards of Chapter 18.155 PMC, Variances.

The provisions of this section may be waived and no variance required in those instances where the Division of State Lands verifies claims of map error of a wetland area. [Ord. 720 § 7[2.5.206], 2003.]

18.55.090 Restoration and enhancement exceptions.

Permanent alteration of the riparian area by placement of structures or impervious surfaces may be permitted upon demonstration that equal or better protection for the remaining on-site riparian protection overlay zone area will be ensured through restoration of riparian areas, enhanced buffer treatment or similar measures. In no case shall such alterations occupy more than 50 percent

of the width of the riparian area measured from the upland edge of the corridor. [Ord. 720 § 7[2.5.207], 2003.]

18.55.100 Flood hazard overlay (/FH).

Repealed by Ord. 771. [Ord. 734 § 1, 2005; Ord. 720 § 7[2.5.300], 2003.]

Article II. Flood Damage Prevention

18.55.110 Authorization, findings of fact, purpose and objectives.

A. Authorization. The state of Oregon has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

B. Findings of Fact.

1. The flood hazard areas of the city of Philomath 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 hazard 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 article 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;

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 article 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 floodplains, 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;

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas;

6. Coordinating and supplementing the provisions of the State Building Code with local land use and development ordinances. [Ord. 771 § 2, 2011.]

18.55.120 Definitions.

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

"Appeal" means a request for a review of the interpretation of any provision of this article or a request for a variance.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given

year. Designation on maps always includes the letter A or V.

"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 letter A or V.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Below-grade crawlspace" means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four feet at any point.

"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.

"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 manmade 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, posts, piers, pilings, or columns.

"Existing 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 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.

"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 nonelevation design requirements of this article found at PMC 18.55.150(B)(1)(b).

"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 the ordinance codified in this article.

"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. Four hundred 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 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.

"State Building Code" means the combined specialty codes.

"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 original 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 article which permits construction in a manner that would otherwise be prohibited by this article.

"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. [Ord. 771 § 3, 2011.]

18.55.130 General provisions.

A. Lands to Which This Article Applies. This article shall apply to all areas of special flood hazards within the jurisdiction of the city of Philomath.

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 Benton County, Oregon and incorporated areas," dated June 2, 2011, with the accompanying flood insurance maps, are hereby adopted by reference and declared to be a part of this article. The flood insurance study is on file at Philomath City Hall. The best available information for flood hazard area identification as outlined in PMC 18.55.140(C)(2) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under PMC 18.55.140(C)(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 article and other applicable regulations. Violations of the provisions of this article 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 article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Philomath from taking such other lawful action as is necessary to prevent or remedy any violation.

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

E. Severability. If any section, clause, sentence, or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this article.

F. Interpretation. In the interpretation and application of this article, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes and rules, including the State Building Code.

G. Warning and Disclaimer of Liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article 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 article shall not create liability on the part of the city of Philomath, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder. [Ord. 771 § 4, 2011.]

18.55.140 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 PMC 18.55.130(B). The permit shall be for all structures, including manufactured homes, as set forth in PMC 18.55.120, and for all development including fill and other activities, also as set forth in PMC 18.55.120.

2. Application for Development Permit. Application for a development permit shall be made on forms furnished by the city of Philomath 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 of floodproofing in any structure;

c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the

floodproofing criteria in PMC 18.55.150(B)(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 Local Administrator. The city manager is hereby appointed to administer and implement this article by granting or denying development permit applications in accordance with its provisions.

C. Duties and Responsibilities of the Local Administrator. Duties of the local administrator shall include, but not be limited to:

1. Permit Review.

a. Review all development permits to determine that the permit requirements and conditions of this article 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 PMC 18.55.150(D)(1) are met.

2. Use of Other Base Flood Data (In A and V Zones). When base flood elevation data has not been provided (A and V zones) in accordance with PMC 18.55.130(B), Basis for Establishing the Areas of Special Flood Hazard, the local administrator 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 PMC 18.55.150(B), Specific Standards, and 18.55.150(D), Floodways.

3. Information to Be Obtained and Maintained.

a. Where base flood elevation data is provided through the flood insurance study, FIRM, or as required in subsection (C)(2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) 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 subsection (C)(2) of this section:

i. Verify and record the actual elevation (in relation to mean sea level); and

ii. Maintain the floodproofing certifications required in subsection (A)(2)(c) of this section.

c. Maintain for public inspection all records pertaining to the provisions of this article.

4. Alteration of Watercourses.

a. Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

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 subsection (D) of this section.

6. Appeals of FIRM Boundaries. An appeal from a decision of the administrator regarding a FIRM boundary pursuant to subsection (C)(5) of this section shall be taken to the planning commission. An appeal from the decision of the planning commission regarding a FIRM boundary shall be taken to the city council. Appeals under this section shall be conducted according to the order of procedure set out for discretionary land use decisions. The burden of proof for such an appeal shall be on the applicant. The city manager shall report any such decision to the Federal Insurance Administration upon request.

D. Variance Procedure.

1. Appeal Board.

a. The Philomath planning commission shall hear and decide appeals and requests for variances from the requirements of this article.

b. The Philomath planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or

determination made by the city of Philomath in the enforcement or administration of this article.

c. Those aggrieved by the decision of the Philomath planning commission, or any taxpayer, may appeal such decision to the city council.

d. In passing upon such applications, the city shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:

i. The danger that materials may be swept onto other lands to the injury of others;

ii. The danger to life and property due to flooding or erosion damage;

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

iv. The importance of the services provided by the proposed facility to the community;

v. The necessity to the facility of a waterfront location, where applicable;

vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

vii. The compatibility of the proposed use with existing and anticipated development;

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;

x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

e. Upon consideration of the factors of subsection (D)(1)(d) of this section and the purposes of this article, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

f. The city manager shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

2. Conditions for Variances.

a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items in subsections (D)(1)(d)(i) through (xi) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

b. 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.

c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

e. Variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (D)(1)(d) of this section, or conflict with existing local laws or ordinances.

f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of 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.

g. 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 deter-

mined that such action will have low damage potential, complies with all other variance criteria except subsection (D)(2)(a) of this section, and otherwise complies with PMC 18.55.150(A)(1) and (A)(2).

h. 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 cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. [Ord. 771 § 5, 2011.]

18.55.150 Provisions for flood hazard reduction.

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 consistent with the Oregon Department of Environmental Quality.

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

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 five 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 (PMC 18.55.140(C)(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 the lowest floor 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 PMC 18.55.130(B), Basis for Establishing the Areas of Special Flood Hazard, or PMC 18.55.140(C)(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 to a minimum of 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 flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

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 flood waters.

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 floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this 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 PMC 18.55.140(C)(3)(b);

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1)(b) of this section;

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 finished floor of the manufactured home is elevated to a minimum 18 inches (46 cm) 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 finished floor of the manufactured home is elevated to a minimum of 18 inches (46 cm) 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, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

c. Meet the requirements of subsection (B)(3) of this section and the elevation and anchoring requirements for manufactured homes.

5. Below-Grade Crawlspaces. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:

a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in subsection (B)(5)(b) of this section. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

b. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of flood waters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.

c. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

d. Any building utility systems within the crawlspace must be elevated above BFE or designed so that flood waters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from flood waters.

e. The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

f. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

g. There must be an adequate drainage system that removes flood waters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

h. The velocity of flood waters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

For more detailed information refer to FEMA Technical Bulletin 11-01.

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 subsection (B) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Except as provided in subsection (D)(3) of this section, 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 subsection (D)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

3. Projects for stream habitat restoration may be permitted in the floodway, provided:

a. The project qualifies for a Department of the Army, Portland District, Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and

b. A qualified professional (a registered professional engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and

c. No structures would be impacted by a potential rise in flood elevation; and

d. An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

4. New installation of manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:

a. If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or

b. A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:

i. As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;

ii. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the flood insurance rate map;

iii. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;

iv. The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;

v. The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and

vi. Any other requirements deemed necessary by the authority having jurisdiction.

E. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits 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 above BFE 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 flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. [Ord. 771 § 6, 2011.]

Division 3. Design Standards

Chapter 18.60

DESIGN STANDARD ADMINISTRATION

Sections:

18.60.010 Applicability.
18.60.020 Types of design standards.

18.60.010 Applicability.

All developments within the city must comply with the provisions of Chapters 18.60 through 18.90 PMC. 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. [Ord. 734 § 1, 2005; Ord. 720 § 7[3.0.1], 2003.]

18.60.020 Types of design standards.

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

A. The following design standards apply throughout the city for all land use types:

Chapter 18.65 PMC, Access and Circulation.

Chapter 18.70 PMC, Landscaping, Street Trees, Fences and Walls.

Chapter 18.75 PMC, Automobile and Bicycle Parking.

Chapter 18.80 PMC, Public Facilities Standards.

Chapter 18.85 PMC, Hillside and Erosion Control Overlay.

Chapter 18.90 PMC, Other Design Standards.

B. Each land use district (Division 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 commercial 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. [Ord. 720 § 7[3.0.2], 2003.]

Chapter 18.65

ACCESS AND CIRCULATION

Sections:

18.65.010 Purpose.
18.65.020 Vehicular access and circulation.
18.65.030 Pedestrian access and circulation.

18.65.010 Purpose.

The purpose of this chapter is to ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles. PMC 18.65.020 provides standards for vehicular access and circulation. PMC 18.65.030 provides standards for pedestrian access and circulation. Standards for transportation improvements are provided in PMC 18.80.020. [Ord. 720 § 7[3.1.1], 2003.]

18.65.020 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 an adequate level of service and to maintain the functional classification of roadways as required by the city's transportation system 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 all 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 PMC 18.80.020.) 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 chapter shall apply to all public streets within the city and to all properties that abut these streets.

C. Access Permit Required. Access to a public street requires an access permit in accordance with the following procedures:

1. Permits for access to city streets shall be subject to review and approval by the public works director based on the standards contained in this chapter, and the provisions of PMC 18.80.020, Transportation improvements. 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. Permits for access to state highways shall be subject to review and approval by Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the city. In that case, the city shall determine whether access is granted based on its adopted standards.

3. Permits for access to county roads shall be subject to review and approval by Benton 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 PMC 18.80.020, Transportation improvements.)

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. Access to and from off-street parking areas shall not permit backing onto a public street, excepting for single-family or duplex residential uses.

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 (a minimum of 10 feet per lane is required). These methods are "options" to the developer/subdivider, unless one method is specifically required by Division 2 (i.e., under Special Standards for Certain Uses).

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.

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 subsection (G) of this section.

4. Subdivisions Fronting Onto an Arterial Street. New residential land divisions fronting onto 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, access may be provided by consolidating 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 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 10 feet wide shall be provided between the backyard fence/wall and the sidewalk or street; maintenance shall be assured by the owner (i.e., through homeowner's association, etc.).

6. Important Cross-References to Other Code Sections. Divisions 2 and 3 may require buildings placed at or near the front property line and driveways and parking areas to be 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 PMC 18.80.020, Transportation improvements.)

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

1. Local Streets. A minimum of 35 feet separation as measured from the sides of the driveway to a parallel street shall be required, except as provided in subsection (G)(3) of this section.

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 based on the policies and standards contained in the city's transportation system plan or Manual for Uniform Traffic Control Devices. Access to Highway 20/34 shall be subject to the applicable standards and policies contained in the ODOT Highway Corridor Plan.

3. Special Provisions for All Streets. Direct street access may be restricted for some land uses, in conformance with the provisions of Division 2, Land Use Districts. For example, access consolidation, shared access, and/or access separation greater than that specified by subsections (G)(1) and (G)(2) of this section, may be required by the city, county or ODOT for the purpose of protecting the function, safety and operation of the street for all users. (See subsection (I) of this section.) 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.

H. Number of Access Points. For single-family dwellings, one street access point is permitted per lot, when alley access cannot otherwise be provided. Two access points may be permitted for duplex or multifamily housing (i.e., no more than one access per street), subject to the access spacing standards in subsection (G) of this section. 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 subsection (I) of this section, in order to maintain the required access spacing and minimize the number of access points.

I. Shared Driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The city shall require shared driveways as a condition of land division or site design review, 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 (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval (Chapter 18.115 PMC) or as a condition of site development approval (Chapter 18.110 PMC).

3. Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, parcel configuration, and similar conditions) prevent extending the street/driveway in the future.

J. Street Connectivity and Formation of Blocks Required. 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, bicycle or pedestrian pathways, in accordance with the following standards:

1. Block Length and Perimeter. The maximum block length and perimeter shall not exceed:

a. Six hundred feet length and 1,600 feet perimeter in the residential districts;

b. Four hundred feet length and 1,200 feet perimeter in the commercial districts, except as provided by PMC 18.40.040, Block layout and building orientation;

c. Not applicable to the industrial districts.

2. Street Standards. Public and private streets shall also conform to PMC 18.80.020, Transportation improvements, PMC 18.65.030, Pedestrian access and circulation, and applicable Americans with Disabilities Act (ADA) design standards.

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 PMC 18.65.030(A). Pathways shall be located to minimize out-of-direction travel by pedestrians and may be designed to accommodate bicycles.

K. *Repealed by Ord. 778.*

L. Fire Access and Parking Area Turnarounds. A fire equipment access drive that conforms to the local requirements 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 turnaround 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, please refer to PMC 18.80.020(J).

M. Vertical Clearances. Driveways, private streets, aisles, turnaround areas and ramps shall have a minimum vertical clearance of 13 feet, six inches 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." The minimum vision clearance area may be increased by the city manager upon finding that more sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). [Ord. 778 § 3, 2011; Ord. 734 § 1, 2005; Ord. 720 § 7[3.1.2], 2003.]

18.65.030 Pedestrian access and circulation.

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 (A)(1) through (A)(3) of this section:

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 PMC 18.65.020, Vehicular access and circulation, and PMC 18.80.020, Transportation improvements.

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. 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. 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, 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 PMC 18.65.020. 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, as applicable. 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 public 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; and

e. The hearings body or planning official may determine, based upon facts in the record, that a pathway is unnecessary given the proximity of other pathways or access route. The pathway may prove impracticable due to: physical or topographic conditions on adjacent properties that physically prevent a connection now or in the future, considering the potential for redevelopment; recorded leases, easements, covenants, restrictions, or other agreements recorded as of the effective date of this title prohibit the pathway connection.

B. Design and Construction. Pathways shall conform to all of the standards in subsections (B)(1) through (B)(5) of this section:

1. Vehicle/Pathway Separation. Where pathways are parallel and adjacent to a driveway or street (public or private), they shall be raised six inches and curbed, or separated from the driveway/street by a five-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 five 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 18.75 PMC. 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 thermoplastic 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 six 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 PMC 18.80.020.)

5. Accessible Routes. Pathways shall comply with the Americans with Disabilities Act, which requires accessible routes of travel. [Ord. 737 § 1, 2006; Ord. 720 § 7[3.1.3], 2003.]

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Chapter 18.70

LANDSCAPING AND STREET TREES

Sections:

18.70.010 Purpose.
18.70.020 Landscape conservation.
18.70.030 New landscaping.
18.70.040 Street trees.
18.70.050 *Repealed.*

18.70.010 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.

This chapter is organized into the following sections:

PMC 18.70.020, Landscape conservation, prevents the indiscriminate removal of significant trees and other vegetation, including vegetation associated with streams, wetlands and other protected natural resource areas. This section cross-references Chapter 18.55 PMC, which regulates development of sensitive lands.

PMC 18.70.030, 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 Division 2, Land Use Districts, for specific types of development.

PMC 18.70.040, Street trees, sets standards for and requires planting of trees along all streets for shading, comfort and aesthetic purposes. [Ord. 779 § 2, 2012; Ord. 734 § 1, 2005; Ord. 720 § 7[3.2.1], 2003.]

18.70.020 Landscape conservation.

A. Applicability. All development sites containing significant vegetation, as defined in subsection (B) of this section, shall comply with the standards of this section. The purpose of this section is to incorporate significant native vegetation into the landscapes of development and protect vegetation that is subject to requirements for sensitive lands (Chapter 18.55 PMC). The use of mature, native vegetation within developments is a preferred alternative to removal of vegetation and replanting. Mature landscaping provides summer shade and wind breaks, and allows for water conservation due to larger plants having established root systems.

B. Significant Vegetation. "Significant vegetation" means:

1. Significant Trees and Shrubs. Individual trees and shrubs with a trunk diameter of six inches or greater, as measured four feet above the ground (DBH), and all plants within the drip-line of such trees and shrubs, shall be deemed significant. Other trees may be deemed significant when nominated by the property owner and designated by the city council as heritage trees (i.e., by virtue of site, rarity, historical significance, etc.).

2. Sensitive Lands. Trees and shrubs on sites that have been designated as sensitive lands, in accordance with Chapter 18.55 PMC (e.g., due to slope, natural resource areas, wildlife habitat, etc.) and Chapter 18.85 PMC (hillside and erosion control) shall be protected.

3. Exception. Protection shall not be required for plants listed as non-native, invasive plants by the Oregon State University Extension Service in the applicable OSU bulletins for Benton County.

C. Mapping and Protection Required. Significant vegetation shall be mapped as required by Chapter 18.110 PMC, Development Review and Site Design Review, and Chapter 18.55 PMC, Overlay Districts. Significant trees shall be mapped individually and identified by species and size (diameter at four feet above grade, or DBH). A protection area shall be defined around the edge of all branches (drip-line) of each tree (drip-lines may overlap between trees). The city also may require an inventory, survey, or assessment prepared by a qualified professional when necessary to determine vegetation boundaries, building setbacks, and

other protection or mitigation requirements.

D. Protection Standards. All of the following protection standards shall apply to significant vegetation areas:

1. Protection of Significant Trees (subsection (B)(1) of this section). Significant trees identified as meeting the criteria in subsection (B)(1) of this section shall be retained whenever practicable. Preservation may become impracticable when it would prevent reasonable development of public streets, utilities, or land uses permitted by the applicable land use district.

2. Sensitive Lands (subsection (B)(2) of this section). Sensitive lands shall be protected in conformance with the provisions of Chapter 18.55 PMC.

3. Conservation Easements and Dedications. When necessary to implement the comprehensive plan, the city may negotiate dedication of land or recordation of a conservation easement to protect sensitive lands, including groves of significant trees.

