



# **CITY OF SWEET HOME PLANNING COMMISSION AGENDA**

January 22, 2018, 7:00 p.m.  
City Hall Annex, 1140 12th Avenue  
Sweet Home, OR 97386

PLEASE silence all cell phones – Anyone who wishes to speak, please sign in.

1. Call to Order and Pledge of Allegiance
2. Roll Call of Commissioners: Lance Gatchell (Chairperson); Anay Hausner (Vice Chairperson); Eva Jurney; Edith Wilcox; Greg Stephens; Henry Wolthuis, Thomas Herb
3. Election of Chairperson and Vice-Chairperson
4. Approval of Minutes: December 18, 2017 Planning Commission Minutes
5. Comments from the Public
6. Work Session: Code Updates
7. Quality Development Award Nominations
8. Meeting Scheduling
9. Department update from Planning Staff
10. Adjournment

The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the Community and Economic Development Office at (541) 367-8113.

Persons interested in commenting on these issues should submit testimony in writing to the Community and Economic Development Department Office located in City Hall prior to the hearing or attend the meeting and give testimony verbally. Persons who wish to testify will be given the opportunity to do so by the Chair of the Commission at the Planning Commission meeting. Such testimony should address the zoning ordinance criteria which are applicable to the request.

The Sweet Home Planning Commission welcomes your interest in these agenda items. Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered at the meeting; however, the Commission may consider additional subjects as well. This meeting is open to the public and interested citizens are invited to attend.

The failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost. Please contact the Community and Economic Development Department at 1140 12th Ave, Sweet Home, Oregon 97386; Phone: (541) 367-8113.



## Community and Economic Development Department

PLANNING COMMISSION MEETING  
DECEMBER 18, 2017  
CITY HALL ANNEX - COUNCIL CHAMBERS  
1140 12<sup>TH</sup> AVENUE

### PUBLIC MEETING CALL TO ORDER AT 6:32 PM

### PLEDGE OF ALLEGIANCE

#### ROLL CALL ATTENDING:

Edith Wilcox   Henry Wolthuis   Eva Jurney   Thomas Herb  
Greg Stephens   Lance Gatchell (Excused)   Anay Hausner (Excused/Tardy)

#### STAFF:

Jerry Sorte, Community and Economic Development Director (CEDD)  
Kathryn Wilcox, Planning Assistant

#### REGISTERED VISITORS:

Greg Springman, Public Works Director, City of Sweet Home, Sweet Home, OR 97386  
Joe Graybill, Staff Engineer, City of Sweet Home, Sweet Home, OR 97386  
Stacy Vaughn, 240 West Holley Road, Sweet Home, OR 97376  
Stephen Gilliam, 401 18<sup>th</sup> Avenue, Sweet Home, OR 97376  
Shellene Foster, 401 18<sup>th</sup> Avenue, Sweet Home, OR 97376  
Jim Gourley, 3441 Juniper Street, Sweet Home, OR 97376  
Sean Morgan, New Era, Sweet Home, OR 97386

**Interim Chairperson Wolthuis opened discussion for corrections to the November 6<sup>th</sup> 2017 meeting minutes.**

#### Edits Included;

**Page 11, Paragraph 3, “understanding” should be changed to “understand”.**

#### Comments Included;

**None**

**Commissioner Jurney moved to approve the minutes with corrections.**

**Chairperson Wilcox seconded the motion to approve.**

#### Question was called

**Aye (4)**

**Commissioner Jurney, Commissioner Herb, Interim Chairperson Wolthuis and, Commissioner Wilcox**

**Nay (0)**

**Abstained (1)**

**Commissioner Stephens**

**Motion Passed Unanimously 4 Ayes to 0 Nays**

## **PUBLIC HEARING OPENED AT 6:38PM**

**Interim Chairperson Wolthuis stated the following;**

**The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.**

**Interim Chairperson Wolthuis stated the first public hearing will be in regards to;**

**VR17-06, the applicant is requesting variances in order to build an addition to an existing dwelling. The addition would replace an existing carport with and expanded garage. This proposal requests that the yard setback of the proposed addition be reduced from 20 feet to 12 feet along the front property line and from 5 feet to 4 feet, 8 inches along the south, side property line. The subject property contains approximately 0.12 acre and is located in the Residential Low-Density (R-1) Zone.**

**Interim Chairperson Wolthuis asked the Commissioners if they had any of the below stated in regards to the application;**

**Personal Bias: None  
Conflict of Interest: None  
Exparte: None**

**CEDD Jerry Sorte** explained the Land Use request, staff report, and background of the property. He then reviewed approval criteria that are applicable to the variance request, as well as the staff findings, and application. He explained that the structure is legally non-conforming in several ways and how that impacts the request. He recommended that the Planning Commission hear testimony and make a decision on this matter. He also asked that the Planning Commission specify the appeal period and direct staff to prepare an order for signature of the Commission Chair. He then asked if there were any questions of staff.

### **Concerns and Considerations:**

- **Loss of parking spaces due to front setback variance**
- **Parked vehicles could potentially block the sidewalk**

**Interim Chairperson Wolthuis asked the applicant to speak to the request.**

**Stacy Vaughn** explained that he is attempting to improve the property. He stated that the current single-car carport is not usable and that he would like to improve it to an enclosed garage. He explained that the garage would be approximately eleven feet wide by twenty-three feet deep. He stated that he would most likely move the door to the house. He explained that he would address the parking issues if need be and do what he would need to do in order to be in compliance.

**Testimony in Favor:**

**Shellene Foster** stated that she lives to the north of the property in question. She stated that the property has been in disrepair and that she is thankful the applicant has purchased the property to fix it up. She stated that there are neighboring properties that have no parking and that the proposed improvement would be beneficial to the neighborhood.

**Stephen Gilliam** stated that he agreed with the previous testimony and felt that this request and proposed development was a good thing.

**Interim Chairperson Wolthuis** thanked those that gave testimony.

**Testimony in Opposition:** None

**Neutral Testimony:** None

**Rebuttal:** None

**PUBLIC HEARING CLOSED AT 6:56PM**

**Planning Commission discussed the applications.**

**Concerns and Considerations:**

- Off street parking requirements
- Allowing a reduction in off street parking
- Existing non-conforming conditions
- Allowing applicant to keep some yard area
- Potential for vehicles to block sidewalks
- Code enforcement to address blocked sidewalks
- Pedestrian safety
- Potential for parking pad on the side of the property
- Width of property

**PUBLIC HEARING RE-OPENED AT 7:07PM**

**Interim Chairperson Wolthuis** asked the applicant if he would have any issues with supplying the one off street parking space in addition to the garage and hard surface approach.

**Stacy Vaughn** explained that he would have no issues with complying with that standard, but he would like to verify the utility locations to make sure there would be no issues.

**Interim Chairperson Wolthuis** thanked the applicant.

**PUBLIC HEARING CLOSED AT 7:08PM**

**Vice-Chairperson Hausner** made a motion to approve the application request for land use file VR17-06, requesting variances in order to build an addition to an existing dwelling. The addition would replace an existing carport with an expanded garage. This proposal requests that the yard setback of the proposed addition be reduced from 20 feet to 12 feet along the front property line and from 5 feet to 4 feet, 8 inches along the south, side property line. This variance request, if approved, would also permit the minor increase of

height for the dwelling that would occur within the side yard area resulting from the construction of a new roof on the existing dwelling and garage addition. The subject property contains approximately 0.12 acre and is located in the Residential Low-Density (R-1) Zone. There will be a 12 day appeal period, starting from the date that the notice of decision is mailed. The approval is subject to the following conditions;

1. A hard surface approach shall extend to the front of the garage.
2. The variance shall also allow for a reduction in hard surfaced, off-street parking spaces, from the required two spaces, to one.

Commissioner Herb seconded the motion.

Question was called

Aye (6)

Commissioner Journey, Commissioner Herb, Interim Chairperson Wolthuis, and Vice Chairperson Hausner, Commissioner Wilcox, Commissioner Stephens

Nay (0)

Motion Passed Unanimously 6 Ayes to 0 Nays

**PUBLIC HEARING OPENED AT 7:16PM**

Interim Chairperson Wolthuis stated the following;

The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Interim Chairperson Wolthuis stated the first public hearing will be in regards to;

CU17-07 The City of Sweet Home is requesting a Conditional Use Permit in order to expand and improve facilities at the Sweet Home Wastewater Treatment Plant. These improvements are needed in order to comply with Oregon Department of Environmental Quality wastewater requirements. The work may be completed in phases, and the request includes, but is not limited to: bar screening, aeration basin, outfall, grit removal, wet weather treatment, filtration, and clarifier construction and/or improvement. Work will be limited to the existing footprint of the Plant site; within the perimeter fenced boundary, and the outfall; which is outside the fenced boundary. The project is focused on renovation with minimal new building structures. The subject tract contains approximately 10.5 acres, and is located in the Residential Low-Density (R-1) and Natural Resources (NR) Zones. Portions of the tract are also located within the 100-year floodplain and floodway.