E. Construction. All areas of significant vegetation shall be protected prior to, during, and after construction. Grading and operation of vehicles and heavy equipment is prohibited within significant vegetation areas, except as approved by the city for installation of utilities or streets. Such approval shall only be granted after finding that there is no other reasonable alternative to avoid the protected area, and any required mitigation is provided in conformance with Chapter 18.55 PMC, Overlay Districts.

F. Exemptions. The protection standards in subsection (D) of this section shall not apply in the following situations:

1. Dead, Diseased, and/or Hazardous Vegetation. Vegetation that is dead or diseased, or poses a hazard to personal safety, property or the health of other trees, may be removed. Prior to tree removal, the applicant shall provide a report from a certified arborist or other qualified professional to determine whether the subject tree is diseased or poses a hazard, and any possible treatment to avoid removal, except as provided by subsection (F)(2) of this section.

2. Emergencies. Significant vegetation may be removed in the event of an emergency without land use approval pursuant to Division 4, when the vegetation poses an immediate threat to life or safety, as determined by the planning official. The city official shall prepare a notice or letter of decision within 21 days of the tree(s) being removed. The decision letter or notice shall explain the nature of the emergency and be on file and available for public review at City Hall. [Ord. 799 § 12, 2015; Ord. 734 § 1, 2005; Ord. 720 § 7[3.2.2], 2003.]

18.70.030 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 PMC 18.110.050(B)(4), Landscape Plan.

C. Landscape Area Standards. The minimum percentage of required landscaping equals:

1. Residential districts: 20 percent of the site.

2. Commercial districts: 10 percent of the site.

3. Industrial districts: A minimum of 20 percent of the site shall be landscaped.

4. Public and other districts: 70 percent of setback adjacent to public street.

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 deciduous and evergreen trees, shrubs and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions. As necessary, soils shall be amended to allow for healthy plant growth.

3. Non-native, invasive plants, as per PMC 18.70.020(B), shall be prohibited.

4. Hardscape features (i.e., patios, decks, plazas, etc.) may cover up to 60 percent of the required landscape area, except in the central and general commercial and all industrial districts, where hardscape features may cover up to 80 percent of the landscape area. Swimming pools, sports courts and similar active recreation facilities may not be counted toward fulfilling the landscape requirement.

5. Nonplant Ground Covers. Bark dust, chips, aggregate or other nonplant ground covers

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may be used, but shall cover no more than 50 percent of the area to be landscaped. Coverage is measured based on the size of plants at maturity or after four years of growth, whichever comes sooner.

6. Tree Size. Trees shall have a minimum caliper size of one and one-half inches or greater, or be eight feet or taller, at time of planting.

7. Shrub Size. Shrubs shall be planted from one gallon containers or larger.

8. Ground Cover Size. Ground cover plants shall be sized and spaced so that they grow together to cover a minimum of 100 percent of the underlying soil within four years.

9. Significant Vegetation. Significant vegetation preserved in accordance with PMC 18.70.020 may be credited toward meeting the minimum landscape area standards. Credit shall be granted on a per-square-foot basis. The street tree standards of PMC 18.70.040 may be waived when trees preserved within the front yard provide the same or better shading and visual quality as would otherwise be provided by street trees.

10. Stormwater Facilities. Stormwater facilities (e.g., detention/retention ponds and swales) shall be landscaped with water tolerant, native plants.

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 (PMC 18.70.010 through 18.70.050). 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. Retain natural vegetation, as practicable;

d. Define pedestrian pathways and open space areas with landscape materials;

e. Provide focal points within a development, such as signature trees (i.e., large or unique trees), hedges and flowering plants;

f. Use trees to provide summer shading within common open space areas, and within front yards when street trees cannot be provided;

g. Use a combination of plants for year-long color and interest; and

h. 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 five 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 four feet by four feet to ensure adequate soil, water, and space for healthy plant growth.

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, landscaped berm or similar screen shall be established parallel to the street or driveway to the greatest extent practical, excluding vision clearance areas.

The required screening device shall be no less than 36 inches in height within one year of development and not exceed 42 inches in height unless the street grade dictates otherwise to buffer the parking area. 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 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 five 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.

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 of 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 18.65 PMC, Access and Circulation. (See PMC 18.70.050 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. All other landscape features required by this title shall be maintained in good condition or otherwise replaced by the owner.

G. Additional Requirements. Additional buffering and screening may be required for specific land uses, as identified by Division 2, and the city may require additional landscaping through the conditional use permit process (Chapter 18.120 PMC). [Ord. 720 § 7[3.2.3], 2003.]

18.70.040 Street trees.

Street trees should be planted for all developments that are subject to land division or site design review. Requirements for street tree planting strips are provided in PMC 18.80.020, Transportation improvements. 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 desired.
2. Use low-growing trees for spaces under utility wires.
3. Select trees that 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.
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 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 one and one-half 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. As an alternative the city may accept a fee or performance bond 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. [Ord. 720 § 7[3.2.4], 2003.]

18.70.050 Fences and walls.

Repealed by Ord. 779. [Ord. 720 § 7[3.2.5], 2003.]

Chapter 18.72

FENCES, HEDGES AND WALLS

Sections:

18.72.010 Purpose.
18.72.020 Definitions.
18.72.030 General provisions.

18.72.010 Purpose.

It is the purpose of this chapter to establish the standards and provisions wherein fences, hedges and walls may be constructed within the city of Philomath. Emphasis has been placed on preserving the health, safety and general welfare of citizens; to provide for preservation of land values through the development of an aesthetic community environment; and to balance these goals without undue hardship to private property owners' rights. [Ord. 779 § 1, 2012.]

18.72.020 Definitions.

For purposes of this chapter, all definitions found in PMC 18.15.010 are hereby incorporated and deemed effective. Additional definitions are as follows:

"Arbors" shall refer to a separate attached or freestanding structure with open or lattice style roof and walls typically found surrounding gates or entrances.

"Back" refers to that area of property falling predominantly behind the structure and typically opposite to the face or front side. "Yard, front" and "Yard, rear" are defined in PMC 18.15.010.

"Fence" shall be any barrier, naturally grown or constructed, for the purposes of confinement, as a means of protection or use as a boundary.

"Front" of a structure shall be defined as that side which faces in the direction of the physical address of the property as recognized by the U.S. Postal Service and/or contains the primary driveway by which vehicular access is obtained. On corner lots the primary front is determined by vehicle access and the secondary front is the adjacent side. "Yard, front" and "Yard, rear" are defined in PMC 18.15.010.

"Gateways" and/or "gates" are those openings found in any wall or fence positioned for use as a passage through the wall or fence whether open or controlled.

"Hedges" are typically vegetation planted for the purpose of serving as a boundary, buffer or divider between areas, or for landscaping or privacy.

"Lattice" or "latticework" is defined as a framework of cross wood or metal strips, predominantly open sighted, and designed for decorative or landscaping purposes.

"Open sighted" shall refer to fences or materials providing for 50 percent or less vision obstruction.

"Privacy screens" are a section of solid fencing that blocks direct vision into or out of a door or window, or that surrounds a deck or patio.

"Sight obscuring" shall be any material of a nature such that visibility is blocked by greater than 50 percent of the area covered or appearing opaque when viewed from any angle at a point 25 feet away.

"Trellis" is a structure of open lattice design intended for use to support the growth of vegetation or for decorative purposes. [Ord. 779 § 1, 2012.]

18.72.030 General provisions.

A. Permits.

1. No permit shall be required for placement of fences or hedges that comply with the provisions of this chapter.

2. Retaining walls shall be subject to permitting requirements when greater than four feet in height.

3. Owners intending to place fences, walls or hedges within any public utility easement or right-of-way shall be required to secure an encroachment permit from the city council prior to the commencement of the project.

B. Locations.

1. Fences, hedges and walls may be located within required yard setbacks; provided, that they comply with the provisions contained herein.

2. Corner lots may have side yard fencing out to the sidewalk, within six feet of the curb, or property line where neither a curb nor sidewalk exists.

3. Fences, hedges and walls may be placed within vision clearance areas up to a height of four feet where such features comply with the open sighted provision defined in this chapter. For purposes of this chapter vision clearance areas shall be as defined in PMC 18.15.010 with the two side dimensions being not less than seven and one-half feet for drives and where the back yard of any property abuts the front yard of an adjacent property.

4. Privacy screens may be situated anywhere within the back or side yard areas of any property where a setback of at least 10 feet from the property line is observed. When situated in any residential front yard the setback shall be not less than 15 feet from the street property line, but in no event shall the privacy screen be greater than 10 feet from the front of the residence. Front privacy screens may not extend more than two feet beyond either side of the obscured doorway or window.

5. Fences, hedges and walls shall be located not less than five feet in radius from any fire hydrant or street sign.

6. Sight obscuring fences, walls or hedges may be required to screen activities such as garbage collection, recycling or for mechanical fixtures as part of the city's review and approval process.

7. For any industrial or public zone fences, walls or hedges may be located or maintained in any yard except for the front and/or where vision clearance areas must be observed.

C. Heights.

1. Back and Side Yards.

a. Heights, including privacy screens, shall be limited to six feet where placement is across a back, interior or side of the lot up to the front face of the dwelling.

b. Lattice and/or trellis may be placed up to 18 inches over the top of the wall, fence or privacy screen across a back, interior or side provided it meets the definition of open sighted construction, and does not exceed seven and one-half feet in total height.

c. When facing any public right-of-way, pedestrian gates and trellises used as entry features shall not exceed eight feet in height or five feet in width. No entry feature may extend more than three feet in depth.

d. Where back or side yards are adjacent to nonresidential property or railways, hedges may be allowed to grow to a height of 10 feet from grade for privacy or noise abatement purposes.

2. Front Yards.

a. When placed in front areas or front yards, heights shall be limited to four feet except

for front privacy screens which shall not exceed six feet in total height.

b. When facing any public right-of-way, pedestrian gates and trellises used as entry features shall not exceed eight feet in height or five feet in width. No entry feature may extend more than three feet in depth.

3. Corner Lots. Where a rear yard is abutting the adjacent property's front yard, the fence, wall or hedge shall be placed and sized to provide for a vision clearance area. The rear yard fence, hedge or wall may be no higher than four feet above the sidewalk or grade.

4. Fences on Retaining Walls. Fences located atop retaining walls may follow the height requirements above where the top of the retaining wall is at grade on at least one side. Where the grade on either side of the wall is below the top of the wall, the overall height of the fence/wall combination shall be measured from the higher of the grades on either side.

5. Berms.

a. Fences, walls, or hedges to be placed atop berms shall have their overall height determined based on the grade in effect prior to construction of the berm.

b. In front yards, vision obscuring fences and berms shall not exceed a total overall height of four feet from the lower of the original grade or the center of the adjacent street.

c. Berms may not be greater than 18 inches in height over the preconstruction or natural grade.

6. Fences, walls or hedges located in any industrial or public zones shall not exceed eight feet in height except for designated sports fields where additional heights may be required to provide for public safety.

D. Materials and Styles.

1. Fences and walls in front yards and/or vision clearance areas may be of a chain-link or picket style and must meet the definition of open sighted for purposes of this chapter. This open sighted provision applies to hedges and landscaping as well.

2. Walls or fences shall not be constructed of, or contain any, materials that could do bodily harm including, but not limited to, broken glass, spikes, razor wire or any other hazardous or dangerous materials.

3. Hedges adjacent to any street or sidewalk, alley or other pedestrian right-of-way shall not be of a type consisting of sharp thorns, leaves or needles that could prove harmful when contacted. Examples include holly, blackberry, or cactus.

4. Fences shall be constructed from materials customarily used for such purposes, typically chain link, decorative wrought iron, synthetics, pressure treated lumber, cedar, redwood or similar. Fences and walls shall not be constructed from materials not originally intended for that purpose. Prohibited materials include, but are not limited to, pallets, tarps, tires, wheel rims, drywall, plywood, firewood stacks, plastic sheeting, and corrugated sheet stock.

5. Walls may be constructed of stone, rock, masonry, concrete, boulders, brick or other similar material.

6. Berms shall be of earthen type capable of supporting vegetation and shall be constructed such that no erosion of the materials shall transfer onto adjacent streets or sidewalks.

7. A hedge or other dense landscaping may be used to satisfy a requirement for a sight obscuring fence where required, subject to height restrictions specified for the location.

E. Restricted Fences.

1. Barbed or razor wire fences are allowed only in agricultural areas where little chance of inadvertent contact by humans could occur or in nonresidential areas where barbs or razor wire shall be not less than six and one-half feet above grade and situated on top of otherwise approved fencing.

2. Electrified fences are allowed only where said fence is completely enclosed inside a property boundary by a barrier type fence that satisfies the provisions of this chapter, or on the outer boundary of the city limits bordering county zoning districts; or in approved agricultural areas where no chance of inadvertent contact by humans could occur. All electrified fencing shall be conspicuously marked as being such.

3. All wire, twine, rope, plastic or other flexible mesh style fencing is prohibited in residential areas within four feet of any sidewalk or public right-of-way. However, fencing of a temporary nature for use around construction sites and such may consist of appropriate forms of these materials.

F. Maintenance. Fences and walls shall be structurally maintained in a safe condition of repair and shall not be allowed to become and/or remain in a condition of disrepair including, but not limited to, noticeable leaning, broken supports or framing and growth of noxious vegetation.

G. Other Provisions.

1. In no event shall any gate, door or portion of said fencing be allowed to open outward across any sidewalk, curb, street or other public right-of-way.

2. Fences, walls or hedges on the back of through lots, except corner lots, that would otherwise be considered back yard features shall be treated in accordance with front yard provisions for portions of the lot 10 feet or closer to any sidewalk, curb, street or other public right-of-way.

3. Where fencing is adjacent to any street or sidewalk, the exposed framing side of the fence shall face inward toward the lot.

4. Where fencing or wall designs use pickets or points as ornamental or architectural features, said features shall be rounded or otherwise blunted to provide for public safety.

5. Swimming pools, hot tubs, ponds and similar water features greater than one foot deep shall be surrounded and screened with a minimum four-foot-high secured fence or wall or be equipped with a functional latching cover. The fence or wall must have a self-latching gate in accordance with Chapter 15.15 PMC.

H. Variances. Variances to any requirements of this code shall be processed in accordance with Chapter 18.155 PMC, Variances. [Ord. 799 § 13, 2015; Ord. 779 § 1, 2012.]

Chapter 18.75

VEHICLE AND BICYCLE PARKING

Sections:

18.75.010 Purpose.
18.75.020 Applicability.
18.75.030 Vehicle parking standards.
18.75.040 Bicycle parking requirements.

18.75.010 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. [Ord. 720 § 7[3.3.1], 2003.]

18.75.020 Applicability.

All developments subject to site design review (Chapter 18.110 PMC), including development of parking facilities, shall comply with the provisions of this chapter. [Ord. 720 § 7[3.3.2], 2003.]

18.75.030 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 subsection (A) of this section. 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 subsection (B) of this section.

In the C-1, central commercial zone, any building or structure constructed prior to January 1, 2015, shall be exempt from the off-street parking standards if the owner signs and records on the property a non-remonstrance agreement against the formation of a future parking district. Such buildings or structures may be modified internally, allow for a change of use, or expand the use provided the gross building volume is not increased. If an increase in gross building floor area is requested, off-street parking will only be required for that incremental increase.

A. Vehicle Parking – Minimum Standards.

1. Residential Uses.

a. Accessory Dwelling. None required.

b. Manufactured Home Parks. Same as for single-family detached housing.

c. Multifamily and Single-Family Attached Housing.

i. Studio units or one-bedroom units less than 500 square feet: one space/unit.

ii. One-bedroom units 500 square feet or larger: one and one-half spaces/unit.

iii. Two-bedroom units: one and three-quarters spaces/unit.

iv. Three-bedroom or greater units: two spaces/unit.

v. Retirement complexes: one space per unit.

d. Senior Housing. Same as for retirement complexes.

e. Single-Family and Duplex Housing. Two parking spaces shall be provided for each detached single-family dwelling or manufactured home on an individual lot.

2. Commercial Uses.

a. 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; and one space per two employees.

b. 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.

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

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

e. 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.

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f. Restaurants, Bars, Ice Cream Parlors and Similar Uses. One space per four seats or one space per 100 square feet of gross leasable floor area, whichever is less.

g. Theaters, Auditoriums, Stadiums, Gymnasiums, Similar Uses. One space per four seats.

3. Industrial Uses.

a. 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.

b. 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.

c. 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.

4. Public and Institutional Uses.

a. Child Care Centers Having 13 or More Children. One space per two employees; a minimum of two spaces is required.

b. Churches and Similar Places of Worship. One space per four seats.

c. 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.

d. 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.

e. Hospitals. Two spaces per patient bed.

f. Nursing and Convalescent Homes. One space per three patient beds.

g. Public Assembly Areas. One space for each eight lineal feet of bench length, four seats, or four persons as defined by occupancy loads.

h. Rest Homes, Homes for the Aged, or Assisted Living. One space per two patient beds or one space per apartment unit.

i. Schools, Elementary, Junior High and High. One and one-half space per classroom, or the requirements for public assembly areas as set forth herein, whichever is greater, for elementary and junior high schools. For high schools, one and one-half spaces per classroom, plus one space per 10 students the school is designed to accommodate, or the requirements for public assembly as set forth herein, whichever is greater.

5. Unspecified Uses. Where a use is not specifically listed in this section, parking requirements shall be determined by finding that a use is similar to those listed in terms of parking needs.

B. Credit for On-Street Parking. The amount of off-street parking required shall be reduced by one off-street parking space for every on-street parking space adjacent to the development, which would not obstruct a required clear vision area, nor any other parking that violates any law or street standard. On-street parking shall follow the established configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by city, ODOT and/or county standards. The following constitutes an on-street parking space:

1. Parallel parking, each 24 feet of uninterrupted curb;

2. Forty-five/sixty degree diagonal, each 16 feet of uninterrupted curb;

3. Ninety degree (perpendicular) parking, each 10 feet of uninterrupted curb;

4. Curb space must be connected to the lot which contains the use;

5. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces is permitted unless otherwise approved by the city.

C. 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 title. Specific locations for parking are indicated in Division 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 Chapter 18.65 PMC, Access and Circulation.)

2. Off-Site Parking. Except for residential dwellings, the vehicle parking spaces required by this chapter may be located on another parcel of land, provided the parcel is within 500 feet 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); provided, that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.