Interim Chairperson Wolthuis asked the Commissioners if they had any of the below stated in regards to the application;

Personal Bias: None

Conflict of Interest: None

**Exparte: None**

**CEDD Jerry Sorte** explained the Land Use request, staff report, and background of the property. He then reviewed approval criteria that are applicable to the conditional use request, as well as the staff findings, and application. He recommended that the Planning Commission hear testimony and make a decision on this matter. He also asked that the Planning Commission specify the appeal period and direct staff to prepare an order for signature of the Commission Chair. He then asked if there were any questions of staff.

**Interim Chairperson Wolthuis asked the applicant to speak to the request.**

**Greg Springman, Public Works Director** explained the history of the waste water treatment plant and how water treatment characteristics have changed over time. He explained the issues caused by non-flushable materials such as scum, plastics, and debris. He explained that in order to bring the plant into compliance with the DEQ (Department of Environmental Quality) they must rehabilitate and expand the facility. He explained this would lower the costs and budget for operation, allowing the City to save funds for future projects. He explained that they have already begun the bid process for the project and that they will be holding a project kick-off meeting the next day. He explained that maintenance is expensive, and disposing of the bio-solids is expensive. He explained that upgrading to a class B (as proposed) will lower those costs. He explained that this proposed development will not only make the site more pleasant overall, but also support growth for years to come.

**Joe Graybill, Staff Engineer** explained that the proposed improvements will increase the energy efficiency and that the site will be self-contained to its location. He explained that rather than spreading the project out over thirty years in phases, as originally proposed, it would be consolidated to a more prudent and cost effective time frame. He explained the goal is reach compliance with the state goals for capacity compliance for the community. He stated that the design and engineering phase will take place in 2018, and the construction phase is planned for 2019 and 2020. He explained that the timeline will be flexible, but they project the project to be completed by the end of the year of 2020 or early in the year of 2021.

**Testimony in Favor: None**

**Testimony in Opposition: None**

**Neutral Testimony:**

**Jim Gourley** stated that in 1987 the rebuild on the treatment plant was started. He said it was completed in 1991 but it wasn't certified until 1994. He explained that the longer you wait to complete the project, the harder it becomes to finish. He explained that it is important to be cognoscente of money, but it is also important to have a plan and move forward in order to be ready for the expansion that will surely be coming.

**Rebuttal: None**

**Interim Chairperson Wolthuis** thanked those that gave testimony.

**PUBLIC HEARING CLOSED AT 7:37PM**

**Planning Commission discussed the applications.**

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Planning Commission Hearing – December 18, 2017

Revision Date: 12/19/17 ~ File Name: Planning Commission Minutes 12-18-17 - DRAFT

**Concerns and Considerations:**

- Time constraints for completing proposed development
- Complexity of the proposed development

Commissioner Wilcox made a motion to approve the application request CU 17-07; including the conditions of approval listed in Section IV of the Staff Report, the setting of a 12-day appeal period from the date of the established, as defined under SHMC 17.80.070(A), within that time period. The City Planner may grant one extension of up to one year for a conditional use permit that contained a one year initial duration upon written request of the applicant and prior to the expiration of the approved period. Requests other than a one year request made prior to the expiration of the approved period must be approved by the Planning Commission. A conditional use permit not meeting the above time frames will be expired and a new application will be required. The approval is subject to the following conditions;

1. The project footprint shall be limited to the locations reviewed in this application (CU 17-07) as depicted on the applicant's plot plan; included as Attachment B.
2. All new exterior lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a property in a residential zone.

Commissioner Stephens seconded the motion.

Question was called

Aye (6)

Commissioner Journey, Commissioner Herb, Interim Chairperson Wolthuis, Vice Chairperson Hausner, Commissioner Wilcox, and Commissioner Stephens

Nay (0)

Motion Passed Unanimously 6 Ayes to 0 Nays

**Comments from the Public: None**

**Discussion Ensued** about the Planning Commission Meeting schedule.

**Concerns Included:**

- Conflicting work schedules
- Annual election of Chair and Vice Chair

**Decision was made to change the meeting start time from 6:30PM to 7:00PM.**

**Decision was made to hold the election of Chairperson and Vice Chairperson at the January meeting.**

**Discussion Ensued** about the Quality Development Awards.

**Concerns Included:**

- Holiday scheduling
- Attendance of award winners

**Decision was made to bring nominations to the January Planning Commission meeting work session, and hold the awards ceremony in February.**

**Decision was made to that Awardees must be present to accept the award.**

**Interim Chairperson Wolthuis** shared his thoughts about revitalization and main street improvements. He urged the Planning Commission to review the document he submitted and consider ideas for improvement.

**CEDD Jerry Sorte** explained that he is currently working with programs and partners that would best facilitate these kinds of improvements. He stated that he is also working towards Code Enforcement recruitment, as the position will come into the Community and Development Department. He urged Planning Commissioners to consider within the Code Update, how they can implement code so that there would be less land use applications, allowing more time for planning projects.

**PUBLIC MEETING CLOSED AT 8:01PM**

**To the best of the recollection of the members of the Planning Commission, the foregoing is a true copy of the proceedings of the Public Hearings of December 18, 2017.**

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Henry Wolthuis, Interim Chairperson  
Sweet Home Planning Commission

Respectfully submitted by: Katie Wilcox, Planning Assistant



# MEMORANDUM



TO: Planning Commission  
FROM: Jerry Sorte, CED Director  
DATE: January 16, 2018  
SUBJECT: Development Code Amendments; File LA 17-01

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## **I. ISSUE**

Building upon the work that has been completed thus far, the Planning Division has developed the next round of code updates for consideration. For review at the January 22, 2018 Planning Commission Work Session is Article 1; Introduction and General Provisions based on the Oregon Model Development Code.

## **II. BACKGROUND**

The City identified the need to update Sweet Home Municipal Code (SHMC); Title 16: Land Divisions and Line Adjustments; and Title 17: Zoning. Updates are needed in order to ensure compliance with applicable state requirements and also to make the code more efficient to administer and apply to development in the City. During 2016 and early 2017; the City with the help of John Morgan completed an audit of SHMC Titles 16 and 17. The Planning Commission has met several times on this matter.

At the Planning Commission meeting on October 23, 2017; the Commission discussed the approach to work from a new model code rather than incorporating amendments into the existing code. The advantage of this approach would be to gain the benefits of an updated code that is consistent with state law and also provides a solid foundation from which the City can build as additional planning projects are considered into the future. The Planning Commission requested that staff seek support from the City Council on this approach. The City Council unanimously endorsed this approach by consensus at their meeting on October 24, 2017. At the November 6, 2017 meeting, the Planning Commission unanimously passed a motion to move forward by incorporating the findings of the code audit into a model code template.

## **III. PROJECT SCOPE**

My recommendation is that the scope of Phase 1 remain primarily focused on the issues identified in the code audit, the changes incorporated by MorganCPS into Title 16 and 17, and those pressing changes that have been identified since that time. We may need to incorporate additional changes as we work through the code. This includes the creation of a Public Zone(s). Currently public uses, such as the wastewater treatment facility and parks, are accommodated through our existing zones, but when the Planning Commission starts to review zones, a Public Zone(s) should be included. Certain amendments may be better addressed during the next phase of updates. It is important to consider that our new development code will need to be consistent with the City of Sweet Home Comprehensive Plan. The Comprehensive Plan provides a host of policies that apply to our existing Comprehensive Plan land use designations. Significant changes to the text of any particular zone may require a corresponding update to the City's Comprehensive Plan. Minor updates could occur simultaneously with our code update, but it is important to balance the importance of the changes that we would like to achieve during Phase 1, with the time necessary to make those changes.

Once Phase 1 is completed, the Planning Commission may move directly to engage additional Planning topics that may also result in code updates. Updates to our code should be ongoing.

Per our past discussions, I recommend that we move forward using the State of Oregon's Model Development Code for Small Cities as the template for our new development code. The State has done the significant legwork of creating the Model Code, and the Planning Commission can now make changes as needed to tailor the Model Code work for use in the City of Sweet Home. A link to the Model Code is provided in Section VI below. My recommendation is that we move through the Model Code in the order of its articles as follows:

- Article 1 - Introduction and General Provisions
- Article 2 - Zoning Regulations
- Article 3 - Community Design Standards
- Article 4 - Application Review Procedures and Approval Criteria
- Article 5 –Definitions

In speaking with planning staff at the Department of Land Conservation and Development, the State plans to issue updates to the Model Code in the next several weeks. The changes to Article 1 are anticipated to be minor. Future work sessions looking at Articles 2 through 5 will likely work from the revised Model Code.

The anticipated outcome of our current Phase 1 should be a full repeal of Titles 16 and 17 and the adoption of the new code. The new code could be numbered as a new Title 17; or as recommended by the City Attorney.