D. 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 percent. Spaces provided on-street, or within the building footprint of structures, such as in rooftop parking, or under-structure parking, or in multilevel parking above or below surface lots, may not apply towards the maximum number of allowable spaces. Parking spaces provided through shared parking also do not apply toward the maximum number.

E. Parking Stall Standard Dimensions and Compact Car Parking. All off-street parking stalls shall be improved to conform to city standards for surfacing, stormwater management and striping, and provide dimensions in accordance with the following table. (Disabled person parking shall be provided in conformance with subsection (F) of this section.)

Figure 18.75.030(E) – Parking Stall Dimensions.

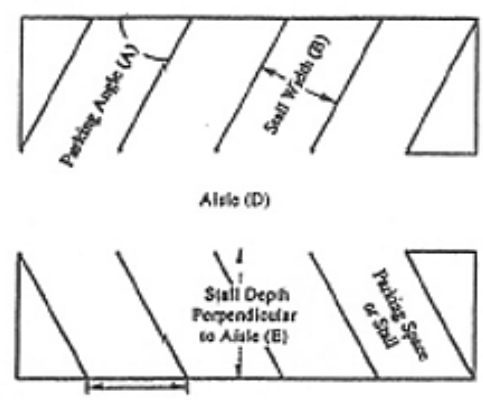

Table 18.75.030(E)
Minimum Parking Space and Aisle Dimensions

Angle (A)	Type	Width (B)	Curb Length (C)	1-Way Aisle Width (D)	2-Way Aisle Width (D)	Stall Depth (E)
0° (Parallel)	Standard	8 ft.	22 ft. 6 in.	12 ft.	24 ft.	8 ft.
	Compact	7 ft. 6 in.	19 ft. 6 in.	12 ft.	24 ft.	7 ft. 6 in.
30°	Standard	9 ft.	18 ft.	12 ft.	24 ft.	17 ft.
	Compact	7 ft. 6 in.	15 ft.	12 ft.	24 ft.	14 ft.
45°	Standard	9 ft.	12 ft. 6 in.	12 ft.	24 ft.	19 ft.
	Compact	7 ft. 6 in.	10 ft. 6 in.	12 ft.	24 ft.	16 ft.
60°	Standard	9 ft.	10 ft. 6 in.	18 ft.	24 ft.	20 ft.
	Compact	7 ft. 6 in.	8 ft. 6 in.	15 ft.	24 ft.	16 ft. 6 in.
90°	Standard	9 ft.	9 ft.	24 ft.	24 ft.	19 ft.
	Compact	7 ft. 6 in.	7 ft. 6 in.	22 ft.	24 ft.	15 ft.

F. Disabled Person Parking Spaces. Parking shall be provided for disabled persons, in conformance with the Americans with Disabilities Act.

Table 18.75.030(F)
Minimum Number of Accessible Parking Spaces
ADA Standards of Accessible Design 4.1.2(5)

Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60″ and 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	8
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	

[Ord. 799 § 14, 2015; Ord. 737 § 1, 2006; Ord. 720 § 7[3.3.3], 2003.]

18.75.040 Bicycle parking requirements.

All uses which are subject to site design review shall provide bicycle parking, in conformance with the following standards, which are evaluated during site design review:

A. Number of Bicycle Parking Spaces. A minimum of two bicycle parking spaces per use for all uses with greater than 10 vehicle parking spaces. The following additional standards apply to specific types of development:

1. Multifamily Residences. Every residential use of three or more dwelling units provides at least one accessible, 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. Parking Lots. All public and commercial parking lots and parking structures provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces.

3. Schools. Elementary and middle schools, both private and public, provide one bicycle parking space for every 10 students and employees. High schools provide one bicycle parking space for every five students and employees. At least one-half of the spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.

4. Colleges and trade schools shall provide one bicycle parking space for every 10 motor vehicle spaces, plus one space for every dormitory unit. At least one-half of the bicycle parking spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.

5. Commercial Districts. Within the commercial districts, bicycle parking for customers shall be provided at a rate of at least one space per use. Individual uses may provide their own parking, or spaces may be clustered to serve up to six bicycles. Bicycle parking spaces should be located in front of the stores along the street, either on the sidewalks or in specially constructed areas such as pedestrian curb extensions. Bicycle parking shall not interfere with pedestrian passage, leaving a clear area of at least 48 inches between bicycles and other existing and potential obstructions. Customer spaces may or may not be sheltered. When provided, sheltered parking (within a building, or under an eave, overhang, or similar structure) should be provided at a rate of one space per 10 employees, with a minimum of one space per store.

6. 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 and two-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. 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, streetlights, planters and other pedestrian amenities.

D. Design. “Inverted U” or “staple” style racks are recommended. Bicycle racks shall provide a secure point of contact so that both the frame and wheel of a bicycle may be locked to the rack using a standard U lock. Bicycle racks are recommended to provide two points of contact between the rack and the bicycle in order to hold the bicycle securely and prevent pivoting or tipping. Individual “inverted U” or “staple” style racks shall be placed to encourage bicycles to be parked parallel to the rack and achieve maximum capacity. Where multiple racks are placed together, racks shall be placed parallel to each other spaced on four-foot centers to allow access to both sides of each rack. Racks shall be placed so that a six-foot bicycle may be parked without interference from nearby walls or fixed objects.

E. 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.

F. 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.

G. Lighting. Bicycle parking should be as well lit as vehicle parking for security.

H. Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located to not conflict with vision clearance standards (Chapter 18.65 PMC, Access and Circulation). [Ord. 777 § 1, 2011; Ord. 720 § 7[3.3.4], 2003.]

Chapter 18.80

PUBLIC FACILITIES STANDARDS

Sections:

18.80.010 Purpose and applicability.
18.80.020 Transportation improvements.
18.80.030 Public use areas.
18.80.040 Sanitary sewer and water service improvements.
18.80.050 Storm drainage.
18.80.060 Utilities.
18.80.070 Easements.
18.80.080 Construction plan approval and assurances.
18.80.090 Installation.

18.80.010 Purpose and applicability.

A. Purpose. The purpose of this chapter is to provide planning 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, bus transit, 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 18.65 PMC, Access and Circulation, provides standards for intersections and blocks, and requires pedestrian access ways to break up long blocks.

B. When Standards Apply. 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.

C. Standard Specifications. The city shall establish standard construction specifications consistent with the planning standards of this chapter and application of engineering principles. They are incorporated in this title by reference. Where a conflict should occur, the design specifications shall prevail.

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 title. 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. [Ord. 720 § 7[3.4.0], 2003.]

18.80.020 Transportation improvements.

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 18.65 PMC, Access and Circulation, and the following standards are met:

1. Streets within or adjacent to a development shall be improved in accordance with the comprehensive plan, 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 shall be paved; and

4. The city may accept a future improvement guarantee (e.g., owner agrees not to object against the formation of a local improvement district in the future) 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 likely 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 18.155 PMC, 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 and the deeded right-of-way conforms to the standards of this title. All deeds of dedication shall be in a form prescribed by the city and shall name "the public," as grantee.

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 18.65 PMC, Access and Circulation. Access easements shall be created and maintained in accordance with the applicable provisions of the Uniform Fire Code.

E. Street Location, Width and Grade. Except as noted below, the location, width and grade of all streets shall conform to the TSP and design specifications, as applicable, 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.

Where the location of a street is not shown in an existing street plan, the location of streets in a development shall either:

1. Provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this chapter; or

2. Conform to a street plan approved by the city, 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. Extension Preclusion. Any development that would preclude the logical extension of an existing street may be modified or rejected by the planning official.

G. Minimum Rights-of-Way and Street Sections. Street rights-of-way and improvements shall conform to the applicable design specification. 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 comprehensive plan and/or 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 in Chapter 18.55 PMC and/or the comprehensive plan;

8. Street tree location, as provided for in Chapter 18.70 PMC;

9. Protection of significant vegetation, as provided for in Chapter 18.70 PMC;

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.

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.

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 or partition in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within 100 feet surrounding and adjacent to 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 to permit a satisfactory future division of adjoining land. The point where the streets temporarily end shall conform to subsections (H)(2)(a) through (H)(2)(c) of this section:

a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs 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 turnarounds (e.g., hammerhead or bulb-shaped configuration) shall be constructed for stub streets over 150 feet in length.

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 title. 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 percent 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 topographical 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 and transit facilities.

I. Sidewalks, Planter Strips, Bicycle Lanes. Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the 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.

J. Cul-de-Sacs. A dead-end street shall be no more than 600 feet long and shall only be used when environmental or topographical constraints, existing development patterns, or compliance with other standards in this title preclude street extension and through-circulation.

K. *Repealed by Ord. 778.*

L. 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 Oregon Department of Transportation.

M. 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;

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 PMC 18.60.020(F);

3. Screen planting at the rear or side property line to be contained in a nonaccess reservation (e.g., public easement or tract) along the arterial; or

4. Other treatment suitable to meet the objectives of this subsection;

5. If a lot has access to two streets with different classifications, primary access shall be from the lower classification street, in conformance with PMC 18.65.020.

N. Alleys, Public or Private. Alleys shall conform to the design specifications. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have a radius of not less than 12 feet.

O. Private Streets. Private streets shall not be used to avoid connections with public streets. Gated communities (i.e., where a gate limits access to a development from a public street) are prohibited. Design standards for private streets shall conform to the provisions established by the city.

P. Street Names. No street name shall be used which will duplicate or be confused with the names of existing streets in Benton 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.

Q. 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.

R. Street Signs. Street signs shall be installed according to the applicable city, county or state standards with jurisdiction 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.

S. Mailboxes. Plans for mailboxes to be used shall be approved by the United States Postal Service. Where mailboxes are installed in the sidewalk, a radius shall be provided around the structure to maintain the minimum sidewalk width.

T. Streetlight Standards. Streetlights shall be installed in accordance with city standards.

U. 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. The final lift shall also be placed no later than when 20 percent of the structures in the new development are completed or two years from the commencement of initial construction of the development, whichever is less. [Ord. 778 § 4, 2011; Ord. 734 § 1, 2005; Ord. 720 § 7[3.4.1], 2003.]

18.80.030 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 city 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 PMC 18.80.010(D), Conditions of development 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. [Ord. 720 § 7[3.4.2], 2003.]

18.80.040 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 engineer has approved all sanitary sewer and water plans in conformance with city standards.

C. Oversizing. Proposed sewer and water systems shall be sized to accommodate additional development within the area as designed in the master facility plans. The developer may be entitled to system development charge credits for the oversizing.

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. [Ord. 720 § 7[3.4.3], 2003.]

18.80.050 Storm drainage.

A. General Provisions. The city shall issue a development permit only where adequate provisions for stormwater and floodwater runoff have been made in conformance with Chapter 18.85 PMC, Hillside and Erosion Control Overlay.

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 or city. Such facilities shall be subject to review and approval by the city engineer.

C. Effect on Downstream Drainage. Where it is anticipated by the city engineer that the additional runoff resulting from the development will overload an existing drainage facility, the city shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with city standards.

D. Easements. Where a development is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance. [Ord. 720 § 7[3.4.4], 2003.]

18.80.060 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 18.65 PMC);

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.

B. Easements. Easements shall be provided for all underground utility facilities.

C. Exception to Undergrounding Requirement. The standard applies only to proposed subdivisions. An exception to the undergrounding requirement may be granted due to physical constraints, such as steep topography, sensitive lands (Chapter 18.55 PMC), or existing development conditions. [Ord. 720 § 7[3.4.5], 2003.]

18.80.070 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 18.110 PMC, Development Review and Site Design Review, and Chapter 18.115 PMC, Land Divisions and Lot Line Adjustments. 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 15 feet unless otherwise specified by the utility company, applicable district, or city engineer. [Ord. 720 § 7[3.4.6], 2003.]

18.80.080 Construction plan approval and assurances.

No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken until 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 PMC 18.110.040, Site design review, and PMC 18.115.090, Performance guarantee. [Ord. 720 § 7[3.4.7], 2003.]

18.80.090 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.

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 18.130 PMC, 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 civil 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 one set(s) of "as-built" plans, in conformance with the city engineer's specifications, for permanent filing with the city. [Ord. 720 § 7[3.4.8], 2003.]

Chapter 18.85

HILLSIDE AND EROSION CONTROL OVERLAY

Sections:

18.85.010 Purpose.
18.85.020 Areas of application.
18.85.030 Uses.
18.85.040 Hillside development standards.
18.85.050 Approval procedure – Type II.
18.85.060 Approval procedure – Type III.

18.85.010 Purpose.

The purpose of this overlay district is to promote the public health, safety, water quality and general welfare. Provisions under this section are designed to:

A. Restrict or prohibit uses, activities or development which is damage-prone or damage-inducing to the land or to water quality.

B. Require uses vulnerable to landslides, including public facilities which serve such uses, to be protected at the time of initial construction.

C. Allow the development of land only for those uses which are suitable on steep slopes.

D. Maintain land and water quality by minimizing erosion and sedimentation, and by restricting or prohibiting development, excavation and vegetation removal in areas with constrained or steep slopes.

E. Comply with Statewide Planning Goals 6 (Air, Water and Land Resources Quality) and 7 (Natural Hazards). [Ord. 720 § 7[3.5.100], 2003.]

18.85.020 Areas of application.

The hillside and erosion control overlay district shall apply to land on slopes of 20 percent or greater.

A. Delineation of Boundaries. The hillside and erosion control overlay district shall be mapped generally by the city of Philomath, and shall consist of steep slope and constrained slope areas.

1. Steep slope areas include all areas in the city of Philomath where the slope of the land is 30 percent or greater.

2. Constrained slope areas include all areas where the slope of the land is between 20 and 30 percent.

3. Specific determination of steep slope and constrained slope areas shall be made at the time of a development proposal by the applicant for alteration or development for the respective properties within the hillside and erosion control overlay district, based on the topographic map and field survey.

4. Areas subject to the restrictions and prohibitions of this overlay district are generally indicated on the map entitled, "City of Philomath Slope Map," on file with the city of Philomath.

a. Where development, excavation or vegetation removal is proposed for areas with 20 percent or greater slope, a licensed land surveyor shall prepare an on-the-ground topographical survey for the entire site. The survey shall show trees or tree clusters and two-foot contours, and shall be provided by the property owner or applicant for development approval.

b. Areas with constrained slopes and areas with steep slopes shall be specifically indicated on the required survey maps.

B. Warning and Disclaimer of Liability. The degree of landslide protection required by this title is considered reasonable for regulatory purposes, and is based on common engineering and scientific practices. Landslides may occur on rare occasions in areas outside of the delineated steep slope and constrained slope boundaries. This title does not imply that areas outside the hillside and erosion control overlay district boundaries, or land use permitted within such boundaries, will be free from significant mass movement or landslide damage. This section shall not create city of Philomath liability for damage resulting from reliance on the provisions of this section or any administrative decision lawfully made thereunder. [Ord. 720 § 7[3.5.200], 2003.]

18.85.030 Uses.

A. Uses Allowed – Steep Slopes.

1. Open space and trails provided they are constructed consistent with standards on file with the city of Philomath.

2. Removal of refuse and unauthorized fill.

3. Removal of nuisance or invasive plant species, or planting of approved vegetation species on the native plant list kept on file at the city of Philomath.

4. Removal of dead or dying trees that are an imminent danger to public safety as determined by the planning official.

5. Construction of roads designated in the transportation system plan and public utilities necessary to support permitted development on slopes of 20 percent or less, subject to construction standards on file at the city of Philomath.

6. Expansion of existing roadways and public utility facilities necessary to support permitted development on slopes of 20 percent or less, subject to construction standards on file at the city of Philomath.

B. Prohibited Uses. Prohibited uses on slopes of 30 percent or greater, unless specifically permitted under PMC 18.85.040:

1. Manmade structures, except as described in PMC 18.85.040(C)(4).

2. Vegetation removal not specifically allowed under subsection (A) of this section.

3. Road construction not specifically allowed under subsection (A) of this section.

4. Excavation.

C. Uses Allowed – Constrained Slope.

1. Open space.

2. Any use in the underlying district; provided, the standards of PMC 18.85.040 are met.

3. Removal of nuisance or invasive plant species, or planting of approved vegetation species on the native plant list and kept on file at the city of Philomath. [Ord. 737 § 1, 2006; Ord. 720 § 7[3.5.300], 2003.]

18.85.040 Hillside development standards.

A. Standards.

1. The property shall have access to a public street. All streets shall be built to a width and street improvement standard acceptable to the city of Philomath. The parcel can be adequately served by the city water supply and sanitary sewer systems, or meets applicable state standards for individual sewage disposal systems.

2. Where slopes are 30 percent or greater, grading, approved vegetation removal, site preparation and construction shall be prohibited, except where necessary to provide access or utilities to buildable lots with slopes of 30 percent or less.

a. Land with slopes of 30 percent or greater shall be conserved and maintained as open space. This may occur through private ownership, through private conditions, covenants and restrictions, through conservation easements enforceable by the city of Philomath or other public or private nonprofit agency, or where approved by the city, dedication to the city of Philomath or donation to other appropriate public or private nonprofit agency.

b. Disturbed areas shall be replanted in approved native vegetation and tree cover by October 15th following any disturbance regulated by this title.

3. Where development is proposed on slopes of 20 percent or greater:

a. The impervious surface area of any residential lot or commercial or industrial site (including driveways, sidewalks, structures, swimming pools, and any other area not covered by vegetation) shall not exceed 30 percent of the constrained slope area;

b. Development shall not result in cuts or fills in excess of three feet, except for basement construction, unless specifically approved by the planning official.

c. At least half the constrained slope area shall remain in or be planted in approved native vegetation. The existing tree canopy shall be retained wherever possible and shall be considered in meeting this standard.

d. If development is proposed on constrained or steep slope areas, a mitigation plan for disturbed areas on constrained or steep slope areas shall be prepared and implemented. This plan shall provide for the replanting and maintenance of approved native plant species designed to achieve predisturbance conditions.

4. The applicant's engineer shall provide a construction erosion control plan and water quality plan, consistent with the provisions of this title and consistent with the state or federal stormwater control programs.

5. The applicant's engineering plans shall certify that runoff and sedimentation from the site will not be greater than conditions present on the site as of the effective date of the ordinance codified in this chapter.

B. Submission Requirements. For the purpose of minimizing landslide hazards, and where development is proposed on slopes of 20 percent or greater, the planning official shall require submis-

sion of the following special reports, prepared by professionals in their respective fields:

1. Hydrology and Geology Report. This report is required for subdivisions of two acres or more. This report shall include information on the hydrological activities of the site, the effect of hydrologic conditions on the proposed development, and any hydrological or erosion hazards. This report shall also include geological characteristics of the site, its suitability for development, its carrying capacity, and any geological hazard that might present a hazard to life and property, or adversely affect the use or stability of a public facility or utility.

2. Soils Report. A soils report is required for all new development. This report shall include information on the nature, distribution and strength of existing soils, the adequacy of the site for development purposes, and an assessment of grading procedures required to impose the minimum disturbance to the natural state.

3. Grading Plan. The grading shall be specific to a proposed physical structure or use. It shall include information on terrain (two-foot contours), drainage, direction of drainage flow, location of proposed structures and existing structures which may be affected by the proposed grading operations, water quality facilities, finished contours or elevations, including all cut and fill slopes and proposed drainage channels. Project designs, including but not limited to, locations of surface and subsurface devices, walls, dams, sediment basins, storage reservoirs, and other protective devices shall form part of the submission. The grading plan shall also include a construction phase erosion control plan and a schedule of operations and shall be prepared by a professional engineer registered in Oregon.

4. Vegetation Report. This report shall consist of a survey of vegetative cover, whether it is native or introduced, and how it will be altered by the proposed development. Measures for revegetation with approved native plant species will be clearly stated, as well as methods for immediate and long-term stabilization of slopes and control of soil erosion. The vegetation report shall be prepared by a landscape architect, landscape designer, botanist, arborist, or natural resource planner with specific knowledge of native plant species, planting and maintenance methods, survival rates, and their ability to control erosion and sedimentation. The applicant will be responsible for replacing any native plant species that do not survive the first two years after planting.

5. Design Standards. The required reports shall include design standards necessary for the engineer and landscape expert to certify that development on slopes of 20 percent or greater, when combined with impacts from development of lesser slopes, will not increase runoff, sedimentation to affected streams or wetlands, erosion, or landslide potential above base conditions. These requirements shall be incorporated as conditions into the final decision approving the proposed development.

C. Residential Density Allowance and Transfer Provisions.

1. Constrained Slopes. The maximum residential density allowed in constrained slopes areas shall be 70 percent of the average density otherwise permitted in the underlying residential zoning district.

2. Steep Slopes. Density may be transferred to buildable portions of the site (i.e., where slopes are less than 15 percent and outside the floodplain) at a rate of one unit per steeply sloped acre.

3. The net increase in density as a result of density transfer shall not exceed 50 percent of the base density that would otherwise be allowed on buildable portions of the lot.

4. Exception: Each lot of record that has received planning approval from city of Philomath may have one dwelling unit; provided, that the siting, engineering, erosion control, water quality and revegetation standards of this section have been fully satisfied. No new lot shall be approved for development that is exclusively on slopes of 30 percent or greater. [Ord. 720 § 7[3.5.400], 2003.]

18.85.050 Approval procedure – Type II.

A. The planning official shall approve new development for a single-family or two-family dwelling under the Type II procedure within the hillside and erosion control overlay district only if the proposed use or structure meets all of these conditions:

1. Development standards are met as prescribed under PMC 18.85.040.

2. Adequate protection is utilized to minimize landslide and erosion hazards consistent with this title.

3. The applicant provides assurances that development impacts will be minimized on slopes greater than 30 percent; provided however, that a property owner shall not be denied the right to construct a single-family home on a residentially zoned lot of record approved by the city of Philomath prior to the effective date of the ordinance codified in this chapter.

4. Notwithstanding the provisions on variance, an adjustment of up to 50 percent from any dimensional standard in the underlying zoning district may be approved under Type I procedure, where necessary, to avoid construction on slopes of 30 percent or greater or to meet the standards of PMC 18.85.040.

5. It is in conformance with the provisions of the city of Philomath development code.

B. The planning official shall determine the final boundaries of constrained slope and steep slope areas based on topographical information provided by an engineer or surveyor registered in Oregon. The applicant shall be responsible for submitting such information. [Ord. 720 § 7[3.5.500], 2003.]

18.85.060 Approval procedure – Type III.

The planning commission may approve new developments for more than one single-family or two-family dwelling within the hillside and erosion control overlay district under a Type III procedure; provided, that the proposed use or structure meets all of these conditions:

A. Development standards are met as prescribed under PMC 18.85.040.

B. Adequate protection is utilized to minimize landslide and erosion hazards, consistent with this title. [Ord. 734 § 1, 2005; Ord. 720 § 7[3.5.600], 2003.]

Chapter 18.90

OTHER STANDARDS

Sections:

18.90.010 Density transfers.

18.90.010 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 Division 2) from one portion of a property to another portion of the same property, or from one property to another property with the same zone designation.

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 Division 2, less 20 percent for streets and public ways.

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 subsections (C)(1) through (C)(3) of this section, and it conforms to subsections (D) and (E) of this section:

1. Protection of sensitive land areas as defined in Chapter 18.55 PMC (and listed below) either by dedication to the public or a land trust, or by a nonrevocable conservation easement. Sensitive land areas include:

a. Land within the 100-year floodplain;
b. Land or slopes exceeding 15 percent;
c. Drainage ways; and
d. Wetlands;

2. Dedication of land to the public for park or recreational purposes; or

3. The density transfer is used to develop a mix of single-family and multifamily housing on the same property or development site.

D. Prohibited Density Transfers. Density shall not be transferred from: land proposed for street right-of-way, stormwater detention facilities, private streets, and similar areas that do not provide open space or recreational values to the public.

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 50 percent of the unbuildable area if not for these regulations; and

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 18.125 PMC).

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 18.125 PMC). [Ord. 720 § 7[3.6.1], 2003.]

Chapter 18.95

REGULATING PLACEMENT OF SIGNS

Sections:

18.95.010 Purpose.
18.95.020 Definitions.
18.95.030 Requirements, fees, and enforcement.
18.95.040 Zoning district requirements.
18.95.050 Nonconforming signs.

18.95.010 Purpose.

This comprehensive sign code has been prepared by and for the citizens of Philomath in order to provide equitable methods of business identification, increase the aesthetic value and economic vitality of the city, and a safe, consistent, and legal system of signing. The regulations of such factors as size, location, construction, etc., will encourage the communication of information and orientation for both visitors and citizens, motorist and pedestrians; provide for the effective identification and advertisement of business establishments; eliminate visual blight; and provide standards to safeguard life, health, property and public welfare. Although the provisions of this comprehensive sign code are physically located within the development code, it is not intended to be a land use ordinance, nor is it intended to implement comprehensive plan or state land use planning goal provisions. [Ord. 731, 2005; Ord. 720 § 7[3.7.100], 2003.]

18.95.020 Definitions.

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

1. "Building frontage" means the linear frontage of a building measured along a street or alley between two lines projecting perpendicular from the street to the corners of the building.

2. "Canopy" means a structure made of cloth, metal or other material with frames affixed to a building.

3. "Construction sign" means any information sign which identifies the architect, engineers, contractors, and other individuals or firms involved with the construction of a building, or announcing the character of the building or enterprise, which is erected during the building construction period.

4. "Daily display sign" means a nonpermanent sign, normally associated with a business activity, that is placed out-of-doors during business hours for display and returned indoors during off-hours. For example, daily display signs may be constructed in a sandwich board (A-frame) style, mounted on a single pedestal, or other similar construction, and are typically unlit and easily moved. Refer to PMC 18.95.030(A)(7).

5. "Electronic changing sign" means an electronic sign upon which all or part of the copy, graphics or message may appear, or change, periodically. This definition includes all forms of alterable display mediums such as LED, LCD, incandescent, moving placard or other display or illumination technologies similar to time and temperature displays, which, by its nature and intensity, shall not be considered a flashing sign.

6. "Flashing sign" means any sign that contains or is illuminated by a light source which produces a brilliant flash followed by dramatically reduced intensity or darkness on an alternating or random basis, which results in a pulsating effect designed primarily to attract attention.

7. "Freestanding sign" means any sign set apart with no structural attachments to a building structure and is meant to include ground-mounted or pole-affixed signs for the purpose of these regulations.

8. "Grade" means the relative finished ground level within a 20-foot radius of the sign.

9. "Ground sign" means a sign that is affixed to the ground and or supported by one or more uprights, poles, lanyards or braces in or upon the ground where substantially all of the sign is at or about ground grade. Refer to PMC 18.95.030(A)(8).

10. "Height" or "height of sign" means the vertical distance from the surface of the grade to the highest point of a sign or any vertical projection thereof, including its supporting columns.

11. "Incidental sign" means small signs, intended primarily for the convenience of the public. Included are signs designating restrooms, address numbers, hours of operation, entrances to buildings, directions, help wanted, public telephone, etc. Also included in this group of signs are those designed to guide or direct pedestrians or vehicular traffic to an area or place on the premises of a business, building or development by means of a directory designating names and addresses. Refer to PMC 18.95.030(A)(9).

12. "Lighting, indirect or internal" means any illuminated sign constructed such that the source of said illumination is not directly visible when the sign is lighted. Refer to PMC 18.95.030(A)(12).

13. "Moving sign" means any sign which produces apparent motion of the visual image, including but not limited to illusion of moving objects, moving patterns or bands of light, expanding or contracting shapes, rotation or any similar effect of animation which is designed or operated in a manner primarily to attract attention. This definition includes methodologies wherein the sign itself may also be physically moving.

14. "Pole sign" means a single- or multiple-faced sign, supported by one or more uprights in the ground and detached from any building or structure where the preponderance of the sign is typically well above grade level. Refer to PMC 18.95.030(A)(10).

15. "Portable sign" means any sign not meeting the anchorage requirements of the Uniform Sign Code.

16. "Projecting sign" means a single- or multiple-faced sign which is designed and constructed to be mounted to the wall of a building and which will extend outward from the wall surface.

17. "Property line" means the line denoting the limits of legal ownership of property.

18. "Readerboard" means a sign or part of a sign on which the letters are readily manually replaceable such that the copy can be changed from time to time at will. An electronic "readerboard" falls under the definition of electronically changing signs above.

19. "Roof sign" means any sign erected upon, against, or directly above a roof or on top of or above the parapet of a building, including a sign affixed to any equipment attached to the building.

20. "Sandwich style ("A") boards" means any double-faced sign hinged or connected at the top that is spread for stabilization and set upon the ground.

21. "Seasonal signs" means any sign typically used for temporary businesses, such as Christmas tree or fireworks sales.

22. "Sign" means any medium, including its structure and component parts, other than paint on a building, which is used or intended to be used to

attract attention to the subject matter for communication purposes.

23. "Sign area" means the surface contained within a single continuous perimeter which encloses the entire sign medium, but excluding any support or framing structure that does not convey a message. Where signs are of a three-dimensional, round, or other solid shape, the largest cross-section viewed as a flat projection shall be used for the purpose of determining the sign area. Signs visible from more than one direction or without clearly defined sign faces shall be considered as having two faces and each face calculated in the total allowable area.

24. "Street frontage" means street(s), alley(s), or public right(s)-of-way parallel to the property line used to compute the area of sign(s) intended to be located in such a manner as to have primary exposure on that street or right-of-way.

25. "Temporary sign" means any sign, banner, pendant, valance, or other advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light material intended to be displayed for short or intermittent periods. Refer to PMC 18.95.030(A)(11).

26. "Traffic control device" means any form of communication medium customary for the purpose of regulating the flow of traffic or pedestrians at or about a given intersection.

27. "Vision clearance area" means a triangular area on a lot at the intersection of two public rights-of-way, a street and or a railroad, or point of vehicular access to a public right-of-way, two sides of which are lines measured from the corner intersection (apex) parallel to their respective rights-of-way, with the third side of said triangle (hypotenuse) being a line across the corner of the lot connecting the lines of the other two sides. Refer to PMC 18.95.030(A)(13).

28. "Wall sign" means a single-faced sign generally mounted flat against a given exterior building wall wherein the copy runs generally parallel to the wall upon which it is attached. Refer to PMC 18.95.030(A)(6).

29. "Window sign" means a sign which is applied to, attached to or located in the proximity of the interior of a window, and where said sign is intended to, or may be, seen through the window from the exterior of the structure. [Ord. 755 § 1, 2009; Ord. 731, 2005; Ord. 720 § 7[3.7.200], 2003.]

18.95.030 Requirements, fees, and enforcement.

A. General Sign Regulations. No sign governed by the provisions of this chapter shall be erected, structurally altered, or relocated without first receiving a sign permit from the city of Philomath. Where federal and/or state regulations or ODOT jurisdiction applies, said regulations or jurisdiction shall supersede this chapter.

1. Installation Requirements. All signs shall comply with the following requirements and those specified by zoning district:

a. Construction shall satisfy the requirements of the Uniform Sign Code.

b. The National Electrical Code and Oregon Electrical Specialty Code Amendments shall govern electrical requirements for signs.

c. Except for exempt signs and approved daily display signs, all signs shall be securely attached to a building or the ground.

d. All signs shall conform to all vision clearance requirements.

e. All signs, together with their supports, braces, and guys, shall be maintained in a safe and secure manner.

f. All illuminated signs shall be internally or indirectly illuminated.

g. Unless otherwise permitted, all signs shall be erected and maintained entirely on private property with the consent of the owner and occupant of the premises. No signs shall be erected or maintained on utility poles or other naturally occurring features. Signs shall not be placed in the public right-of-way or vision clearance areas except as required for traffic control purposes.

2. Exempt Signs. The following signs shall be exempt from the application, permit and fee requirements of this chapter:

a. Directional, warning or information signs or structures required or authorized by law, or by federal, state, county or city authority;

b. Incidental signs;

c. Official and legal notices issued by any court, public body, person or officer in performance of a public duty or in giving any legal notice;

d. On-premises signs not generally intended to be readable from the public right-of-way (i.e., menu boards, etc.);

e. Seasonal signs for temporary businesses provided such signs do not exceed 32 square feet in area and are limited to only one sign per street frontage. Such signs shall be limited to a display period of not more than 30 days prior and five days following the seasonal event;

f. Incidental structures intended for a separate use such as phone booths, Goodwill containers, recycling containers, etc.;

g. Temporary signs;

h. Window signs affixed to, and displayed from, the inside of the building.

3. Prohibited Signs. The following signs are prohibited:

a. Flashing and moving signs;

b. Portable signs, except as allowed under provisions for daily display signs;

c. Roof signs unless specifically requested of, and approved by, the city council;

d. Signs attached to utility, streetlight, or traffic control standard poles or otherwise located in the public right-of-way without a permit or vision clearance area;

e. Signs in a dilapidated or hazardous condition;

f. Signs on doors, windows, or fire escapes that restrict free ingress or egress;

g. Signs which purport to be, are an imitation of, or resemble an official traffic sign or signal, could cause confusion with any official sign, or that make use of the words such as “STOP,” “LOOK,” or “DANGER,” or which obstruct the visibility of any traffic control device.

4. Freestanding Signs. All freestanding signs shall comply with the following provisions:

a. One freestanding sign shall be permitted along each street frontage, or each 300 feet of street frontage, with one additional freestanding sign allowed on the property.

b. A freestanding sign shall be placed behind the property line and no closer than 10 feet to any adjacent private property line.

c. Freestanding signs may project over the public right-of-way, excepting the state highway right-of-way, unless otherwise approved; provided, they conform to the standards established for projecting signs.

d. Freestanding signs shall not obstruct the flow of pedestrian or vehicular traffic when otherwise allowed and shall conform to all federal or state rules pertaining to said placements including, but not limited to, ADA accessibility requirements.

5. Projecting Signs. All projecting signs shall comply with the following provisions:

a. No projecting sign shall extend above the highest structural component of the building from which it is attached.

b. Signs over the public right-of-way, including freestanding signs, shall conform to the following standards:

CLEARANCE	MAXIMUM PROJECTION
Less than 8 feet.	Not permitted.
8 feet.	1 foot.
9 feet and above.	2 feet for every foot above 8 feet in height, but no more than 9 feet.

c. No sign shall project within two feet of a curb line.

d. In addition, no sign or sign structure shall project into any public alley below a height of 14 feet above grade, nor project more than 12 inches where the sign structure is located 14 feet to 16 feet above grade. The sign or sign structure may project not more than 36 inches into the public alley where the sign or sign structure is located more than 16 feet above grade.

6. Wall Signs. All wall signs shall conform to the following provisions:

a. Wall signs may be attached flat to or pinned away from the wall, but shall not project more than 12 inches from the wall where the bottom of the sign is higher than eight feet from grade level, and shall not project more than four inches from the wall where any portion of said sign is lower than eight feet from grade level.

b. For purposes of this chapter, wall signs shall be exempt from the permitting process and allowable area; provided, they do not exceed 50 percent of the total allowable area or more than three signs per building.

c. Wall signs shall not extend above the height of the wall to which they are attached.

7. Daily Display Signs in Public Right-of-Way or Off-Premises.

a. In zoning districts that permit daily display signs, a daily display sign may be allowed within the public right-of-way in front of the premises with which it is associated; provided, all of the following conditions are met:

i. A city sign permit is obtained that shows location of daily display sign in the right-of-way. This permit shall be revocable in case of condition of noncompliance.

ii. The sign is to be set back behind the curb so as not to interfere with on-street parking, or a minimum of 10 feet from the edge of the nearest street travel lane where curbs are not in place.

iii. The sign is to be placed so as to allow at least five feet of unimpeded pedestrian sidewalk maneuvering space, such maneuvering space being located as close as possible to the building frontage.

iv. The sign meets vision clearance requirements.

v. The sign is properly maintained as required by subsection (A)(1) of this section.

vi. The applicant shall assume all liability for incidents involving the sign, and execute documents satisfactory to the city, releasing and indemnifying the city for all liability arising from claims pertaining to the sign and/or its placement.

vii. Sign dimension shall not exceed a maximum width of two feet or a maximum aboveground level height of four and one-half feet.

viii. One sign per business is allowed.

b. Daily display signs may be allowed off the premises, or within the public right-of-way in front of a business with which the sign is not associated, subject to the following conditions:

i. All applicable standards of subsection (A)(7)(a) of this section.

ii. Both the sign owner and owner of the business where the sign is placed must sign city liability exemption documents as provided in subsection (A)(7)(a)(vi) of this section.

iii. The off-premises daily display sign will take the place of the daily display sign allowance for both the business site where it is placed and the business placing the sign.

iv. The off-premises daily display sign will count towards the square footage requirements for both the business where it is placed and the business placing the sign.