- Recommended Project Progression:
  1. Planning Commission:
    - i. Hold Planning Commission work sessions as needed to review all sections of our Development Code.
    - ii. Peer Review – Work with John Morgan or other outside planner to review our changes and make suggestions.
    - iii. Hold additional work session(s) as needed.
    - iv. Hold a Planning Commission Public Hearing
      1. Make modifications to code as needed based on public testimony.
      2. Deliberate and recommend code to City Council
  2. City Council
    - i. Public Hearing
    - ii. Code Adoption
  3. Implementation

#### **IV. FUTURE CODE UPDATES**

Once this current phase of the Code updates is completed, I recommend that the Planning Commission hold a work session to develop a work plan for the upcoming year. The Work Plan should identify what additional changes to our new development code should occur next.

#### **V. MODEL CODE; ARTICLE 1 (INTRODUCTION AND GENERAL PROVISIONS)**

I have included Article 1; Introduction and General Provisions of the Model Code. See Attachment B. Article 1 of the Model Code corresponds to portions of the following sections of the SHMC:

- 17.04. Title, Purpose, and Definitions
- 17.08. General Provisions
- 17.12. Administration and Enforcement

- 17.16 Official City Comprehensive Plan
- 17.84 Nonconforming Uses

I have made some changes to the Model Code. The additions are double underlined, and the subtractions are shown in strikethrough. We can walk through each Chapter at the work session. The following are my notes on each chapter, which includes the salient points on how the new language would differ from the current language in the Sweet Home Municipal Code.

- Chapter 1.1 - Introduction. This section provides a general overview of the Code. This section would identify the City Manager or his/her designee as the "Planning Official" who administers the Code. This would allow the City Manager to appoint the person who would serve as the Planning Official.
- Chapter 1.2 - Title, Purpose, and Authority. This Chapter corresponds SHMC Chapter 17.04. I removed language from the Model Code to simplify matters and clarify that the code implements the Sweet Home Comprehensive Plan. Sections of this chapter provided a useful description on how the code is applied and constructed. The Model Code provides additional detail on how the Zoning Map would be interpreted.
- Chapter 1.3 - Lawfully Established Units of Land. This Chapter will provide a much needed addition to our development code. The current SHMC does not specify what constitutes a lawfully established unit of land. I made changes to the Model Code and moved away from using the term "lot-of-record" to using the term "lawfully established unit of land." This matches the language used in ORS 92. In summary, this section states that a lot, parcel, or other unit of land is lawfully established if it was created under the rules in effect at the time of creation. Prior to partition and subdivision rules, a unit of land could have been created by a deed instrument.

Section 1.3.020 directly implements ORS 92.010(9), which exempts the creation of certain units of land from the definition of "partition."

(9) "Partitioning land" means dividing land to create not more than three parcels of land within a calendar year, but does not include:

- Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;  
[Emphasis added]
- Adjusting a property line as property line adjustment is defined in this section;
- Dividing land as a result of the recording of a subdivision or condominium plat;
- Selling or granting by a person to a public agency or public body of property for state highway, county road, city street or other right of way purposes if the road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property sold or granted for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned; or
- Selling or granting by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line

adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located. [ORS 92.010(9)]

While it is likely not common for a unit of land to be created by lien foreclosure in city limits, I have encountered one such situation in the past several months. Providing clarification in our code that a unit of land created by a foreclosure is lawful, would address these circumstances when they arise.

- Chapter 1.4 - Non-Conforming Situations. This chapter compares to SHMC 17.84. The Model Code language provides clearer accommodation for the range of non-conforming development that we encounter.
- Chapter 1.5 - Code Interpretations. This chapter compares to SHMC 17.08.020: Interpretations. This section provides additional clarifications for how code interpretations would occur. Interpretations can be discretionary, and the Model Code specifies the additional process that would need to be applied in those circumstances.
- Chapter 1.6 - Enforcement. My recommendation is that we maintain the language in the SHMC, rather than use the Model Code language. I have included the language directly from SHMC Section 17.12.150.

## **VI. RESOURCES:**

- State of Oregon Model Development Code for Small Cities: <http://www.oregon.gov/LCD/TGM/Pages/modelcode.aspx>
- City of Sweet Home Comprehensive Plan: <http://www.ci.sweet-home.or.us/ced/page/comprehensive-plan>

## **VII. ATTACHMENTS:**

- A. Mode Code Guidelines
- B. NEW Draft Code Updates (Article 1 – Introductions and General Provisions) - Showing Track Changes from Model Code and Comments
- C. NEW Draft Code Updates (Article 1 – Introductions and General Provisions) - Clean Copy
- D. Existing SHMC Title 17, Chapters that Correspond to New Article 1.
- E. Code Audit Memorandum and Report from John Morgan; dated June 12, 2017 (Electronic Packet Only)
- F. Draft Title 16 Updates Recommended by John Morgan (Electronic Packet Only)
- G. Draft Title 17 Updates Recommended by John Morgan (Electronic Packet Only)

## **Oregon Model Development Code, Edition 3.1**

### **User's Guide Table of Contents**

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#### ***Volume II – Model Code***

*(See Table of Contents provided within Volume II)*

## Introduction

### Planning in Oregon's Small Cities

Oregon is a state of small cities. In 2012, more than 80 percent of the state's 242 cities had populations of less than 10,000. A wide range of professionals and volunteers are responsible for planning and development review in these communities. The larger jurisdictions may have one or more planners on staff, while smaller towns may have only a part-time planner. In some communities, the city manager or city recorder fills the role of land use administrator/coordinator while being responsible for the many other functions of a local government. Volunteer planning commissioners in small cities often pick up much of the work that paid staff would do in larger cities. Because of limited resources, many small communities will forego needed planning unless good tools are available to them at a reasonable cost or, better yet, for free.

### Oregon's Model Development Code for Small Cities

First published in 1999, Oregon's *Model Development Code and User's Guide for Small Cities* ("Model Code") has been used widely around Oregon. The State of Oregon's Transportation and Growth Management (TGM) Program developed the model in response to numerous requests for assistance from Oregon communities. Small cities wanted consistent guidance and technical expertise in zoning, development standards, review procedures, and implementation of state planning rules and statutes.

In developing the model code, now in its Third Edition (2012), the TGM Program worked with a statewide advisory committee consisting of city officials, planning commissioners, state and regional planning agency representatives, and land use advocates, and business representatives. All agreed that small communities, or those with populations under 10,000, were most in need of a technical code reference. The model code is intended to help these cities, primarily, and in the following ways:

- ***Integrate land use and transportation planning – or plan for smart development –***  
Historically, many of Oregon's small cities developed slowly in a compact, pedestrian-friendly pattern with a balance of land uses, adequate transportation, and a distinct character or sense-of-place. Then in the 1990s, some cities began to grow rapidly due to strong in-migration. Concerned about the loss of community character, increased traffic, and other growth-related problems, the cities wanted assistance in updating their codes to better manage growth. Likewise, other communities that have not grown as rapidly, or that have declining populations, have requested assistance in removing regulatory obstacles to economic development.
- ***Meet new legal requirements*** – Many of Oregon's cities have zoning and subdivision codes that are 20- to 30-years old. These communities have requested guidance in meeting new requirements under state land use statutes, administrative rules, and case law. While the Model Code does not provide a safe harbor for complying with all of the legal requirements under Oregon's complex land use system, it does provide examples and guidance on how to address some common legal issues. It is also intended to avoid regulatory takings by recommending standards and procedures that make it easier to build some types of projects in every zoning district. The model code provisions also encourage high quality design in development, which can increase property values.

- ***Provide a user-friendly, flexible model code*** – The cities wanted a one-stop reference that could be adapted to fit local characteristics and values.

## **The Third Edition**

Many Oregon cities, including those on both sides of the Cascade Mountains, and with populations ranging from under 1,000 to over 50,000, have used earlier editions of the model code. Some have completely updated their regulations based on the model, while others have updated selected chapters or sections of existing regulations.

The First Edition, published in 1999, was widely distributed around the state and nationally. It won recognition for its unified format, graphically based standards, and encouragement of Smart Development. However, after five years of use, some deficiencies became evident. The first edition lacked a complete set of definitions; it was difficult to break apart for communities that wanted to use only selected provisions; and cities that adopted parts of the model code without updating and cross-referencing existing regulations inadvertently created code conflicts. Others found some of the model regulations overly restrictive. Most agreed that the original user's guide did not adequately explain how to customize the standards, and over time the legislature had changed some of the state's planning laws, causing legal conflicts within the model code. The Second Edition (2005) addressed the above concerns, incorporated new planning best practices, and made the document easier to use and adapt to meet local needs.

The Edition 3.0 (2012) builds on the earlier versions of the model code. It provides clearer section headings; updates to planning best practices, including those related to local economic development; legal updates and improved code structure and organization; new, editable graphics; and an updated user's guide. Unlike earlier versions, the graphics labels in this version can be customized.