8. Ground Signs. The top of such signs shall be no higher than four feet above grade level.

9. Incidental Signs. These signs shall be less than four square feet in sign area.

10. Pole Sign Height. Pole signs shall not have any sign area lower than eight feet above grade. Public information signs are exempt from this standard.

11. Temporary Signs. Temporary signs shall be allowed to be displayed for a period of less than 90 consecutive days in any calendar year, or as is customary for the nature of the sign's purpose.

12. The intensity of sign lighting shall not exceed that necessary to illuminate and make legible a sign from the adjacent travel way or closest right-of-way; and the illumination of a sign shall not be obtrusive to the surrounding area.

13. Vision Clearance Areas. The triangular vision clearance area is limited to a side distance of 30 feet from the intersection apex in residential districts, 15 feet in commercial districts and 10 feet at all alleys. The vision clearance area shall contain no signs higher than 22 feet or lower than eight feet measured from the grade of the street centerline. Signs meeting these height requirements that employ a single pole having a diameter of 18 inches or less are permitted within the vision clearance area provided no part of the sign or pole obstructs any traffic control device.

14. Sign Permits. A property owner or his authorized agent is required to apply to the city for a sign permit by filing an application with the city using forms prescribed for the purpose. A site plan and construction drawing shall accompany the application. The city may require other drawings or information necessary to determine compliance with this chapter. The applicant shall pay any fee established by resolution or ordinance of the city council and in effect at the time said application is filed.

Prior to being issued a sign permit, the applicant shall pay, in addition to the fee established by the city council, any costs incurred by the building official/engineer in reviewing the proposed sign permit request.

15. Code Violations and Enforcement. Any sign which is not in compliance with all the provi-

sions of this chapter is an unlawful sign and declared to be a public nuisance.

a. The city may order the removal of any sign erected or maintained in violation of this chapter. It shall give 24 hours' notice in writing to the owner of such sign, or of the building structure, or premises on which the sign is located, to remove the sign or bring it into compliance.

b. The city may remove a sign immediately and without notice if, in its opinion, conditions pertinent to any sign installation or placement are found to present an immediate threat to the safety of the public, and is hereby authorized to take such steps as may be necessary to remove said sign and or mitigate the impending threat. Neither the city nor any of its agents shall be liable for any damage to the sign, or any fixtures used in the placement of said sign.

c. The violation of or failure to comply with any of the provisions of this chapter or the erection, use, or display or the allowing of, the permitting of, or the suffering of the erection, use or display of any sign not in compliance with all the provisions of this chapter is unlawful and upon conviction, the violator may be punished by a fine of not more than $250.00 and shall be required to remove such sign or to take such other action as shall be determined by the court to be necessary to bring such sign into full compliance with the provisions of this chapter.

d. The remedies provided in this section for violations of, or failure to comply with, provisions of this chapter shall be cumulative and shall be in addition to any other remedy provided by law. [Ord. 755 § 2, 2009; Ord. 731, 2005; Ord. 720 § 7[3.7.300], 2003.]

18.95.040 Zoning district requirements.

A. Residential Zones.

1. General. This subsection shall apply to all residential districts.

2. Size and Height. A total sign area not exceeding 16 square feet per face per dwelling unit is permitted. Multiple-family dwellings, other allowed uses (excluding home occupations), and conditional uses may be allowed to erect one sign per street frontage not to exceed 32 square feet. In no event shall any sign exceed five feet in height.

3. Location. Signs permitted outright in the R-1 and R-2 districts may be located anywhere on the premises except within a vision clearance area; however, no freestanding sign may exceed five feet in height or project beyond any property line. Building-mounted signs shall be wall-mounted and shall not be erected on any building roof.

B. Commercial and Industrial Zones.

1. General. This subsection shall apply to all commercial and industrial zones.

2. Size. The size of allowable area of signs shall be as follows:

a. A total sign area of two square feet for each lineal foot of building frontage or one square foot for each lineal foot of lot frontage, whichever results in the larger sign area.

b. Freestanding or projecting signs shall be limited to 150 square feet per face. Such signs shall not exceed 30 feet in height from grade to the highest element of such signs unless otherwise restricted.

c. One daily display sign per business, for which the maximum permitted area shall be eight square feet per display surface and 16 square feet overall.

3. Location. Except as otherwise provided, and in conformance with vision clearance areas specified, permitted signs may be located anywhere on the premises.

a. Where frontage is on more than one street, only the signs computed with the frontage of that street shall be located on that street.

C. Signs in Neighborhood and Regional Shopping Centers.

1. Signs of Individual Businesses. Within neighborhood and regional shopping centers, each individual business shall be allowed a total sign area as calculated in accordance with the underlying zone.

2. Shopping Center Sign. In addition to the sign area allowed for individual businesses, shopping centers with more than 40,000 square feet of floor area shall be allowed one double-faced indirectly lighted sign on each street right-of-way. Such signs shall neither extend beyond the property line nor be placed in the right-of-way. These signs shall not exceed 300 square feet per face and shall not exceed 30 feet in height from grade to the highest element of the sign. [Ord. 755 § 3, 2009; Ord. 731, 2005; Ord. 720 § 7[3.7.400], 2003.]

18.95.050 Nonconforming signs.

A. Grandfather Clause. If, at the time of passage of the ordinance codified in this chapter, a sign does not conform to the provisions of this chapter, said sign may be continued and maintained in reasonable repair. This grandfather status, however, shall not prevent the city from taking action where a clear and immediate threat to the public safety and welfare exists.

B. Alteration, Relocation or Replacement. Nonconforming signs that are structurally altered, relocated or replaced shall comply immediately with all provisions of this chapter.

C. Destruction of a Nonconforming Sign. If a nonconforming sign is destroyed by any cause to the extent of more than 60 percent of its value, then and without further action by the city, the sign shall be subject to all applicable regulations of this chapter. For the purpose of this chapter, the value of any sign shall be the estimated cost to replace the sign in kind, as determined by the building inspector. [Ord. 731, 2005; Ord. 720 § 7[3.7.500], 2003.]

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Division 4. Applications and Review Procedures

Chapter 18.100

INTRODUCTION

Sections:

18.100.010 Introduction.

18.100.010 Introduction.

Division 4 provides all of the application requirements and procedures for obtaining permits required by this title. Please refer to Table 18.105.020 in Chapter 18.105 PMC 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. [Ord. 720 § 7[4.0.1], 2003.]

Chapter 18.105

TYPES OF APPLICATIONS AND REVIEW PROCEDURES

Sections:

18.105.010 Purpose.
18.105.020 Description of permit/decision-making procedures.
18.105.030 Type I procedure (ministerial).
18.105.040 Type II procedure (administrative).
18.105.050 Type III procedure (quasi-judicial).
18.105.060 Type IV procedure (legislative).
18.105.070 General provisions.
18.105.080 Special procedures.
18.105.090 Neighborhood meetings.

18.105.010 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. [Ord. 720 § 7[4.1.1], 2003.]

18.105.020 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 procedures for all permits are contained in PMC 18.105.070. Specific procedures for certain types of permits are contained in PMC 18.105.020 through 18.105.060. 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) through (D) of this section. In addition, Table 18.105.020 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 planning official, or someone he or she officially designates, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria, and applying city standards and criteria requires no use of discretion;

B. Type II Procedure (Administrative). Type II decisions are made by the planning official with public notice and an opportunity for a public hearing. 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 reviewed by the city council. Type III decisions generally use discretionary approval criteria; and

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 that apply to entire districts). Type IV matters are considered initially by the planning commission with final decisions made by the city council.

Table 18.105.020
Summary of Development Decisions/Permit by Type of Decision-Making Procedure*

Access Permit (Public Street)	Type I	Chapters 18.65, 18.110 and 18.115 PMC
Annexation	Type IV	Comprehensive plan and city/county intergovernmental agreement(s)
Building Permit	N/A	Building code
Code Interpretation	Type II	Chapter 18.140 PMC
Code Amendment	Type IV	Chapter 18.135 PMC
Comprehensive Plan Amendment	Type IV	Comprehensive plan
Conditional Use Permit	Type III	Chapter 18.120 PMC
Floodplain Permit	Type I	Building code (requires sensitive land development permit first)
Home Occupation Permit	Type I	Chapter 18.145 PMC
Master Planned Development	Type III	Chapter 18.125 PMC
Modification to Approval	Type II/III	Chapter 18.130 PMC
Land Use District Map Change	Type IV	Chapter 18.135 PMC
Lot Line Adjustment	Type I	Chapter 18.115 PMC
Nonconforming Use	Type I	Chapter 18.160 PMC
Partition	Type II	Chapter 18.115 PMC
Sensitive Lands Permit	Type III	Chapter 18.85 PMC
Sign Permit	Type I	Chapter 18.95 PMC
Development Review	Type I	Chapter 18.110 PMC, building code
Site Design Review		
Type II	Type II	Chapter 18.110 PMC
Type III	Type III	Chapter 18.110 PMC
Subdivision	Type II/III	Chapter 18.115 PMC
Temporary Use Permit	Type II/III	Chapter 18.145 PMC
Tree Removal	Type I/II	Chapter 18.70 PMC (may require sensitive land development permit first)

Table 18.105.020 (Continued)
Summary of Development Decisions/Permit by Type of Decision-Making Procedure*

Variance		
Class A	Type I	Chapter 18.155 PMC
Class B	Type II	Chapter 18.155 PMC
Class C	Type III	Chapter 18.155 PMC

*Note: The chapters referenced above in the right-hand column describe the types of land uses and development activity that require permits under each type of decision-making procedure.

[Ord. 720 § 7[4.1.2], 2003.]

18.105.030 Type I procedure (ministerial).

A. Application Requirements.

1. Application Forms. Type I applications shall be made on forms provided by the city.

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 planning official's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the planning official 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. The decision is the final decision of the city. It cannot be appealed to city officials.

D. Effective Date. The decision is effective the day after it is final. [Ord. 720 § 7[4.1.3], 2003.]

18.105.040 Type II procedure (administrative).

A. Preapplication Conference. A preapplication conference is required for Type II applications. Preapplication conference requirements and procedures are in PMC 18.105.070.

B. Application Requirements.

1. Application Forms. Type II applications shall be made on forms provided by the city.

2. Submittal Information. The application shall:

a. Include the information requested on the application form;

b. Be filed with 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; and

d. Include an impact study for all land division applications. The impact study shall quantify/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 title requires the dedication of real property to the city, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of Application for Type II Administrative Decision.

1. Before making a Type II administrative decision, the planning official shall mail notice to:

a. All owners of record of real property within 250 feet 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 that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies, as appropriate, 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 14-day period for submitting written comments before a decision is made on the permit;

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;

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 planning official 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 planning official 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; and

j. Contain the following notice: "Notice to mortgagee, lienholder, vendor, or seller: The city of Philomath development code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

D. Administrative Decision Requirements. The planning official 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 planning official shall approve, approve with conditions, or deny the requested permit or action.

E. Notice of Decision.

1. Within five days after the planning official 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 city-recognized neighborhood group or association whose boundaries include the site;

d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city, and other agencies that were notified or provided comments during the application review period.

2. The planning official 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) of this section) 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. Appeals. A Type II administrative decision may be appealed to the planning commission as follows:

1. The following people have legal standing to appeal a Type II administrative decision:

a. The applicant; or

b. Any other person who participated in the proceeding by submitting written comments.

2. Appeal Procedure.

a. Any person with standing to appeal, as provided in subsection (G)(1) of this section, may appeal a Type II administrative decision by filing a notice of appeal according to the following procedures:

i. A notice of appeal shall be filed with the planning official within 14 days of the date the notice of decision was mailed;

ii. The notice of appeal shall contain:

(A) An identification of the decision being appealed, including the date of the decision;

(B) A statement demonstrating the person filing the notice of appeal has standing to appeal;

(C) A statement explaining the specific issues raised on appeal;

(D) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and

(E) Filing fee.

3. The city shall establish the amount of the filing fee. 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.

a. 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 subsection (C) of this section, unless the planning commission allows additional evidence or testimony concerning any other relevant issue. The planning commission may allow such additional evidence if it determines 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 planning commission on appeal of a Type II administrative decision.

b. Type III notice and hearing procedures shall be used for all Type II administrative appeals, as provided in PMC 18.105.050(C) through (G).

H. 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 appeal. [Ord. 720 § 7[4.1.4], 2003.]

18.105.050 Type III procedure (quasi-judicial).

A. Preapplication Conference. A preapplication conference is required for all Type III applications. The requirements and procedures for a preapplication conference are described in PMC 18.105.070(C).

B. Application Requirements.

1. Application Forms. Type III applications shall be made on forms provided by the planning official;

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; and

d. Include an impact study for all Type III applications. The impact study shall quantify/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 title requires the dedication of real property to the city, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of Hearing.

1. Mailed Notice. Notice of a Type III application hearing or Type II appeal hearing shall be given by the planning official in the following manner:

a. At least 20 days before the hearing date, notice shall be mailed to:

i. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;

ii. All property owners of record within 250 feet of the site;

iii. Any governmental agency that has entered into an intergovernmental agreement with the city which includes provision for such notice, or who is otherwise entitled to such notice;

iv. Any neighborhood or community organization recognized by the city council and whose boundaries include the property proposed for development;

v. Any person who submits a written request to receive notice;

vi. For appeals, the appellant and all persons who provided testimony; and

vii. 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 planning official 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 10 business days before the hearing, the city shall post notice of the hearing on the property per subsection (C)(2) of this section. The applicant shall prepare and submit an affidavit of posting of the notice that 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 (C)(1) of this section 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 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 planning commission 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; and

j. The following notice: "Notice to mortgagee, lienholder, vendor, or seller: The city of Philomath 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 planning commission shall state to those in attendance that:

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 planning commission 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; and

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 planning commission shall grant the request by scheduling a date to finish the hearing (a continuance) per subsection (D)(2) of this section, or by leaving the record open for additional written evidence or testimony per subsection (D)(3) of this section.

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 or hearings officer 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 subsection (D) of this section 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.

4. The Record.

a. The record shall contain all testimony and evidence that is submitted to the city and the planning commission and not rejected;

b. The planning commission 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;

c. The review authority shall retain custody of the record until the city issues a final decision.

5. 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 prehearing ex parte contacts (see subsection (D)(6) of this section) 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, planning commission members shall disclose the substance of any prehearing ex parte contacts (as defined in subsection (D)(6) of this section) 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 planning commission 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 planning commission 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 requalified to make a decision;

e. If a member of the planning commission abstains or is disqualified, the city shall provide a substitute in a timely manner subject to the impartiality rules in subsection (D)(6) of this section;

f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the members of the planning commission shall reply in accordance with this section.

6. Ex Parte Communications.

a. Members of the planning commission shall not:

i. 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 subsection (D)(5) of this section; or

ii. 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 planning commission shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

ii. 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 planning commission is not considered an ex parte contact.

7. Presenting and Receiving Evidence.

a. The planning commission 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 subsection (D) of this section;

c. Members of the planning commission 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 planning commission 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.

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 (E)(2) of this section, 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 planning official within 10 business days after the close of the deliberation.

F. 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 planning commission 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.

G. Final Decision and Effective Date. The decision of the planning commission 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. [Ord. 720 § 7[4.1.5], 2003.]

18.105.060 Type IV procedure (legislative).

A. Preapplication Conference. A preapplication conference is required for all Type IV applications. The requirements and procedures for a preapplication conference are described in PMC 18.105.070(C).

B. Timing of Requests. The planning official shall review proposed Type IV actions no more than twice yearly, based on the city's approved schedule for such actions.

C. Application Requirements.

1. Application Forms. Type IV applications shall be made on forms provided by the city.

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); and

c. The required fee and 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.

2. Notification Requirements. Notice of public hearings for the request shall be given by the planning official 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:

i. 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);

ii. Any affected governmental agency;

iii. Recognized neighborhood groups or associations affected by the ordinance;

iv. Any person who requests notice in writing; and

v. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

b. At least 10 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 planning official shall:

i. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection (D)(2)(a) of this section; and

ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection (D)(2)(b) of this section.

d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.

e. Notice shall also be posted at six public places within the city not less than five days or more than 15 days prior to the date of the public hearings.

f. In those instances where an approved annexation would create an island of unincorporated property, those affected property owners shall be notified of this potential.

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 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) of this section); and

e. Each mailed notice required by subsection (D) of this section shall contain the following statement: "Notice to mortgagee, lienholder, vendor, or seller: The city of Philomath development code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

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:

i. Regulate the course, sequence, and decorum of the hearing;

ii. Direct procedural requirements or similar matters; and

iii. Impose reasonable time limits for oral presentations.

b. No person shall address the commission or the council without:

i. Receiving recognition from the presiding officer; and

ii. Stating their full name and residence 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 that will be made

is a recommendation to the city council or the final decision of the council;

b. The staff report 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

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. The Statewide Planning Goals and Guidelines adopted under ORS Chapter 197 (for comprehensive plan amendments only);

2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;

3. Any applicable intergovernmental agreements; and

4. Any applicable comprehensive plan policies and provisions of this title that implement the comprehensive plan. Compliance with Chapter 18.135 PMC shall be required for comprehensive plan amendments and land use district map and text amendments.

H. Approval Process and Authority.

1. The planning commission shall, 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.

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 planning official before the council public hearing on the proposal. The planning official 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 75 days of its first public hearing on the proposed change, the planning official 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, of a public hearing to be held. The commission shall take no further action.

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.

a. 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 planning official. The city shall also provide notice to all persons as required by other applicable laws.

b. 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.

J. 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 planning commission;

b. All materials submitted by the planning official to the planning commission regarding the application;

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 that were given as required by this chapter. [Ord. 799 § 15, 2015; Ord. 720 § 7[4.1.6], 2003.]

18.105.070 General provisions.

A. One-Hundred-Twenty-Day Rule. The city shall take final action on permit applications that 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 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. Preapplication Conferences.