Of note, there are some things that the model code does not do. It does not contain a model sign code or regulations required to implement the state's natural resource or coastal planning goals. It also does not contain a template for creating a form-based code, though it does advance key tenants of New Urbanism and Smart Growth. Code standards encourage the formation and preservation of neighborhoods and districts that are compact in form, have interconnected streets, are pedestrian friendly, and offer a variety of housing options, among other goals. Similarly, the model code is not intended to reflect the state of the practice for Green Building or Sustainability, though it contains standards and recommendations promoting efficient land use, development patterns and uses that support alternatives to the automobile, resource (water and energy) conservation, and generation of renewable energy, among other goals.

Finally, while the authors have tried to address all applicable state land use requirements (as of April 2012), city officials should consult legal counsel when amending local regulations.

Edition 3.1 (November 2015) includes minor edits and clean up, but almost no substantive changes to the code. With the exception of corrections, references to state law have not been updated from Edition 3.0.

## **Before Getting Started**

Before using the model code, city staff and citizen volunteers should have a firm understanding of the community's land use and development goals. A city that is in the process of updating its

comprehensive plan (or transportation system plan) should complete that process before drafting new implementing regulations. This will help ensure that new codes reflect the community's vision and are based on policy. State law requires that land use regulations be consistent with the city's acknowledged comprehensive plan.

The following steps are recommended for city officials in preparing for a code update. (The TGM Program follows a similar process in periodically reviewing and updating the model code.)

- **Interview code users.** Talk with city staff, local developers and builders, real estate professionals, surveyors, engineers, property owners (e.g., those who have been through local land use processes), and staff from other agencies and service providers who are involved in the city's development process. These individuals can provide important input and help in clarifying problems related to existing regulations. Contacting them early in the process can also help introduce the concept of revising the city's codes in a non-confrontational manner. This should be done in one-on-one or small group meetings to encourage candid discussion. Online surveys can also be an effective way to solicit input on specific questions.
- **Appoint an advisory committee.** An advisory committee can help in vetting issues and ideas, and in reviewing draft code amendments prior to soliciting input from the broader public. The committee should include some of the stakeholders interviewed at the outset, representatives from the planning commission, and at least one city councilor. A committee of approximately 8-15 members appointed or approved by the legislative body can effectively assist city officials and decision makers by ensuring that the codes address important community issues and include perspectives from a representative cross-section of the community; reviewing and commenting on preliminary drafts of the new code; and supporting public involvement and education efforts during the code adoption and implementation. Advisory committees are typically subject to public meeting laws.
- **Review the city's existing codes.** After talking with stakeholders and identifying general code-related issues, you should compare the city's existing regulations to the model code. This will help in determining whether to create a completely new code or amend the city's existing ordinances. Technical assistance with this process is also available through the TGM Program.
- **Work program.** A complete code update work program may include the following items, as appropriate to your community:
  - Public information and education about existing ordinances;
  - Information and graphics comparing the existing ordinances to proposed amendments;
  - Public meetings, workshops, open houses, and other opportunities for public input on proposed changes;
  - Coordination with other agencies (e.g., especially if the city contracts out plan review services);
  - Public notification for code adoption hearings, including required notices under state law;



- Updated fee schedules, application forms, and any informational handouts explaining the city’s new codes and procedures for property owners;
- Training (e.g., for city officials and planning commissioners);
- Changes to other related municipal codes (e.g., system development charges, nuisances, etc.); and
- Minor modifications to the city’s comprehensive plan (e.g., enabling policies and map revisions for new or renamed zoning districts).

## How to Use the Model Code

The Model Code contains five Articles:

- **Article 1 – Introduction.** Article 1 contains updated provisions for code interpretation provisions and non-conforming uses, which are relocated from Article 4. On request of cities, the definitions section has been simplified and relocated to Article 5.
- **Article 2 – Zoning Regulations.** Article 2 contains updated zoning regulations with additional land uses and more special use standards. The design standards for specific types of development are relocated to Article 3, consolidating all design standards in that article.
- **Article 3 – Community Design Standards.** The design standards have been updated and reorganized to make the document easier to use. Article 3 now has an “applicability table,” which should help explain when design standards apply to new development. Article 3 is supported by a new library of code graphics, editable in Adobe Acrobat Standard or Professional.
- **Article 4 – Application Review Procedures and Approval Criteria.** Article 4 is updated consistent with changes made to other articles and to address current statutes and administrative rules as of April 2012. The criteria for site design review are updated and those for variances have been simplified. This version of the model code also contains procedures for adjustments, an alternative to variances. The design standards for subdivisions, previously contained in Article 4, are relocated to Article 3.
- **Article 5 – Definitions.** The definitions have been relocated from Article 1, updated, and streamlined.

The code is organized into chapters under each article. Under each chapter are code sections with regulations. The regulations typically provide a purpose statement, applicability statement, and standards. Some sections also contain approval criteria, which the approval body uses in determining when a standard has been met.

### User’s Guide

In addition to the above updates, the model code contains new User’s Guide comments in easily identifiable text boxes. The User’s Guide is intended to guide the reader and assist in drafting or amending local regulations. These boxes can also be used to insert city staff’s comments, for example, to assist decision makers in reviewing draft code provisions. In addition, the Appendix (following this introduction) contains a list of technical resources, including a

#### Read These! Use Them!

**User’s Guide:** These boxes provide back-ground on specific standards, point out key issues, requirements, or options, and offer other guidance.

Transportation Planning Rule checklist, for city officials to use in updating local codes. Because the Appendix and commentary are not part of the code, they must be removed before finalizing codes for adoption.

The *[italicized and bracketed text]* within the regulations indicates a range of options or places where city officials must customize the model code. For example, a reference to “[city official]” would need to be replaced with the appropriate city official title. Where the model code provides a range of numerical standards (e.g., setbacks, building heights, lot sizes), cities should tailor the standards based on existing conditions in the community. Where slashes (“/”) separate two or more options, cities are to choose an option or insert their own terminology (e.g., public hearing before the *[Planning Commission / City Council]*). The punctuation provided is meant to support each option, but it too must be reviewed and edited as cities prepare own their codes.

The model code options are limited only by space. Many other possibilities exist, and users of the document should carefully consider the needs of their community and applicable law in tailoring the regulations.

### Overview and Getting Started

Graphics for the Oregon Model Code are available for download as a zip file. Graphics are intended to supplement and clarify the Model Code text. Users can select which graphics they want to include in local code documents. The PDF graphics files are named according to chapter sections and subsections in the Oregon Model Code. Example:

3.2.040\_BuildingOrientation\_Commercial.pdf corresponds to Article 3, Chapter 2, Section 040.

Files are optimized for **Adobe Acrobat Professional** and **Adobe Acrobat Standard**. These versions allow a user to view, create, manipulate, print, and manage the graphics files in Portable Document Format (PDF). Adobe Acrobat Reader will allow users to view the graphics and fill in the form fields (e.g., edit standards); however, Professional or Standard is required to save the files and to manipulate the following features:

- Text Labels – adjust measurements, terminology, text appearance, and size
- Footer Text – enter name of city, code title, page #, and date
- Header Text – revise section numbers, chapter names, etc.

*Note: Page numbers may need to be edited to reflect correct chapter pagination. See suggested graphic pages placeholders in Model Code Word files.*

### Saving Customized PDFs

Once the text labels, footer, and header information have been edited, the file can be saved and renamed, as needed, to preserve updated information. Final versions of the PDFs *without* editable form fields (for inclusion within your finished code document) can be saved by printing the document to PDF as follows: Select PRINT>choose Adobe PDF as the printer device>SAVE PDF file in a new folder location.

Hint: Create a folder system to separate versions of the graphics files (i.e., “Working Editable Form PDFs” and “Final PDFs for Code Document”). This way it is easy to determine the file

location for both editing purposes and inserting final pages into the Model Code. Use a file naming system that keeps the graphics well ordered and easy to locate.

#### How to Edit the Graphics Pages:

Advanced editing tools available in Adobe Acrobat Professional and Adobe Acrobat Standard allow you to adjust and customize some features on the OMC graphics pages. A more complete discussion of these tools can be found online on the Adobe Acrobat Professional or Standard homepages.

Below are some instructions you will likely need in working with the OMC graphics files:

#### **1. Editing and adjusting text in drop-down form fields:**

- Form field boxes with drop-down arrow buttons allow you to click in and type any text you choose. The default text is an example of appropriate text for the graphic. Place the cursor anywhere in the form field, click into it, and you should be able to adjust the text. You can select all or some of the default text, delete, and edit to your preference. Press Enter to escape from the form field.
- If the text you entered is too long to fit the default form field box, or if you want to reposition the location of the form field on the page, do the following:
  - In the FORMS menu, click on "Add or Edit Fields" (also, Shift+Ctrl+7). Now you are in active editing mode.
  - In active editing mode, you will see that the form fields are outlined in black. When your mouse hovers over the box, you should see side and corner handles.
  - With your mouse, click and pull on the side and/or corner handles to adjust the size of the form field box. Adjust the position as needed by selecting the form field, and either nudging it with the arrow keys or dragging it with the mouse.
  - If you want to make two or more form fields align, select the form fields with your mouse, right click, and select "Align." You can choose left, right, center, etc.
  - Make sure all your text is visible on screen within the form field. Keep in mind that although the field arrow button is visible on screen, it will not print on the page.
- If you come across a form field box that won't move or adjust when you are in active editing mode, it may be locked. To unlock it, see explanation below:
  - Once you have the form fields positioned and your text entered correctly, you can lock the field by either right or double-clicking on the form field to get to the Properties dialogue box. On the "General" tab, check the box labeled "Locked" in the lower left-hand corner.
  - Locking the form field "freezes" it in place. Unlocking a locked form field allows it to be repositioned, rotated, resized, deleted, etc.

- In addition to locking and unlocking form fields, there are other options in the Properties dialogue box that let you customize the text appearance (e.g., font, size, boldness, rotation, etc.). Explore and use these tools as needed.
- To exit active editing mode, click on FORMS>Close Form Editing (or Shift+Ctrl+7).

## **2. Editing and adjusting text using Acrobat's Advanced Editing Tools:**

- You may find you want to make minor adjustments to text in the header title that was generated in MS Word.
- Before you begin, make sure you are NOT in active editing mode. To exit active editing mode, click on FORMS>Close Form Editing (or Shift+Ctrl+7).
- Go to TOOLS>Advanced Editing>Touch Up Text Tool.
- Your cursor will appear and you should be able to click into the header text and select, delete, and edit as needed. Be aware that the Touch Up Text Tool works best for making minor edits to text within the same line. If you do make changes, aim to keep the word count the same or less when using this tool.
- Remember, this tool does not allow you to edit form field text. Refer to directions above to edit form field text.
- To exit out of the Touch Up Text Tool, go to TOOLS>Advanced Editing and click Select Object Tool. Now you can return to editing form fields or move onto the next graphic.

## **3. Adding new form fields:**

- You may find you want to add additional labels or text to the graphic. You can do this in active editing mode (Shift+Ctrl+7).
- Notice how each of the form fields has a name visible in white lettering (e.g., "Label 1," "Dim 2," etc.). If you want to create a new form field with unique text not already present on the graphic page, you will need to make sure that the name of the form field is also unique. Do the following:
  - Select an existing form field from the graphic and COPY (Ctrl+C) and PASTE (Ctrl+V) it onto the page. A form field identical to the one copied will appear.
  - Next, either right or double-click on the form field to get to the Properties dialogue box. In the General tab, you will see the name of the form field (e.g., "Label 3"). Change the name of the form field to something unique to the file (e.g., "Label 4," etc.).
  - Exit from active editing mode (Shift+Ctrl+7). Now you should be able to click into the new form field and change the text.
- There are other ways to create new form fields, but copying and pasting from existing form fields retains the properties of the text that you would otherwise have to select manually in the Properties dialogue box.

#### 4. Inserting graphics pages into your code document:

- Once the code text is finalized in MS Word, you will know the last page number for each chapter subsection. Placeholder graphics pages are already included at the end of each chapter subsection. These pages will be replaced with the PDF graphics pages.
- Delete any placeholder pages that you will **not** be replacing with graphics pages in MS Word so the page number count remains accurate.
- Update the page number form fields in the graphics pages based on where the chapter subsection ends in the text document. For example, if the last page in Chapter 3.2.030 is 3-12, your first graphics page for that subsection will be numbered 3-13, and so forth.
- Once the code text document is finalized in MS Word, print the document to a PDF:
  - Select PRINT>choose Adobe PDF as the printer device>SAVE PDF file in a folder location.
- From the code text PDF, delete the graphics placeholder pages:
  - From the Document menu, select Extract Pages>Delete pages after extracting. Specify the page numbers of placeholder pages you want to delete.
- Insert the final PDF graphics pages in their place.
  - From the Document menu, select Insert Pages>Insert from file. Navigate to the folder with the final graphics PDFs and select the appropriate graphics PDF page.
- Repeat these steps to insert all the graphics pages you want to include in your code document.

## **Appendix**

1. TGM Model Code Evaluation
2. References
3. Urban Land Use Statutes and Administrative Rules
4. Transportation Planning Rule Code Revisions Checklist



## Appendix 2 – References

### References

[American Planning Association](#)  
[American Public Transportation Association](#)  
[Congress for New Urbanism](#)  
[Federal Highway Administration](#)  
[Federal Transit Administration](#)  
[League of Oregon Cities](#)  
[Local Government Commission](#)  
[Metro](#)  
[National Association of Realtors](#)  
[National Center for Bicycling and Walking](#)  
[National Transportation Enhancements Clearinghouse](#)  
[Oregon Bicycle/Pedestrian Program](#)  
[Oregon Department of Land Conservation & Development](#)  
[Oregon Department of Aviation \*Airport Land Use Compatibility Guidebook\*](#)  
[Oregon Department of Transportation](#)  
[ODOT Development & Planning](#)  
[Oregon Transportation Enhancements Program](#)  
[Oregon Transportation and Growth Management Program](#)  
[Oregon Transportation and Growth Management Program Publications](#)  
[Project for Public Spaces](#)  
[Rails to Trails Conservancy](#)  
[Reconnecting America](#)  
[Smart Growth America](#)  
[Smart Growth Network/U.S. EPA](#)  
[Surface Transportation Policy Project](#)  
[Transportation Research Board](#)  
[Urban Land Institute](#)  
[Walkable Communities, Inc.](#)  
[Walking in Washington - Washington State Department of Transportation \(\*Pedestrian Facilities Guidebook: Incorporating Pedestrians into Washington's Transportation System\*\)](#)



## Appendix 3 – Urban Land Use Statutes and Administrative Rules

### Statutes

ORS 92.830 - 92.845	Subdivision of manufactured dwelling or mobile home park
ORS 195.110 – 195.115	School Facility Planning
ORS 195.110(4)(b), (c)	Notice of plan or land use regulation amendments that significantly impacts school capacity.
ORS 195.110(11)	School capacity may not be sole basis for decision on residential development application.
ORS 197.195	Limited land use decision
ORS 197.200	Refinement plans
ORS 197.295 – 197.314	Needed Housing in Urban Growth Areas
ORS 197.303	Definition of needed housing
ORS 197.307	Clear and objective standards and conditions required; two-track process permitted.
ORS 197.314	Manufactured homes on individual lots
ORS 197.360 – 197.380	Expedited Land Divisions
ORS 197.475 – 197.490	Mobile home and manufactured dwelling park siting
ORS 197.610 – 197.650	Post-Acknowledgment Procedures
ORS 197.610(1), (2)	45-day notice to DLCD
ORS 197.615	Copies of local adopted text amendments and findings to DLCD
ORS 197.626	Copy of UGB expansion to LCDC.
ORS 197.646	Local implementation of new or amended goals, rules, or statutes.
ORS 197.660 – 197.670	Residential homes and facilities
ORS 197.752	Concurrency requirement
ORS 197.763	Conduct of quasi-judicial land use hearings
ORS 197.764	Application to remove land from UGB
ORS 197.772	Consent for designation of historic property
ORS 227.100, 227.110	Review and approval of subdivision and vacation plats
ORS 227.160 – 227.187	Planning and zoning hearings and review procedures and rules, including:
ORS 227.178	120-day rule
ORS 227.186	Measure 56 notice
ORS 227.215 – 227.300	Development ordinances and their enforcement
ORS 227.500	Zoning of land used for religious activity (RLUIPA)

**Statutes (continued)**

ORS 443.400	Residential facilities and homes defined
ORS 443.705 – 443.715	Adult foster home defined
ORS 443.760	Application of single-family dwelling code requirements
ORS 446.003	Mobile Home and Manufactured Dwelling Parks – definitions
ORS 446.310	Tourist Facilities – definitions
ORS 446.440	Mobile home or manufactured dwelling park is not a condominium for local zoning and planning purposes

**Administrative Rules**

OAR 660-007	Metropolitan Housing
OAR 660-007-0005	Definitions
OAR 660-007-0015	Clear and Objective Approval Standards Required
OAR 660-008	Housing (Interpretation of Goal 10)
OAR 660-008-0005	Definitions
OAR 660-008-0015	Clear and Objective Approval Standards Required
OAR 660-012	Transportation Planning Rule
OAR 660-012-0005	Definitions
OAR 660-012-0045	Implementation of the TSP
OAR 660-012-0060	Plan and Land Use Regulation Amendments; Multi-Modal Mixed Use Centers
OAR 660-018	Plan amendments
OAR 660-018-0010	Definitions
OAR 660-018-0020	45-day notice to DLCD
OAR 660-018-0040, 0045	Submittal of adopted amendments to DLCD
OAR 660-018-0050	Notice to Other Parties
OAR 660-018-0060	Who May Appeal