1. Participants. When a preapplication conference is required, the applicant shall meet with the planning official or his/her designee(s).

2. Information Provided. At such conference, the planning official 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 that 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 planning official or his/her designee to provide any of the information required by this subsection (C) shall not constitute a waiver of any of the standards, criteria or requirements for the application.

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:

i. Order of city council;

ii. Resolution of the planning commission;

iii. The planning official;

iv. 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. Consolidated 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 planning official.

b. When proceedings are consolidated:

i. The notice shall identify each application to be decided;

ii. 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

iii. 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:

a. Acceptance. When the city receives an application, the planning official 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:

i. The required form;

ii. The required fee;

iii. 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.

i. After the application is accepted, the planning official shall review the application for completeness. If the application is incomplete, the planning official 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.

ii. 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 planning official of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the planning official in (D)(3)(b)(i) of this section. For the refusal to be valid, the refusal shall be made in writing and received by the planning official no later than 14 days after the date on the city's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on the thirty-first day after the planning official first accepted the application.

iii. 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. Changes or Additions to the Application During the Review Period. Once an application is deemed complete:

a. All documents and other evidence relied upon by the applicant shall be submitted to the planning official 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 the planning official, and transmitted to the planning commission, 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 subsection (D)(4)(d) of this section), 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:

i. 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;

ii. 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 (subsection (A) of this section) on the existing application. If the applicant does not consent, the city shall not select this option;

iii. 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.

E. Planning Official's Duties. The planning official 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 that comply with this section;

3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or nonconformance 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 planning official 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 planning official 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 PMC 18.105.040(C) (Type II), 18.105.050(C) (Type III), or 18.105.060(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 planning official to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

2. The planning official 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 Chapter 18.130 PMC. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

G. Resubmittal of Application Following Denial. An application that has been denied, or an application that was denied and, which on appeal or review has not been reversed by a higher authority, 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 planning official. [Ord. 720 § 7[4.1.7], 2003.]

18.105.080 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. [Ord. 720 § 7[4.1.8], 2003.]

18.105.090 Neighborhood meetings.

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 planning official may require the applicant to meet with a city-recognized neighborhood association or group prior to accepting an application as complete. A neighborhood meeting is required for the following types of applications:

A. Subdivisions;

B. Site design review applications within the residential land use district;

C. Other development applications that are likely to have neighborhood or community-wide impacts (e.g., traffic, parking, noise, or similar impacts), as determined by the planning official. [Ord. 720 § 7[4.1.9], 2003.]

Chapter 18.110

DEVELOPMENT REVIEW AND SITE DESIGN REVIEW

Sections:

18.110.010 Purpose.
18.110.020 Applicability.
18.110.030 Development review approval criteria.
18.110.040 Site design review – Application review procedure.
18.110.050 Site design review – Application submission requirements.
18.110.060 Approval criteria.
18.110.070 Bonding and assurances.
18.110.080 Development in accordance with permit approval.

18.110.010 Purpose.

The purpose of this chapter is to:

A. Provide rules, regulations and standards for efficient and effective administration of site development review;

B. Carry out the development pattern and plan of the city and its comprehensive plan policies;

C. Promote the public health, safety and general welfare;

D. Lessen or avoid congestion in the streets, and secure safety from fire, flood, pollution and other dangers;

E. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage;

F. Encourage the conservation of energy resources;

G. Encourage efficient use of land resources, full utilization of urban services, mixed-uses, transportation options, and detailed, human-scaled design. [Ord. 720 § 7[4.2.1], 2003.]

18.110.020 Applicability.

Development review or site design review shall be required for all new developments and modifications of existing developments, except that regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt. The criteria for each type of review are as follows:

A. Site Design Review. Site design review is a discretionary review conducted by the planning official without a public hearing. (See Chapter 18.105 PMC for review procedure.) It applies to all developments in the city, except those specifically listed under subsection (B) of this section, 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 Divisions 2 and 3.

B. Development Review. Development review is a nondiscretionary or ministerial review conducted by the planning official without a public hearing. (See Chapter 18.105 PMC 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 Division 2. Development review is required for all of the types of development listed in subsections (B)(1) through (B)(8) of this section, except that all developments in sensitive land areas and historic districts shall also use the development review procedures for those districts:

1. Single-family detached dwelling (including manufactured homes), when required by a condition of land division approval;

2. A single duplex, up to two single-family attached (townhome) units, or a single triplex that is not being reviewed as part of any other development, and accessory parking on the same lot;

3. Building additions of not more than 500 square feet, and minor modifications to development approvals as defined by Chapter 18.130 PMC;

4. Any proposed development that has a valid conditional use permit and is less than 25 percent of the approved floor area. Major modifications exceeding 25 percent of the gross floor area to a development with a conditional use permit shall require review and approval in accordance with Chapter 18.120 PMC, Conditional Use Permits;

5. Home occupation, subject to review under Chapter 18.145 PMC;

6. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in Chapter 18.145 PMC;

7. Accessory structures with less than 1,000 square feet of floor area, including accessory dwellings; and

8. Other developments, when required by a condition of approval. [Ord. 720 § 7[4.2.2], 2003.]

18.110.030 Development review approval criteria.

A. Development review shall be conducted only for the developments listed in PMC 18.110.020(B) and it shall be conducted as a Type I procedure, as described in PMC 18.105.030. 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 (Division 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 are met (Division 2);

3. All applicable building and fire code standards are met; and

4. 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. [Ord. 720 § 7[4.2.3], 2003.]

18.110.040 Site design review – Application review procedure.

A. Site Design Review – Determination of Type II and Type III Applications. Applications for site design review shall be subject to Type II or Type III review, based on the following criteria:

1. Residential buildings with eight or fewer dwelling units shall be reviewed as a Type II application, except when development review is allowed under PMC 18.110.030. Residential buildings with greater than eight units shall be reviewed as a Type III application.

2. Commercial, industrial, public/semi-public, and institutional buildings with 40,000 square feet of gross floor area or smaller shall be reviewed as a Type II application, except when development review is allowed under PMC 18.110.030. Com-

mercial, industrial, public/semi-public, and institutional buildings with greater than 40,000 square feet of gross floor area shall be reviewed as a Type III application.

3. Developments with more than one building (e.g., two duplex buildings or an industrial building with accessory workshop) shall be reviewed as Type II applications, notwithstanding the provisions contained in subsections (A)(1) and (A)(2) of this section.

4. Developments involving the clearing and/or grading of five acres or a larger area shall be reviewed as Type II applications; notwithstanding the provisions contained in subsections (A)(1) through (A)(3) and (A)(5) of this section.

5. All developments in designated sensitive lands and historic overlay districts shall be reviewed as Type II applications. [Ord. 720 § 7[4.2.4], 2003.]

18.110.050 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 PMC 18.105.040 (Type II application) or 18.105.050 (Type III application), as applicable. The type of application shall be determined in accordance with PMC 18.110.040(A).

B. Site Design Review Information. An application for site design review shall include the following information, as deemed applicable by the planning official:

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 20 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:

i. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;

ii. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;

iii. The location, size and species of trees and other vegetation having a caliper (diameter) of six inches or greater at DBH;

g. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed;

h. Name and address of project designer, engineer, surveyor, and/or planner, if applicable;

i. Other information, as determined by the planning official. The city may require studies or exhibits prepared by qualified professionals to address specific site features;

j. Proposed Site Plan. The site plan shall contain the following information, if applicable:

i. The proposed development site, including boundaries, dimensions, and gross area;

ii. Features identified on the existing site analysis map, which are proposed to remain on the site.

iii. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;

iv. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;

v. 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;

vi. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;

vii. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops as applicable);

viii. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;

ix. Loading and service areas for waste disposal, loading and delivery;

x. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements, as applicable;

xi. Location, type, and height of outdoor lighting;

xii. Location of mail boxes, if known;

xiii. Name and address of project designer, if applicable;

xiv. Location of bus stops and other public or private transportation facilities;

xv. Locations, sizes, and types of signs;

xvi. 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 title.

2. Architectural Drawings. Architectural drawings shall be submitted showing:

a. Building elevations with building height and width dimensions;

b. The name of the architect or designer.

3. 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. Landscape Plan. A landscape plan is required and 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 planning official. An arborist's report may be required for sites with mature trees that are protected under Chapter 18.70 PMC.

5. Sign drawings shall be required in conformance with the city's sign code.

6. Copies of all existing and proposed restrictions or covenants.

7. Letter or narrative report documenting compliance with the applicable approval criteria contained in PMC 18.110.060. [Ord. 720 § 7[4.2.5], 2003.]

18.110.060 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:

A. The application is complete, as determined in accordance with Chapter 18.105 PMC, Types of Applications and Review Procedures, and PMC 18.110.050.

B. The application complies with the all of the applicable provisions of the underlying land use district (Division 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.

C. 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 18.160 PMC, Nonconforming Uses and Development.

D. The application complies with the design standards contained in Division 3. All of the following standards shall be met:

1. Chapter 18.65 PMC, Access and Circulation;

2. Chapter 18.70 PMC, Landscaping, Street Trees, Fences and Walls;

3. Chapter 18.75 PMC, Vehicle and Bicycle Parking;

4. Chapter 18.80 PMC, Public Facilities Standards;

5. Chapter 18.85 PMC, Hillside and Erosion Control Overlay;

6. Chapter 18.90 PMC, Other Standards (telecommunications facilities, solid waste storage, environmental performance), as applicable.

E. Conditions required as part of a land division, Chapter 18.115 PMC; conditional use permit, Chapter 18.120 PMC; master planned development, Chapter 18.130 PMC; specific area plan, Chapter 18.55 PMC; or other approval shall be met.

F. Exceptions to criteria in subsections (D)(1) through (D)(6) of this section may be granted only when approved as a variance, Chapter 18.155 PMC. [Ord. 720 § 7[4.2.6], 2003.]

18.110.070 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 125 percent 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 planning official 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 planning official 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. [Ord. 720 § 7[4.2.7], 2003.]

18.110.080 Development in accordance with permit approval.

Development shall not commence until the applicant has received all of the appropriate land use a 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 PMC 18.110.070. 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 Chapter 18.130 PMC, shall be processed as a Type I procedure and require only site review. Major modifications, as defined in Chapter 18.130 PMC, 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 18.105 PMC. For modifications approval criteria, please refer to Chapter 18.130 PMC.

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 planning official may, 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;

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; and

5. The request is filed prior to the permit expiration.

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 reviewing authority 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 five 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 PMC 18.110.040. A temporary public facility is any facility not constructed to the applicable city or district standard, subject to review by the city engineer;

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 18.130 PMC). [Ord. 720 § 7[4.2.8], 2003.]

Chapter 18.115

LAND DIVISIONS AND LOT LINE ADJUSTMENTS

Sections:

18.115.010 Purpose.
18.115.020 General requirements.
18.115.030 Approvals process.
18.115.040 Preliminary plat submission requirements.
18.115.050 Approval criteria – Preliminary plat.
18.115.060 Variances authorized.
18.115.070 Final plat submission requirements and approval criteria.
18.115.080 Public improvements.
18.115.090 Performance guarantee.
18.115.100 Filing and recording.
18.115.110 Replatting and vacation of plats.
18.115.120 Lot line adjustments.

18.115.010 Purpose.

The purpose of this chapter is to:

A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments;

B. Carry out the city's development pattern, as envisioned by the comprehensive plan;

C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;

D. Promote the public health, safety and general welfare through orderly and efficient urbanization;

E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;

F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage; and

G. Encourage the conservation of energy resources. [Ord. 720 § 7[4.3.100], 2003.]

18.115.020 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 ORS Chapter 92, Subdivisions and Partitions.

C. Future Redivision Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent of the minimum lot size allowed by the underlying land use district), the city may require that the lots be of such size, shape, and orientation as to facilitate future redivision, in accordance with the requirements of the land use district and this title. A redivision plan shall be submitted which identifies:

1. Potential future lot division(s) in conformance with the housing and density standards of Division 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 80 percent of the minimum lot size allowed in the underlying district.

E. Temporary Sales Office. A temporary sales office in conjunction with a subdivision may be approved as set forth in PMC 18.145.010, Temporary use permits.

F. Minimize Flood Damage. All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway. Development in a 100-year floodplain shall comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before city approval of the final plat.

G. Determination of Base Flood Elevation. Where a development site consists of, is located in, or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a licensed professional engineer or surveyor.

H. 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.

I. 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.

J. Floodplain, Park, and Open Space Dedications. Where land filling and/or development is allowed within or adjacent to the 100-year floodplain outside the zero-foot rise floodplain, and the park master plan designates the subject floodplain 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 floodplain. When practicable, this area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the city's adopted trail 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 18.80 PMC, and PMC 18.80.020(D) in particular. [Ord. 737 § 1, 2006; Ord. 720 § 7[4.3.110], 2003.]

18.115.030 Approvals process.

A. Review of Preliminary Plat. Review of a preliminary plat for a partition shall be processed by means of a Type II procedure, as governed by PMC 18.105.040. Preliminary plats for a subdivi-

sion shall be processed with a Type III procedure under PMC 18.105.050. All preliminary plats shall be reviewed using approval criteria contained in PMC 18.115.050. An application for subdivision may be reviewed concurrently with an application for a master planned development under Chapter 18.125 PMC.

B. Review of Final Plat. Review of a final plat for a subdivision or partition shall be processed by means of a Type II procedure under PMC 18.105.040, using the approval criteria in PMC 18.115.070.

C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of two years from the date of approval, after which time the preliminary plat shall lapse.

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 18.130 PMC, Modifications to Approved Plans and Conditions of Approval. The planning official may, 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 18.130 PMC;

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 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 PMC 18.115.090. 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. [Ord. 720 § 7[4.3.120], 2003.]

18.115.040 Preliminary plat submission requirements.

A. General Submission Requirements. For Type II partitions, the applicant shall submit an application containing all of the information required for a Type II procedure under PMC 18.105.040. For Type III subdivisions, the application shall contain all of the information required for a Type III procedure under PMC 18.105.050, except as required for master planned neighborhood developments:

1. Master Planned Neighborhood Development. Submission of a master plan shall be required for:

a. Parcels, and development sites with more than one parcel, in the residential district which are 10 acres or larger; and

b. Development sites in the residential district that is planned in accordance with the procedures in Chapter 18.55 PMC, Overlay Districts.

2. The neighborhood 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) of this section, 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 county surveyor);

b. Date, north arrow, and scale of drawing;

c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;

d. 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.

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 that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;

b. Easements: location, width and purpose of all 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;

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;

e. Proposed improvements, as required by Division 3, Design Standards, and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);

f. The proposed source of domestic water;

g. The proposed method of sewage disposal, and method of surface water drainage and treatment if required;

h. The approximate location and identity of other utilities, including the locations of street lighting fixtures;

i. 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);

j. Changes to navigable streams or other watercourses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable;

k. Identification of the base flood elevation. Evidence of contact with the Federal Emergency Management Agency to initiate a floodplain map amendment shall be required when development is proposed to modify a designated 100-year floodplain;

l. Evidence of contact with Oregon Department of Transportation (ODOT) for any development requiring access to a highway under the state's jurisdiction; and

m. Evidence of contact with the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Chapter 18.85 PMC. [Ord. 720 § 7[4.3.130], 2003.]

18.115.050 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 18.30 PMC, Land Use District Administration, and Chapter 18.60 PMC, Design Standards Administration, shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Division 5;

2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;

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. Housing Density. The subdivision meets the city's housing standards of Division 2.

C. 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 (Division 2), and the standards of PMC 18.65.020(J), Street connectivity and formation of blocks required.

2. Setbacks shall be as required by the applicable land use district, Division 2.

3. Each lot shall conform to the standards of Chapter 18.65 PMC, Access and Circulation.

4. Landscape or other screening may be required to maintain privacy for abutting uses. See also, Division 2, Land Use Districts, and Chapter 18.70 PMC, Landscaping, Street Trees, Fences and Walls.

5. In conformance with the Uniform Fire Code, a 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 18.65 PMC, Access and Circulation.

6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement that 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 title, 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 PMC 18.80.020(D), Conditions of development approval. [Ord. 720 § 7[4.3.140], 2003.]

18.115.060 Variances authorized.

Adjustments to the standards of this chapter shall be processed in accordance with Chapter 18.155 PMC, Variances. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted. [Ord. 720 § 7[4.3.150], 2003.]

18.115.070 Final plat submission requirements and approval criteria.

A. Submission Requirements. Final plats shall be reviewed and approved by the city prior to recording with Benton County. The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by PMC 18.115.030. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the planning official.

B. Approval Criteria. By means of a Type II procedure, the planning official 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 public works director. Alternatively, the developer has provided a performance guarantee in accordance with PMC 18.115.090.

3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;

4. 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 codes, covenants, and restrictions (CC&Rs); 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 title (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 to the city that such services will be installed in accordance with Chapter 18.80 PMC, Public Facilities Standards, and the bond requirements of PMC 18.115.090. The amount of the bond, contract or other assurance by the subdivider 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. [Ord. 720 § 7[4.3.160], 2003.]

18.115.080 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 shall provide a performance guarantee, in accordance with PMC 18.115.090. [Ord. 720 § 7[4.3.170], 2003.]

18.115.090 Performance guarantee.

A. Performance Guarantee Required. When a performance guarantee is required under PMC 18.115.080, the subdivider 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:

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;

4. (Optional.) Provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract;

5. The agreement may be prepared 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 planning official.

E. When Developer Fails to Perform. In the event the developer fails to carry out all provisions of the agreement the city may call on the bond, cash deposit or letter of credit to complete such provisions or 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. [Ord. 720 § 7[4.3.180], 2003.]

18.115.100 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 Benton County for signatures of county officials as required by ORS Chapter 92.

B. Proof of Recording. Upon final recording with the county, the applicant shall submit to the city a mylar copy and three paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.

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. [Ord. 720 § 7[4.3.190], 2003.]

18.115.110 Replatting and vacation of plats.

A. Replatting and Vacations. Any plat or portion thereof may be replatted or vacated upon receiving an 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 18.105 PMC, 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 PMC 18.115.100 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.

F. Vacation of Streets. All street vacations shall comply with the procedures and standards set forth in ORS Division 271. [Ord. 720 § 7[4.3.200], 2003.]