## Appendix 4 – Transportation Planning Rule (TPR) Code Checklist

*(Not all provisions will apply to all jurisdictions. For specific requirements, please consult the relevant code implementation provisions of the Transportation Planning Rule in OAR 660-012-045 and 660-012-060.)*

1. Land Use Regulations to Protect Facilities, Corridors, and Sites
  - a. Access control consistent with functional classifications
  - b. Standards to protect future operation of roads, transit
  - c. Measures to protect public airports
  - d. Process for coordinated review of actions affecting facilities, corridors, sites
  - e. Process to apply conditions to development to minimize impacts and protect facilities, corridors, and sites
  - f. Notice to public agencies, Metropolitan Planning Organizations (MPOs), and ODOT
    - i. Land use applications requiring public hearings
    - ii. Land divisions
    - iii. Applications affecting access to roads
    - iv. Applications within airport noise corridors and imaginary surfaces
  - g. Changes to zoning, densities, design standards consistent with the Transportation System Plan (TSP)
2. Land Use Regulations for Pedestrian, Bike, and Vehicle Circulation
  - a. Bike parking with multifamily, retail, office, institutional, transit stations, and park & ride uses
  - b. On-site facilities for bike and pedestrian access
    - i. From within subdivisions, multifamily residential, planned unit developments (PUDs), shopping centers, commercial districts
    - ii. To adjacent residential areas, transit stops, and activity centers within 1/2 mile
    - iii. Activity centers: schools, shopping, transit stops, employment centers, etc.
    - iv. Sidewalks required along arterials, collectors, most local streets
    - v. Cul-de-sacs only where constraints make connections impracticable
  - c. Safe and convenient route for bikes/pedestrians means:
    - i. Reasonably free of hazards/conflicts with autos
    - ii. Reasonably direct route of travel
    - iii. Meets travel needs: optimal pedestrian trip within 1/4 mile or not more than 1/2 mile
  - d. Internal pedestrian circulation in office parks/commercial developments
3. Transit Supportive Development
  - a. >25,000 pop. with existing transit or where future system feasible
  - b. Support transit by enabling bus stops, pullouts, shelters, road geometry, etc.
  - c. Retail, office, institutional buildings provide convenient access to transit
    - i. Walkways connecting streets to buildings
    - ii. Connections except where impracticable: 045(3)(b)(E)
    - iii. At major transit stops
      1. Buildings within 20 feet or provide pedestrian plaza

- 2. Reasonably direct connection to buildings
    - 3. Accessibility for disabled persons
      - 4. Easement or dedication for shelter if transit provider requests
    - 5. Lighting
  - iv. Pedestrian districts (optional)
  - v. Employee parking must provide van/carpool preference
  - vi. Redevelopment for transit facilities shall be allowed
  - vii. Roads for new development shall provide for transit
- 4. Reduce Reliance on Automobiles – MPOs must:
  - a. Allow transit-oriented development (TOD) along transit routes
  - b. Implement demand management program
  - c. Implement parking plan
    - i. 10% reduction in spaces per capita over planning period
    - ii. Minimum and maximum standards
  - d. Work with industrial, institutional, retail, and office owners to provide transit stop or pedestrian connection to transit stop when requested
- 5. Local Street Standards
  - a. Minimize pavement width and total right of way
- 6. Multi-Modal Mixed Use Centers (OAR 660-12-0060)
  - a. Option for waiving ODOT mobility standards in areas that meet criteria

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**ARTICLE 1 — INTRODUCTION AND GENERAL PROVISIONS**
**CHAPTERS:**

<b>Chapter 1.1 — Introduction</b>	<b>1-2</b>
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<b>Chapter 1.3 — <del>Lot of Record and Legal Lot Determination</del> <u>Lawfully Established Units of Land</u></b>	<b>8</b>
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1.3.030 Legal Lot Determination Procedure	<u>9</u>
<b>Chapter 1.4 — Non-Conforming Situations</b>	<b><u>10</u></b>
1.4.010 Purpose and Applicability	<u>10</u>
1.4.020 Non-conforming Use	<u>10</u>
1.4.030 Non-conforming Development	<u>12</u>
1.4.040 Non-conforming Lot	<u>13</u>
<b>Chapter 1.5 — Code Interpretations</b>	<b><u>14</u></b>
1.5.010 Code Interpretations	<u>14</u>
<b>Chapter 1.6 — Enforcement</b>	<b><u>16</u></b>
1.6.010 Violations	<u>16</u>
1.6.020 Other Remedies	<u>17</u>

## Article I — Introduction and General Provisions

### Chapters:

- I.1 Introduction
- I.2 Title, Purpose, and General Administration
- I.3 ~~Lot of Record and Legal Lot~~ Legal Lot Determination
- I.4 Non-Conforming Situations
- I.5 Code Interpretations
- I.6 Enforcement

**Users Guide:** Consult your city recorder and city attorney regarding codification requirements. Options include repealing existing zoning and subdivision ordinances and adopting one ordinance that is a chapter (or title) of your existing municipal code, or adopting a separate ordinance that is incorporated into the municipal code by reference but has its own numbering.

### Chapter I.1 — Introduction

The City of ~~{name}~~Sweet Home Development Code (“Code”) is administered by the ~~{City Official}~~City Manager or his or her designee; hereafter “Planning Official.” The Code regulates land use and development within the City of ~~{name}~~Sweet Home (“City”), and is organized as follows:

**Article 1.** Article 1 describes the title, purpose, authority, organization, and general administration of the Code. Article 1 also explains how City officials interpret and enforce code requirements.

**Article 2.** Article 2 contains the zoning regulations. Zones are designated by the City of ~~{name}~~Sweet Home Zoning Map, consistent with the City of ~~{name}~~Sweet Home Comprehensive Plan. The zoning regulations specify allowed land uses, and lot and development standards that are specific to particular land uses or zones. Before commencing a new use or development, changing an existing use or development, or applying for a building permit, the property owner ~~{should verify the City’s zoning requirements. I shall complete a Zoning Checklist pursuant to Section 4.1.020.}~~ should verify the City’s zoning requirements.

**Article 3.** Article 3 contains the City’s development design standards, including requirements for street access; pedestrian and vehicle circulation; parking; landscaping, screening, fences, and walls; outdoor lighting; adequate transportation, water, sanitary sewer, and storm drainage facilities; and utility requirements. Article 3 applies to all development, including land divisions and projects for which no land use application or review is required. Article 3 is supported by the more detailed engineering design standards in the City’s ~~{Public Works Design Manual / Engineering Design Standards Manual}~~ Public Works Design Manual.

**Article 4.** Article 4 contains the City’s application requirements and review procedures for land use and development decisions, including, but not limited to, procedures for land divisions, property line adjustments, conditional use permits, site design review, master planned developments, and variances.

**Article 5.** Article 5 contains definitions and other exhibits that the City uses in interpreting and administering the Code. For example, where Article 2 contains a general list of land uses allowed in each zone, Article 5 provides examples of uses that are consistent with each general category.

## I.2 – Title, Purpose, and Authority

### Chapter I.2 — Title, Purpose, and Authority

#### Sections:

Section I.2.010 Title  
Section I.2.020 Purpose  
Section I.2.030 Compliance and Scope  
Section I.2.040 Rules of Code Construction  
Section I.2.050 Development Code Consistency with Comprehensive Plan and Laws  
Section I.2.060 Development Code and Zoning Map Implementation  
Section I.2.070 {Zoning Checklist and} Coordination of Building Permits  
Section I.2.080 Official Action

#### I.2.010 Title

The official name of this ~~{Code / Title} Code~~ is “The City of ~~{name}~~ Sweet Home Development Code.” It may also be referred to as “Development Code” and “Code.”

**Comment [A1]:** Compare to SHMC 17.04.010

#### I.2.020 Purpose

This Code is enacted to promote the public health, safety, ~~and welfare, and economy;~~ and to encourage the orderly and efficient development and use of land within the City of ~~{name}~~ Sweet Home, consistent with the City of ~~{name}~~ Sweet Home Comprehensive Plan ~~and the following principles:~~

**Comment [A2]:** Compare to SHMC 17.04.020

- ~~**A. Compact Development**, which promotes the efficient provision of public services and infrastructure;~~
- ~~**B. Mixed Use**, which places homes, jobs, stores, parks, and services within walking distance of one another;~~
- ~~**C. Full Utilization of Urban Services** (e.g., water, sewer, storm drainage, parks, and transportation facilities), which maximizes the return on public investments in infrastructure;~~
- ~~**D. Transportation Efficiency**, or development of an interconnected street system supporting multiple modes of transportation, which yields more direct routes (shorter distances) between local destinations, conserves energy, reduces emergency response times, and provides alternatives to the automobile for those who are unable or choose not to drive a car;~~
- ~~**E. Human Scale Design**, or development in which people feel safe and comfortable walking from place to place because buildings, streetscapes, parking areas, landscaping, lighting, and other components of the built environment are designed foremost with pedestrians in mind;~~
- ~~**F. Environmental Health**, which requires adequate light and air circulation, management of surface water runoff, and treatment and disposal of waste; and~~
- ~~**G. Efficient Administration of Code Requirements**, consistent with the needs of *[the City of (name), a small city with limited administrative capacity]* the City of Sweet Home.~~

**Comment [A3]:** Our Comprehensive Plan, which is already referenced, already lists our goals and objectives.

## I.2 – Title, Purpose, and Authority | Compliance and Scope

### I.2.030 Compliance and Scope

Comment [A4]: Compare to SHMC 17.08.010

- A. Compliance with the Development Code.** No structure or lot shall hereinafter be used, developed, or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or otherwise altered except as permitted by this Code. Furthermore, ~~annexations and~~ annexations and amendments to the Zoning Map, and amendments Development Code shall conform to applicable provisions of this Code.
- B. Obligation by Successor.** The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons' successors in interest.
- C. Transfer of Development Standards Prohibited.** Except as otherwise specifically authorized by this Code, no lot area, yard, landscaping, or open space that is used to satisfy a requirement of this Code for one use shall be used to satisfy the same requirement for another use.

### I.2.040 Rules of Code Construction

Comment [A5]: New Section

- A. Provisions of this Code Declared to be Minimum Requirements.** The provisions of this Code, in their interpretation and application, are minimum requirements, adopted for the protection of the public health, safety, and general welfare.
- B. Highest standard or requirement applies.** Where as the requirement of this Code varies from another provision of this Code or with other applicable regulations, the highest standard or regulation shall govern. The ~~City Planning Official or Planning Commission~~ Planning Official, as applicable, shall determine which Code provision sets the highest standard. Where the applicability of a Code provision is unclear, the ~~Planning Official or Planning Commission, or upon referral the City Council~~ Planning Official may issue a formal interpretation pursuant to Chapter 1.4 Interpretation.
- C. Tenses.** Words used in the present tense include the future; the singular form includes the plural unless otherwise specified; and the plural includes the singular.

**User's Guide:** With regard to optional subsections D and E, below, cities are required to provide clear and objective standards for needed housing under ORS 197.303 – 197.307. Where guidelines are used (e.g., commercial or historic design), the code should be tailored to the local context and the needs of community.

**{D. Requirements versus Guidelines.** The use of the word “shall,” “must,” “required,” or similar directive terms, means the Code provision is a requirement. The use of the word “should,” “encouraged,” “recommended,” or similar terms, means the provision is a guideline, which may be imposed as a requirement but only where the applicable code criteria allow the (City decision-making body) to exercise such discretion.}

**{E. Interpreting Illustrations.** This Code contains illustrations and photographs, code “graphics,” which are intended to serve as examples of development design that either meet or do not meet particular Code standards. Except where a graphic contains a specific numerical standard or uses the word “shall,” “must,” “required,” or “prohibited,” strict adherence to the graphic is not required.}



## 1.2 – Title, Purpose, and Authority | Rules of Code Construction

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

### 1.2.050 Development Code Consistency with Comprehensive Plan and Laws

**Comment [A6]:** Compare to SHMC 17.16.010

- A. City of ~~{name}~~Sweet Home Comprehensive Plan.** This Code implements the City of ~~{name}~~Sweet Home Comprehensive Plan. Except as otherwise required by applicable state or federal law, all provisions of this Code shall be construed in conformity with the Comprehensive Plan, including any Comprehensive Plan elements or public facility master plans, adopted pursuant to the Comprehensive Plan.
- B. Compliance with Other Laws Required.** In addition to the requirements of this Code, all uses and development must comply with all other applicable City, State of Oregon, and federal rules and regulations.
- C. References to Other Regulations.** All references to other City, state, and federal rules and regulations are for informational purposes only and do not constitute a complete list of such requirements. The references do not imply any responsibility by the City for enforcement of state or federal regulations. Where a proposal, permit, or approval is subject to both City of ~~{name}~~Sweet Home requirements and state or federal requirements, the property owner is responsible for contacting the applicable agencies and complying with their rules and regulations.
- D. Current Versions and Citations.** All references to the regulations of other jurisdictions refer to the most current version and citation for those regulations, except where this Code, City Council policy, or applicable law require otherwise. Where a referenced regulation has been amended or repealed, the City Planning Official, Planning Commission or, upon referral, the City Council, shall interpret this Code and, based on adopted City policy, determine whether an equivalent standard applies. Such determinations, unless made through a legislative process, may be appealed to City Council.

### 1.2.060 Development Code and Zoning Map Implementation

**Comment [A7]:** Compare to SHMC Chapter 17.20; Establishment of Zones.

- A. Zoning of Areas to be Annexed.** Concurrent with annexation of land to the City of ~~{name}~~Sweet Home, the City Council ~~{, upon considering the recommendation of the Planning Commission,}~~ shall enact an ordinance applying applicable zoning designation(s) to the subject land, pursuant to Chapter 4.6. The Comprehensive Plan shall guide the designation of zoning for annexed areas.
- B. Land Use Consistent With Development Code.** Land and structures in the City of ~~{name}~~Sweet Home may be used or developed only in accordance with this Code, including all amendments thereto. A lawful use of land ("use") is one that is permitted in accordance with this Code, or is allowed as a legal non-conforming use, pursuant to Chapter 1.4, provided state or ~~{federal law}~~ does not prohibit the use.
- C. Development Code and Zoning Map.** The City's Official Zoning Map ("Zoning Map"), which may be published, amended, and filed separately from this Code, is part of this code. The zoning districts depicted on the Zoning Map correspond to the zoning districts in this code. In addition, this Code may contain zoning regulations for special areas (i.e., overlay zones), and for certain uses or structures that do not appear on

**Comment [A8]:** Marijuana regulations

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## I.2 – Title, Purpose, and Authority | Development Code and Zoning Map Implementation

the Zoning Map.

- D. Interpreting the Zoning Map.** Except as otherwise specified by this Code, the City's zoning boundaries are as designated on the Official Zoning Map, which is kept on file at City Hall. The City may adopt and publish supplemental zoning maps where it is impractical to illustrate all regulated features on one map. Examples of regulated features include, but are not limited to, historical landmarks, special street setbacks, base flood (flood plain) elevation, local wetland inventories, and specific area plans. In addition, the City may require field verification and mapping (e.g., survey) of a regulated feature as part of a development application, where the feature is thought to exist on or adjacent to the subject property but its exact location is unknown.
- E. Boundary Lines.** Zoning district boundaries are determined pursuant to Section 2.1.030.
- F. Changes to Official Zoning Map.** Proposed changes to the Official Zoning Map are subject to review and approval under Chapter 4.6 Amendments.

## 1.2 – Title, Purpose, and Authority | [Zoning Checklists and] Coordination of Building Permits

### 1.2.070 [Zoning Checklists and] Coordination of Building Permits

Comment [A9]: New Section

- A. Land Use Approvals and Building Permits.** Land use and building approvals are processed by two City officials: The {designated} Building Official administers building codes {including floodplain regulations,} and issues building permits; and the {Planning Official} administers the Development Code, processes land use approvals, and coordinates with the {designated} Building Official on development and building projects to ensure compliance with the Development Code.
- B. Zoning Compliance Required for Building Permits.** A building permit shall not be issued until the {Planning Official} has confirmed that all applicable requirements of this Code are met, or appropriate conditions of approval are in place to ensure compliance.
- {C. Zoning Checklist.** Where a Zoning Checklist is required prior to issuance of a building permit, pursuant to Section 4.1.020, the Planning Official through a Type I procedure shall review the project proposal. The Building Official shall not issue any building permit without an approved Zoning Checklist for the project. If in reviewing the project proposal the Planning Official determines that other permits or approvals are required before development may commence, or a building permit may be issued, the Planning Official shall advise the applicant in writing, accordingly. See Article 4 Application Requirements, Administrative Procedures, and Approval Criteria.}

Comment [A10]: We may want to specify that certain floodplain development permits may require approval by the Planning Official.

### 1.2.080 Official Action

Comment [A11]: New Section

- A. Official Action.** The City of ~~from Sweet Home~~ {Name} {Planning Official, Planning Commission, (Hearings Officer,) and City Council} are vested with authority to issue permits and grant approvals in conformance with this Code, pursuant to Article 4 Application Requirements, Administrative Procedures, and Approval Criteria. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this Code.
- B. Void Future Actions.** Any permit or approval issued or granted in conflict with the provisions of this Code shall be void, unless the City modifies it in conformance with the Code. The {Planning Official} shall determine when an approval is void and, as applicable, he or she shall refer it back to the decision body for modification to ensure Code compliance.
- C. Referral to Planning Commission.** In addition to those actions that require Planning Commission approval, the {Planning Official} may refer any question or permit request to the Planning Commission, who then shall take action on the request pursuant to the applicable provisions of this Code. See also, Chapter 1.5 Code Interpretations and Article 4 Application Requirements, Administrative Procedures, and Approval Criteria.
- D. Notices, Filing, and Validity of Actions.** The failure of any person to receive mailed notice or failure to post or file a notice, staff report, or form shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to such notice report, or form. See Chapter 4.1 General Review Procedures.