18.115.120 Lot line adjustments.

Lot 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 lot line adjustment shall be made on forms provided by the city and shall include information required for a Type I application, as governed by PMC 18.105.030. The application shall include a preliminary lot line map identifying:

1. All existing and proposed lot lines and dimensions;

2. Footprints and dimensions of existing structures (including accessory structures);

3. Location and dimensions of driveways and public and private streets within or abutting the subject lots;

4. Location of significant vegetation as defined and mapped in PMC 18.70.020(B) and (C);

5. Existing fences and walls; and

6. Any other information deemed necessary by the planning official for ensuring compliance with city codes.

B. Approval Process.

1. Decision-Making Process. Lot line adjustments shall be reviewed by means of a Type I procedure, as governed by PMC 18.105.030, using approval criteria contained in subsection (C) of this section.

2. Time Limit on Approval. The lot line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.

3. Lapsing of Approval. The lot line adjustment approval shall lapse if:

a. The lot line adjustment is not recorded within the time limit in subsection (B)(2) of this section;

b. The lot line adjustment has been improperly recorded with Benton 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 planning official 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. No additional parcel or lot is created by the lot 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 (Division 2) including lot area and dimensions;

3. Access. All lots and parcels comply with the standards or requirements of Chapter 18.65 PMC, Access and Circulation; and

4. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district (Division 2).

D. Exemptions from Dedications and Improvements. A lot line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.

E. Recording Lot Line Adjustments. The applicant shall submit the copy of the recorded lot line adjustment survey map to the city within 15 days of recording and prior to the issuance of any building permits on the reconfigured lots.

F. 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 lot 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 lot 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. [Ord. 720 § 7[4.3.210], 2003.]

Chapter 18.120

CONDITIONAL USE PERMITS

Sections:

18.120.010 Purpose.
18.120.020 Approvals process.
18.120.030 Application submission requirements.
18.120.040 Criteria, standards and conditions of approval.
18.120.050 Additional development standards for conditional use types.

18.120.010 Purpose.

There are certain uses that, 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 Division 2, Land Use Districts. The purpose of this chapter 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. [Ord. 720 § 7[4.4.1], 2003.]

18.120.020 Approvals process.

A. Initial Application. An application for a new conditional use shall be processed as a Type III procedure (PMC 18.105.050). The application shall meet submission requirements in PMC 18.120.030, and the approval criteria contained in PMC 18.120.040.

B. Modification of Approved or Existing Conditional Use. Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 18.130 PMC, Modifications to Approved Plans and Conditions of Approval. [Ord. 720 § 7[4.4.2], 2003.]

18.120.030 Application submission requirements.

In addition to the submission requirements required in Chapter 18.105 PMC, an application for conditional use approval must include the following information (subsections (A) through (H) of this section), as applicable. For a description of each item, please refer to PMC 18.110.050, Site design review – Application submission requirements:

A. Existing site conditions;

B. Site plan;

C. Preliminary grading plan;

D. A landscape plan;

E. Architectural drawings of all structures;

F. Drawings of all proposed signs;

G. A copy of all existing and proposed restrictions or covenants;

H. Narrative report or letter documenting compliance with all applicable approval criteria in PMC 18.120.040. [Ord. 720 § 7[4.4.3], 2003.]

18.120.040 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 (PMC 18.110.060) 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. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;

3. Requiring larger setback areas, lot area, and/or lot depth or width;

4. Limiting the building height, size or lot coverage, and/or location on the site;

5. Designating the size, number, location and/or design of vehicle access points or parking areas;

6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;

7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;

8. Limiting the number, size, location, height and/or lighting of signs;

9. Limiting or setting standards for the location, 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 18.85 PMC);

13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans. [Ord. 737 § 1, 2006; Ord. 720 § 7[4.4.4], 2003.]

18.120.050 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 Division 2, Land Use Districts. [Ord. 720 § 7[4.4.5], 2003.]

Chapter 18.125

MASTER PLANNED DEVELOPMENTS

Sections:

18.125.010 Purpose.
18.125.020 Applicability.
18.125.030 Review and approvals process.
18.125.040 Allowed uses.
18.125.050 Applicability of land use district standards (Division 2).
18.125.060 Applicability of design standards (Division 3).
18.125.070 Overlay zone and concept plan submission.
18.125.080 Overlay zone and concept plan approval criteria.
18.125.090 Administrative procedures.
18.125.100 Detailed development plan submission requirements.
18.125.110 Detailed development plan approval criteria.
18.125.120 Development review and building permit approvals.

18.125.010 Purpose.

A. Purpose. The purposes of this chapter are to:

1. Implement the development standards of Division 2 of this title, by providing a means for master planning large development sites;

2. Encourage innovative planning that results in more mixed-use development, improved protection of open spaces, and greater housing and transportation options;

3. Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified living 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. [Ord. 737 § 1, 2006; Ord. 720 § 7[4.5.100], 2003.]

18.125.020 Applicability.

The master planned development designation is an overlay zone that may be applied over any of the city's land use districts. An applicant may elect to develop a project as a master planned development in compliance with the requirements of this chapter. In addition, the city may require that the following types of development be processed using the provisions of this chapter:

A. Subdivisions required to conform to the master planned neighborhood development standards of PMC 18.35.100. [Ord. 737 § 1, 2006; Ord. 720 § 7[4.5.110], 2003.]

18.125.030 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 PMC 18.105.050, the submission requirements in PMC 18.125.070, and the approval criteria in PMC 18.125.080.

2. The detailed development plan shall be reviewed using the Type III procedure in PMC 18.105.050, 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, as governed by PMC 18.105.040.

4. The steps in subsections (B)(1) through (B)(3) of this section may be combined in any manner, so long as the decision-making sequence follows that in subsection (A) of this section. Notification and hearings may be combined. [Ord. 720 § 7[4.5.120], 2003.]

18.125.040 Allowed uses.

A. Residential District(s). In the residential district the following uses are allowed outright when they are included in an approved master planned development:

1. All uses allowed outright in the underlying land use district (Division 2);

2. Single-family detached and attached residential units;

3. Duplex and triplex residential units;

4. Multifamily residential units;

5. Manufactured homes;

6. Neighborhood commercial uses;

7. Public uses, as determined during master plan review;

8. Indoor recreation facility; athletic club, fitness center, racquetball court, swimming pool, tennis court or similar use;

9. Outdoor recreation facility, golf course, golf driving range, swimming pool, tennis court, or similar use; and

10. Recreational vehicle storage area;

11. Conditional uses shall require a conditional use permit, in accordance with Chapter 18.120 PMC.

B. Commercial Districts. In the commercial district, all of the uses permitted outright in the district are allowed within a master planned development. In addition, the ground-floor restriction on residential uses on individual city blocks shall not apply if ground floor residential uses occupy no more than 50 percent of the ground-floor space in the entire development (i.e., all blocks).

C. Industrial Districts. In industrial districts, a planned development shall contain only those uses allowed outright in the underlying district. [Ord. 720 § 7[4.5.130], 2003.]

18.125.050 Applicability of land use district standards (Division 2).

A. Land Use District Standards. Master planned developments shall conform to the provisions of the underlying land use district, except as modified by this chapter.

B. More Than One Overlay Zone. When more than one overlay zone applies to the development, and standards conflict between the overlay zones, the more restrictive standards shall apply (i.e., those which afford the greatest protection to identified resources and amenities, compatibility between land uses, etc.). [Ord. 720 § 7[4.5.140], 2003.]

18.125.060 Applicability of design standards (Division 3).

The design standards of Division 3 apply to all master planned developments. Variances shall conform to the standards and procedures of Chapter 18.155 PMC, Variances. [Ord. 720 § 7[4.5.150], 2003.]

18.125.070 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 PMC 18.105.050. 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 regards 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 PMC 18.125.080.

Special studies prepared by qualified professionals may be required by the planning official, 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) of this section, the concept plan, data, and narrative shall include the following exhibits and information:

1. Existing conditions map, as defined in PMC 18.110.050, 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.). [Ord. 720 § 7[4.5.160], 2003.]

18.125.080 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 18.115 PMC);

C. Division 2 Land Use and Design Standards. All of the land use and design standards contained in Division 2 are met, except as modified in PMC 18.125.050 and the following provisions for density bonuses:

1. Density Bonus. The housing density standards shall be determined based on the densities in Division 2. When allowed by the comprehensive plan, the city may authorize a density bonus above the density allowed by Division 2, as an incentive to increase or enhance open space, protect sensitive lands, provide unique architectural character, and/or accomplish other purposes of the district, as identified in PMC 18.125.010. The density bonus shall not result in the allowable density exceeding 25 percent of the allowable density in Division 2. The criteria in subsections (C)(1)(a) through (C)(1)(d) of this section shall be used in granting density bonuses. The percentage of density bonus granted shall be proportional to the land area used to meet the criteria in subsections (C)(1)(a) through (C)(1)(d) of this section.

a. A maximum of 115 percent of the density allowed by the district may be approved for the provision of public open space, or protection of natural features in common open space;

b. A maximum of 105 percent of the density allowed by the district may be approved for streetscape (e.g., parkways or landscaped boulevard) development; plazas, pathways or other pedestrian amenities; or recreation area development;

c. A maximum of 105 percent of the density allowed by the district may be approved for the protection or enhancement of community views and vistas (e.g., by providing a public view point, parkway, plaza, or open space);

d. A maximum of 115 percent of the density allowed by the district may be approved for development of affordable housing. Affordable housing is defined as housing affordable to households earning 80 percent of the median household income in Benton County, or less. Such households, on average, do not spend more than 30 percent of their income on housing. Housing prices and/or rents shall be limited to that level through deed restriction for up to 10 years.

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 council 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. [Ord. 720 § 7[4.5.170], 2003.]

18.125.090 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 18.130 PMC, to indicate the approved planned development designation for the subject development site. The approval of the planned development overlay zone shall conform to the same time frames as established for all subdivisions.

B. Time Limit on Filing of Detailed Development Plan. Within one and one-half 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 PMC 18.125.100.

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 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. [Ord. 720 § 7[4.5.180], 2003.]

18.125.100 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. [Ord. 720 § 7[4.5.190], 2003.]

18.125.110 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:

A. Increased residential densities by no more than 10 percent, when such change conforms to the comprehensive plan;

B. A reduction to the amount of open space or landscaping by no more than 10 percent;

C. An increase in lot coverage by buildings or changes in the amount of parking by no more than 10 percent. Greater changes require a major modification (Chapter 18.130 PMC);

D. No change in land use shall be permitted without approving a major modification to the concept plan (Chapter 18.130 PMC);

E. 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 18.130 PMC); and

F. 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 30 feet shall require approval of a major modification, in conformance with Chapter 18.130 PMC.

G. 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 18.130 PMC. [Ord. 720 § 7[4.5.200], 2003.]

18.125.120 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.

A. Chapter 18.110 PMC applies to developments requiring development review or site design review.

B. Chapter 18.115 PMC applies to land divisions.

C. Streamlined Review Option. Preliminary subdivision plats and site design review applica-

tions 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 18.110 PMC, Development Review and Site Design Review, and Chapter 18.115 PMC, Land Divisions and Lot Line Adjustments, 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. [Ord. 720 § 7[4.5.210], 2003.]

Chapter 18.130

MODIFICATIONS TO APPROVED PLANS AND CONDITIONS OF APPROVAL

Sections:

18.130.010 Purpose.
18.130.020 Applicability.
18.130.030 Major modifications.
18.130.040 Minor modifications.

18.130.010 Purpose.

The purpose of this chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve city resources. [Ord. 720 § 7[4.6.1], 2003.]

18.130.020 Applicability.

A. This chapter applies to all development applications approved through the provisions of Division 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. [Ord. 720 § 7[4.6.2], 2003.]

18.130.030 Major modifications.

A. Major Modification Defined. The planning official 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 nonresidential use by more than 10 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 subsections (A)(1) through (A)(6) of this section, 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. When the planning official determines 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. [Ord. 720 § 7[4.6.3], 2003.]

18.130.040 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 PMC 18.130.030, or provides for reduced impacts, 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 PMC 18.105.040. A minor modification shall be approved, approved with conditions, or denied by the planning official 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 PMC 18.130.030. [Ord. 734 § 1, 2005; Ord. 720 § 7[4.6.4], 2003.]

Chapter 18.135

ANNEXATION

Sections:

18.135.010 Purpose.
18.135.020 Legislative amendments.
18.135.030 Annexations.
18.135.040 Record of amendments.
18.135.050 Transportation planning rule compliance.

18.135.010 Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this title 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. [Ord. 720 § 7[4.7.1], 2003.]

18.135.020 Legislative amendments.

Legislative amendments are policy decisions made by city council. They are reviewed using the Type IV procedure in PMC 18.105.060. [Ord. 720 § 7[4.7.2], 2003.]

18.135.030 Annexations.

A. Process. The process of annexation of land to the city allows for orderly expansion of the city and for the adequate provision of public facilities and services. The City Charter requires that annexation, and/or extension of city services beyond city boundaries may only be approved by a majority vote of the electorate.

B. Annexation Filing Deadlines.

1. Unless mandated by state law, all annexation requests approved by the city council shall be referred to the voters in accordance with the requirements of this title and ORS Division 222.

2. Annexation elections are scheduled for May and November. Applications for annexation shall be filed with the planning department before 5:00 p.m. on the second Thursday of November for a ballot election in May and before 5:00 p.m. on the second Thursday of May for a ballot election in November.

C. Requirements for Applications. Applications to the city for initiation of annexation proceedings made by individuals shall be on forms provided by the planning official and shall include the following material:

1. Written consent to the annexation signed by the requisite number of affected property owners, electors, or both, to dispense with an election within the territory to be annexed, as provided by state law.

2. A legal description of the property to be annexed.

3. A map of the area to be annexed, including adjacent city territory.

4. Sufficient information for city staff to allow for the completion of an impact analysis on existing water supply and facilities, and existing sewer, drainage, transportation, park and school facilities. In addition, city staff shall project what additional facilities will be required to serve the development described in the conceptual plan and, if necessary, how such facilities will need to be phased n over time. The application shall provide evidence of the need of the proposal by citing data and statistics that support the annexation.

5. A statement outlining the method and source of financing required to provide additional facilities.

6. A conceptual development plan shall be provided by the applicant and shall include the following:

i. A scale drawing of the site showing: the types and intensities of proposed development; existing streets that will be used for access and those streets that may need to be developed for access; the location of watercourses and other significant natural features; location of existing and necessary extension of public water, sanitary sewer, and storm drain facilities; and, existing uses and zoning on adjacent properties.

ii. The conceptual development plan shall contain sufficient detail on the actual or proposed site uses to allow city staff the opportunity to analyze the development's demand for new public infrastructure systems, as well as assess the impact on existing systems. Staff may develop hypothetical site design scenarios or model development at densities other than those proposed by the applicant to assess impact on public infrastructure.

7. A statement indicating the type and nature of any comprehensive plan text or map amendments or zoning ordinance or zoning map amendments that may be required to complete the planned development.

8. The application fee established by the city. In addition to the application fee, the planning official shall require a deposit that is adequate to cover any and all election costs.

D. Review of Application. City staff shall review the application and it shall be deemed complete if it contains the material required under this section.

E. Staff Evaluation. City Staff shall prepare a report that considers information submitted by the applicant as well as other sources of relevant information including but not limited to master utility plans, regional and local transportation system plans, and population studies. The report shall include an updated land use inventory with the development status of all other similarly zoned properties. From this information, a finding shall be made that the city has the capacity to provide required utility services in light of commitments already made to other approved developments. The staff evaluation of the application will endeavor to present a report for the public and review bodies that factually evaluate the proposal and may or may not agree with response information provided by the applicant. An annexation request including a future residential development shall be evaluated by city staff at its maximum possible density.

F. Review Criteria. Annexations shall be reviewed by city staff to assure consistency with the purposes of this chapter, policies of the comprehensive plan, and other applicable policies and standards adopted by the city council and state of Oregon. In addition, a finding shall be made that the city is capable of providing services to the subject property(ies) commensurate with the needs of existing approved and proposed developments.

G. Concurrent Application for comprehensive plan map or zoning map amendments. Application(s) for comprehensive plan map and/or zoning map amendments may be made concurrent with an application for annexation of territory. City approval of map amendments may be made contingent upon approval of the annexation.

H. Annexation by Consent of All Owners of Land. When all the owners of land in the territory

to be annexed consent in writing to the annexation of their land in the territory and file a statement of their consent with the city, the following procedures shall apply:

1. The planning commission shall hold at least one public hearing on the annexation request.

2. Application for said annexation must be filed, with payment of the appropriate fee, not less than 30 days prior to the date of the public hearing.

3. Notice of the public hearing shall be published in a newspaper of general circulation in the city not less than five days or more than 15 days prior to the date of the public hearing. Notice shall also be posted at six public places within the city not less than five days or more than 15 days prior to the date of the public hearing.

4. Written notice of a requested annexation shall be mailed to all owners of the property not less than 20 days prior to the date of the hearing. If the property to be annexed is less than five acres, notice shall be mailed to all owners within 200 feet of the exterior boundary of the subject property. If the property to be annexed is greater than five acres, notice shall be mailed to all owners within 400 feet of the exterior boundary of the subject property. In those instances where an approved annexation would create an island of unincorporated property, those affected property owners shall be notified of this potential.

5. The public hearing shall be conducted according to the requirements established for Type IV applications.

6. Should the public hearing be continued to a specific date by oral pronouncement prior to the closing of such hearing, and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.

7. Within 45 days following the public hearing, unless a continuance is announced, the commission shall make specific findings of fact. Based on the findings, the commission shall render a decision which shall recommend either that the application be approved and submitted to the voters at the next available election according to the requirements above, or be denied.

a. If the commission recommends that the application be granted and set for the election, the commission shall transmit to the council a copy of the application, a scale drawing of the site, the minutes of the public hearing, a tape recording of the meeting, the decision and findings of the commission, and any other materials deemed necessary for a decision by the council.

b. If the commission recommends that the application be denied, no further proceedings shall be held by either the commission or council, unless an appeal of the commission's decision is filed by the applicant or by an interested party within 15 calendar days of the commission's decision.

8. Upon receipt of the commission's recommendation of approval, the council shall call for a public hearing on the proposed subject to the notice requirements for a Type IV application.

9. In the event of an appeal of a planning commission decision, the council shall hold a public hearing following the procedures in a Type IV application.

I. Annexation by Non-Unanimous Triple Majority Consent Petition. When more than half, but not all, of the owners of land in the territory to be annexed who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory, the following procedures shall apply:

1. The planning commission shall hold at least one public hearing on the annexation request.

2. Application for the annexation must be filed, with payment of the appropriate fee, not less than 30 days prior to the date of the public hearing.

3. Notice of the public hearing shall be published in a newspaper of general circulation in the city not less than five days or more than 15 days prior to the date of the public hearing. Notice shall also be posted at six public places within the city not less than five days or more than 15 days prior to the date of the public hearing.

4. Written notice of a requested change shall be mailed to all owners of the property not less than 20 days prior to the date of the hearing. If the property to be annexed is less than five acres, notice shall be mailed to all owners within 200 feet of the exterior boundary of the subject property. If the property to be annexed is greater than five acres, notice shall be mailed to all owners within 400 feet of the exterior boundary of the subject property. In those instances where an approved annexation would create an island of unincorporated property,

those affected property owners shall be notified of this potential.

5. The public hearing shall be conducted according to the requirements established for a Type IV application.

6. Should the public hearing be continued to a specific date by oral pronouncement prior to the close of such hearing, and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.

7. Within 45 days following the public hearing, unless a continuance is announced, the commission shall make specific findings of fact. Based on the findings, the commission shall render a decision that shall recommend either that the application be approved and submitted to the voters at the next available election according to the requirements of subsection (H)(7)(b) of this section, or denied.

8. If the commission recommends that the application be granted and set for the election, the commission shall transmit to the council a copy of the application, a scale drawing of the site, the minutes of the public hearing, a tape recording of the meeting, the decision and findings of the commission, and any other materials deemed necessary for a decision by the council.

9. If the commission recommends that the application be denied, no further proceedings shall be held by either the commission or council, unless an appeal of the commission's decision is filed by the applicant or by an interested party within 15 calendar days of the commission's decision.

10. Upon receipt of the commission's recommendation of approval, the council shall call for a public hearing on the proposed subject to the notice requirements stated for a Type IV application.

11. In the event of an appeal of a planning commission decision, the council shall hold a public hearing following the procedures for a Type IV application.

J. Findings and Decision. In the event the city council holds a public hearing on an annexation request, the city council may adopt the planning commission findings for approval or denial of the annexation, supplement the record as appropriate in the circumstances, or reject the findings of the planning commission and adopt new findings.

K. Health Hazard Annexation. The city shall annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the city to provide necessary services. Annexation of areas constituting a health hazard are not subject to voter approval.

L. Island Annexation. The following policies are adopted for island annexations:

1. The city shall attempt not to create islands of unincorporated territory within the corporate limits of the city. If such an island is created, the city council may set a time for a public hearing for the purpose of determining if the annexation should be submitted to the voters.

2. Written notice to property owners by first class mail will be made prior to annexation to allow for property owner responses. Failure to receive notice shall not in any way invalidate the annexation procedure that may be subsequently undertaken by the city.

3. Annexation of an island shall be by ordinance, subject to approval by the voting majority of the electorate.

M. Comprehensive Plan and Zoning Designations.

1. The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Philomath comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to determine compliance with the Philomath comprehensive plan.

2. Simultaneous application for annexation and a zone change is allowed; provided, that the zone change ordinance does not take effect until and unless the property is properly annexed to the city and incorporated within the city limits.

N. Information on Proposed Annexation. The city newsletter shall be used to present an applicant's conceptual plan along with a summary of the city staff's analysis of the development's impact on public infrastructure. Other information to be presented shall include a vicinity map, size of the property, its current zoning and zoning upon annexation, a description of any comprehensive plan text or map amendment or zoning ordinance text or map amendment that is required and any

other information that may assist in the explanation of the proposal. Annexation information in the city newsletter and on the election ballot shall include the following disclaimer statement:

> The conceptual plan associated with this annexation request may change. Any development proposal on this property shall require review and approval by the planning commission at a public hearing. Any future owner of this property who may propose a different development plan must pass through the same plan review process and public hearing. The city is not speaking in favor or against this conceptual plan.

Annexation requests submitted by the city are not required to contain a disclaimer statement.

O. Election Procedures.

1. Pursuant to ORS 222.130(1), the statement of chief purpose in the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words.

2. Pursuant to ORS 222.130(2), the notice of an annexation election shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.

3. Pursuant to ORS 222.111(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately.

P. Setting of Boundaries and Proclamation of Annexation. If the annexation is approved, the city council, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation (ORS 222.170(3)).

Q. Submission of Annexation Reports. The city shall report all changes in the boundaries of the city to the county clerk, county assessor, and the state of Oregon as required by Oregon Revised Statutes.

R. Exceptions. The city council may authorize an exception to any of the requirements of this section. An exception shall require a favorable vote of six or more council members and findings that indicate the basis for the exception. Any exception so approved shall not be in violation of state law or any applicable provisions of the City Charter.

S. Zoning of Annexed Areas. The city council shall designate all areas annexed to the city with a zone or zones. The city council shall provide notice in accordance with a Type IV application and conduct a public hearing prior to designating city zoning for annexed property. Designation of areas annexed by the city shall be subject to one of the following procedures:

1. If the proposed zoning designation corresponds to the comprehensive plan map designation for the property being annexed, the city council shall conduct a public hearing on the proposed zoning designation for the affected property. Notice for the hearing shall be provided for in accordance with a Type IV application, except all published and mailed notice shall be provided 20 days in advance of the hearing. Following the public hearing, the city council shall adopt an ordinance that assigns the zoning designation for the affected property.

2. If the proposed zoning designation does not correspond to the comprehensive plan map designation for the property being annexed, the proposal shall be reviewed by the planning commission as a comprehensive plan map amendment and zoning map designation pursuant to a Type IV application. Following planning commission review, the city council shall conduct a public hearing. Following the hearing, the city shall adopt an ordinance that designates the zoning of the affected properties, adopts approved amendments to the comprehensive plan map, if necessary.

3. The city may approve a comprehensive plan map amendment and/or zone designation for property prior to annexation and may specify that the plan map amendment and zone designation shall not become final unless the property is annexed to the city within a specified time. [Ord. 720 § 7[4.7.3], 2003.]

18.135.040 Record of amendments.

The planning official shall maintain a record of amendments to the text of this title and the land use districts map in a format convenient for public use. [Ord. 720 § 7[4.7.4], 2003.]

18.135.050 Transportation planning rule compliance.

A. 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 OAR 660-012-0060. 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 comprehensive plan/transportation system plan; or

2. Change the standards implementing a functional classification system; or

3. Allow types or levels of land use that would result in levels of travel or access what 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 comprehensive plan/transportation system plan.

B. 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;

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. [Ord. 720 § 7[4.7.5], 2003.]

Chapter 18.140

CODE INTERPRETATIONS

Sections:

18.140.010 Purpose.
18.140.020 Code interpretation procedure.

18.140.010 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. [Ord. 720 § 7[4.8.1], 2003.]

18.140.020 Code interpretation procedure.

A. Requests. A request for a code interpretation shall be made in writing to the planning official, specifying the issue in question and providing the applicant's understanding of that provision.

B. Decision to Issue Interpretation. The planning official shall have the authority to review a request for an interpretation. The planning official shall advise the requester in writing within 14 days after the request is made on whether or not the city will issue the requested interpretation.

C. Declining Requests for Interpretations. The planning official 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 the interpretation does not support the request. The planning official's 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 planning official 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 subsections (E) through (G) of this section.

E. Appeals. The applicant and any party who received such notice or who participated in the pro-

ceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the planning commission 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 planning official on appropriate form and payment of the applicable fee.

F. Appeal Procedure. City council shall hear all appeals of a planning commission interpretation as a Type III action pursuant to PMC 18.105.050, 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 planning official shall keep on file a record of all code interpretations. [Ord. 720 § 7[4.8.2], 2003.]

Chapter 18.145

MISCELLANEOUS PERMITS

Sections:

18.145.010 Temporary use permits.
18.145.020 Home occupation permits.

18.145.010 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. Three types of temporary uses require permit approval (See subsections (A) through (C) of this section):

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 PMC 18.105.040, 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 18.75 PMC, Vehicle and Bicycle Parking;

4. The use provides adequate vision clearance, as required by PMC 18.65.020, 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 PMC 18.65.020, 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 II procedure under PMC 18.105.040, 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.

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 shall not be permanently improved for that purpose.

2. Model House.

a. The model house shall be located within the boundaries of the subdivision or tract of land where the 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 title.

C. Temporary Building. Using a Type II procedure, as governed by PMC 18.105.040, 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 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 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 PMC 18.65.020, Vehicular access and circulation;

4. There is adequate parking for the customers or users of the temporary use as required by Chapter 18.75 PMC, 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 six months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit. [Ord. 720 § 7[4.9.1], 2003.]

18.145.020 Home occupation permits.

The purpose of this section is to encourage those who are engaged in small commercial ventures that could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. 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 dwellings, subject to the following standards:

A. Appearance of Residence.

1. 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.

2. 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.

3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).

4. No products and or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

B. Storage.

1. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.

2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.

3. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

C. Employees.

1. 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.

2. 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.

3. 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.

D. Advertising and Signs. Signs shall comply with PMC 18.95.030. In no case shall a sign exceed the residential district standards.

E. Vehicles, Parking and Traffic.

1. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.

2. 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 10:00 p.m. to 7:00 a.m.

3. There shall be no more than one client or customer vehicle at any one time and no more than eight per day at the home occupation site.

F. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7:00 a.m. to 10:00 p.m. only, subject subsections (A) and (E) of this section.

G. Prohibited Home Occupation Uses.

1. 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.

2. 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 from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to subsections (A) through (F) of this section.

3. 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, but not limited to:

a. Ambulance service;

b. Animal hospital, veterinary services, kennels or animal boarding;

c. Auto and other vehicle repair, including auto painting;

d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site;

H. Enforcement. The planning official or 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 18.20 PMC, Enforcement. [Ord. 737 § 1, 2006; Ord. 734 § 1, 2005; Ord. 720 § 7[4.9.2], 2003.]

Division 5. Exceptions to Code Standards

Chapter 18.150

INTRODUCTION

Sections:
18.150.010 Introduction.

18.150.010 Introduction.

This division provides standards and procedures for variances and nonconforming situations (i.e., existing uses or development that do not comply with the code). This title cannot provide standards to fit every potential development situation. The city's varied geography, and complexities of land development, require flexibility. Division 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 codes. The standards for nonconforming uses and development are intended to provide some relief from code requirements for older developments that do not comply. [Ord. 720 § 7[5.0], 2003.]

Chapter 18.155

VARIANCES

Sections:
18.155.010 Purpose.
18.155.020 Class A variances.
18.155.030 Class B variances.
18.155.040 Class C variance.
18.155.050 Variance application and appeals.

18.155.010 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. [Ord. 720 § 7[5.1.1], 2003.]

18.155.020 Class A variances.

A. Class A Variances. The following variances are reviewed using a Type II procedure, as governed by Chapter 18.105 PMC, except notice shall be provided abutting property owners, using the approval criteria in subsection (B) of this section:

1. Front Yard Setbacks. Up to a 10 percent change to the front yard setback standard in the 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 required in the base zone.

4. Landscape Area. Up to 10 percent reduction in 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. There is no opposition from adjacent property owners.

2. The variance requested is required due to the lot configuration, or other conditions of the site;

3. 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;

4. The variance will not result in violation(s) of Division 3, or other design standards. [Ord. 720 § 7[5.1.2], 2003.]

18.155.030 Class B variances.

A. 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 18.105 PMC:

1. Variance to Minimum Housing Density Standard (Division 2). The city may approve a variance after finding that the minimum housing density provided in Division 2 cannot be achieved due to physical constraints that limit the division of land or site development. "Physical constraint" means steep topography, sensitive lands (Chapter 18.55 PMC), unusual parcel configuration, or a similar constraint. The variances approved shall be the minimum variance necessary to address the specific physical constraint on the development.

2. Variance to Vehicular Access and Circulation Standards (Chapter 18.65 PMC). 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:

a. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;

b. There are no other alternative access points on the street in question or from another street;

c. The access separation requirements cannot be met;

d. The request is the minimum adjustment required to provide adequate access;

e. The approved access or access approved with conditions will result in a safe access; and

f. The visual clearance requirements of Chapter 18.65 PMC will be met.

3. Variances to Street Tree Requirements (Chapter 18.70 PMC). The city may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 18.70 PMC, after finding the following:

a. Installation of the tree would interfere with existing utility lines;

b. The tree would cause visual clearance problems; or

c. There is not adequate space in which to plant a street tree; and

d. Replacement landscaping is provided elsewhere on the site (e.g., parking lot area trees).

4. Variance to Parking Standards (Chapter 18.75 PMC).

a. The city may approve variances to the minimum or maximum standards for off-street parking in PMC 18.75.010 upon finding the following:

i. 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;

ii. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and

iii. All other parking design and building orientation standards are met, in conformance with the standards in Divisions 2 and 3.

b. The city may approve a reduction of required bicycle parking per PMC 18.75.020, 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 in 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.

5. Variance to Maximum or Minimum Yard Setbacks to Reduce Tree Removal or Impacts to Wetlands (Division 2 and Chapter 18.70 PMC). The city may grant a variance to the applicable setback requirements of this title for the purpose of preserving a tree or trees on the site of proposed development or avoiding wetland impacts. Modifi-

cation shall not be more than is necessary for the preservation of trees on the site.

6. Variances to Transportation Improvement Requirements (PMC 18.80.020). The city may approve, approve with conditions, or deny a variance to the transportation improvement standards of PMC 18.80.020, based on the criteria for granting variances provided in PMC 18.80.020(B). When the provisions of that chapter cannot support a variance request, then the request shall be reviewed as a Class C variance.

7. Extension of Nonconforming Structure. Where a nonconforming structure exists, such nonconformity may be extended, upon finding the following:

a. The extension complies with all applicable fire and life safety codes;

b. The extension will not adversely impact adjacent property; and

c. The extension does not create any additional nonconformities. [Ord. 720 § 7[5.1.3], 2003.]

18.155.040 Class C variance.

A. Purpose. The purpose of this section is to provide standards for variances that exceed the Class A and Class B variance criteria in PMC 18.155.020 and 18.155.030. 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 18.55 PMC), 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" 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 yet to be created through a subdivision process may not utilize the Class C variance procedure.

3. A variance shall not be approved which would vary the "permitted uses" of a land use district (Division 2).

C. Approvals Process and Criteria.

1. Class C variances shall be processed using a Type III procedure, as governed by PMC 18.105.050, using the approval criteria in subsection (C)(2) of this section. In addition to the application requirements contained in PMC 18.105.050, 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 (C)(2) of this section.

2. The city shall approve, approve with conditions, or deny 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 title, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;

b. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands (Chapter 18.55 PMC), 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 that would alleviate the hardship. [Ord. 720 § 7[5.1.4], 2003.]

18.155.050 Variance application and appeals.

The variance application shall conform to the requirements for Type I, II, or III applications (PMC 18.105.030, 18.105.040 and 18.105.050), as applicable. 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 18.105 PMC. [Ord. 720 § 7[5.1.5], 2003.]

Chapter 18.160

NONCONFORMING USES AND DEVELOPMENTS

Sections:

18.160.010 Nonconforming uses.
18.160.020 Nonconforming structure.
18.160.030 Residential exemptions.

18.160.010 Nonconforming uses.

It is the intent of this section to permit pre-existing structures and uses that do not conform to the standards of this title to continue and to expand under certain conditions. A nonconforming structure is a structure that complied with existing laws when it was built, but does not conform to current height, setback or other property development standards. A nonconforming use is a use that complied with existing laws at the time it was established, but no longer is a permitted use. A use that is currently listed as a conditional use, for which no conditional use permit has been granted is also deemed a nonconforming use. Where at the time of adoption of this title a use of land or structure exists which would not be permitted by the regulations imposed by this title and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

A. Expansion of Use Prohibited. No such nonconforming use is 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 title. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land;

B. 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 title;

C. Discontinuation or Abandonment. The nonconforming use of land is not discontinued for any reason for a period of more than six months. For purposes of calculating the six-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;

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.

D. Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason for a period of more than six months, any subsequent use of land shall conform to the applicable standards and criteria specified by this title for the land use district in which such land is located;

E. Restoration of Abandoned Nonconforming Use. The planning commission may permit the restoration of a use for which the structure was originally designed or similar thereto, through the conditional use Type III process.

1. When reviewing any request to alter or restore a nonconforming use, in addition to the conditional use criteria, it shall be determined that all of the following are found to exist:

a. The nature and character of the proposed use are substantially the same as that for which the structure was originally designed;

b. There is no material difference in the quality, character, or degree of use; and

c. The proposed use will not prove materially adverse to surrounding properties. [Ord. 720 § 7[5.2.1], 2003.]

18.160.020 Nonconforming structure.

Where a structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this title 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 structure may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way that 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 structure or nonconforming portion of structure be destroyed by any means to an extent more than 50 percent of its current value as assessed by the Benton County assessor, it shall be reconstructed only in conformity with the development code; and

C. Should such structure be moved for any reason and by any distance, it shall thereafter conform to the regulations of the development code;

D. A nonconforming structure due to setbacks may be extended along that line of the, upon written concurrence of the property owner adjacent to the nonconformity. In no instance may the degree of nonconformity be increased without a city approval via a Type II variance. [Ord. 720 § 7[5.2.2], 2003.]

18.160.030 Residential exemptions.

It is recognized that residential uses of property or development, while nonconforming will not generally have a deleterious affect on surrounding properties. Furthermore, the strict adherence to eliminate nonconforming single-family residential structures would likely work a hardship on many individuals living in dwellings that are nonconforming. Therefore, the following exemptions are provided for single-family residential structures.

A. In any industrial or commercial zone a nonconforming dwelling may be altered or expanded provided the construction and siting complies with the property development and building code standards of the underlying zone.

B. Any nonconforming dwelling that is destroyed or damaged to any extent may be replaced provided the owner has applied for a building permit within six months of such destruction or damage.

C. Any nonconforming dwelling that is not occupied for any length of time shall be allowed to be continued as residential use. [Ord. 720 § 7[5.2.3], 2003.]