## 1.3 – Lot of Record and Legal Lot Determination

### Chapter 1.3 — ~~Lot of Record and Legal Lots~~ Determination Lawfully Established Units of Land

Comment [A12]: New Section

#### Sections:

1.3.010 Purpose and Intent

1.3.020 Criteria

1.3.030 ~~Legal Lot~~ Lawfully Established Unit of Land Determination Procedure

**User's Guide:** The lot of record procedure is per state statute. Local jurisdictions may adopt local procedures for lot of record determinations, provided they are not in conflict with ORS 92.010 to 92.190.

#### 1.3.010 Purpose and Intent

The purpose of Chapter 1.3 is to establish criteria and a process for determining when a ~~lot of record~~ lawfully established unit of land exists for the purpose of allowing a use or development on a conforming or non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations). ~~The owner of a lot of record~~ legal lot ~~lawfully established unit of land shall not be denied development of one single family dwelling per lot of record~~ legal lot ~~lawfully established unit of land, provided applicable building codes are met.~~ The City shall accept a legal lot determination as sufficient evidence of a hardship for purposes of approving a variance under Chapter 4.7.

#### 1.3.020 Criteria

~~A lot of record~~ lawfully established unit of land ~~legal lot~~ lawfully established unit of land is a ~~plot-unit~~ plot-unit of land that meets one or more of the following criteria, pursuant to ORS 92.010 through 92.190:

**A.** ~~A unit of land shall be considered lawfully established~~ a legal lot ~~lawfully established if:~~

1.A. The ~~plot-unit~~ of land is a lot or parcel that was lawfully created through a subdivision or partition plat in ~~[name]~~ Linn County prior to annexation to the City of ~~[name]~~ Sweet Home;

2. The unit of land is a lot or parcel that was lawfully created through a subdivision or partition plat in accordance with the City of Sweet Home's subdivision or partition requirements;

3.B. The ~~plot-unit~~ of land was created through by a deed or land sales contract at a time when there were no applicable planning, zoning or subdivision or partition ordinances or regulations, recorded with ~~[name]~~ Linn County ~~[prior to (date)] before the City or County, as applicable, adopted planning, zoning, subdivision or partition regulations];~~

4. The unit of land was created by dividing land as a result of a lien foreclosure or foreclosure of a recorded contract for the sale of real property; or

~~5C. The plot-unit of land was created through by a deed or land sales contract recorded with [name] Link County prior to January 1, 2007 and the subject plot-unit of land would have complied with the applicable planning, zoning, subdivision, or partition regulations in effect at the time it was created.~~

Comment [A13]: Type II

**B.** A lawfully established unit of land created under Section 1.3.020(A) shall remain a separate and discrete lawfully established unit of land unless the property lines are vacated or the lawfully established unit of land is further divided, as provided by law.

### **1.3.030      ~~Legal Lot~~ Lawfully Established Unit of Land Determination Procedure**

~~Upon request of a property owner, the [Planning Official / Planning Commission] Planning Official, through a [Type I / Type III] Type II procedure, shall process requests to validate~~ confirm whether a unit of land was lawfully established ~~a lot of record, pursuant to ORS 92.010 to 92.190.~~

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## I.4 – Non-Conforming Situations

### Chapter I.4 — Non-Conforming Situations

**Comment [A14]:** Compare to SHMC Chapter 17.84: Nonconforming Uses

#### Sections:

- I.4.010 Purpose and Applicability
- I.4.020 Non-conforming Use
- I.4.030 Non-conforming Development
- I.4.040 Non-conforming Lot

**User's Guide:** Chapter I.4 should be customized to address the types of non-conforming uses and code violations that exist in a community. First, a city should consider whether its current land use standards are appropriate. If some code conflicts are so common that property owners routinely ask for and are granted variances, then that standard (e.g., setback, lot size, etc.) should be amended. Where non-conforming uses are common and predate current zoning regulations (e.g., single-family dwellings in a downtown zone), consider permitting those uses subject to a cutoff date, provided they were lawfully established when constructed.

The limitations on expanding non-conforming uses, and the requirement that “discontinued” uses after a certain period of time not be resurrected, should also be customized to community. A basic land use inventory and some spot measurements from representative neighborhoods or developments can be helpful in educating the community about non-conforming uses and in establishing numerical standards and thresholds for this chapter.

#### I.4.010 Purpose and Applicability

Chapter I.4 provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current Code standards (“non-conforming situations”). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The chapter contains three sections, as follows:

- A. Non-conforming uses** (e.g., industrial use in residential zone) are subject to Section I.4.020.
- B. Non-conforming developments** (e.g., structure does not meet setback or height standards) are subject to Section I.4.030.
- C. Non-conforming lots** (e.g., lot is smaller than minimum area standard) are subject to Section I.4.040.

#### I.4.020 Non-conforming Use

Where a use of land exists that would not be permitted under the current Code, but was lawful at the time it was established, the use may continue, provided it conforms to the following requirements:

- A. Expansion of Non-conforming Use Limited.** Expansion of a non-conforming use shall not exceed [20-50] percent of the subject site or building, and not more than [500-5,000] square feet of building area (footprint or floor area), cumulatively, whichever is less, that existed as of [cutoff date]. [Expansion of a non-conforming use requires approval of a Conditional Use Permit under Chapter 4.3.]

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## I.4 – Non-Conforming Situations

- B. Location of Non-conforming Use.** A non-conforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.
- C. Discontinuation or Abandonment of Non-conforming Use.** *[Except as provided by Section 1.4.020.E]* A non-conforming use that is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than ~~number-text (12-18)~~12 months shall be deemed abandoned and shall no longer be an allowed use. For purposes of calculating the ~~number-text (12-18)~~12 month period, a use is discontinued when:
1. the use of land is physically vacated;
  2. the use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;
  3. any lease or contract under which the non-conforming use has occupied the land is terminated;
  4. a request for final reading of water and power meters is made to the applicable utility districts;
  5. the owner's utility bill or property tax bill account became delinquent; or
  6. an event occurs similar to those listed in subsections 1-5, above, as determined by the Planning Commission.
- D. Application of Code Criteria and Standards to Non-conforming Use.** Once the City deems a use abandoned pursuant to subsection 1.4.020.C, any subsequent use of the subject lot shall conform to the current standards and criteria of this Code. After the City has deemed a non-conforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings under Chapter 1.6.
- E. Extension of Non-Conforming Status for Discontinued Use.** Notwithstanding the provisions of subsection 18-1.4.020.C, a non-conforming use that is discontinued shall not be considered abandoned where, through a Type III procedure, the Planning Commission approves an extension for repair, including as applicable ongoing, active renovation and efforts to lease the subject property. The owner must request the extension within the six-month period of discontinuance.

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## I.4 – Non-Conforming Situations | Non-conforming Uses

### I.4.030 Non-conforming Development

**User's Guide:** Section I.4.030 provides flexibility where existing developments do not conform to current code standards. For example, historic areas often have small lot sizes, mixed land uses, less parking, and smaller setbacks than areas developed under current standards. Where existing development predates modern zoning, cities should allow greater flexibility for new construction and alterations to existing development.

Section I.4.030 regulates non-conforming development. Non-conforming development includes situations where a development exists on the effective date of adoption or amendment of this Code that could not be built under the terms of the Code today, for example, by reason of restrictions on lot area, lot coverage, location on a lot, setbacks, height, yard, equipment, access, parking, landscaping, or other physical restriction or requirement. If the development was lawful when constructed, it may remain on the site so long as it remains otherwise lawful and complies with the following regulations:

- A. Alterations.** Any expansion of a non-conforming development shall not exceed ~~number text (20-50)~~ 20 percent of the subject building area or development area, as applicable; for example, such area may include floor area or other surface area, paving, parking spaces, landscaping, outdoor storage, signage, lighting, or other developed areas that existed as of effective date of new code. ~~[Expansion of a non-conforming use requires approval of a Conditional Use Permit under Chapter 4.3.]~~ A non-conforming development shall not be enlarged or altered in a way that increases its non-conformity ~~by more than (20-50) percent~~. Approval of a variance is required to increase a development's non-conformity, ~~and not more than one such variance shall be approved to expand the same development~~. A development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or moves in the direction of conformity.
- B. Destruction.** Should a non-conforming development or non-conforming portion of a development be destroyed by any means to an extent more than ~~50 number text (20-50)~~ percent of its current value as assessed by the ~~name~~ Linn County Assessor; it shall be reconstructed only in full conformity with this Code. This does not preclude the reestablishment of a non-conforming use after fire or other catastrophe as allowed under Section I.4.020.
- C. Roadway Access.** The owner of a non-conforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the non-conforming access into conformance with the standards of the applicable roadway authority.
- D. Relocation or Removal.** Once a non-conforming structure or a portion of a non-conforming structure or development is moved it shall thereafter conform to current Code standards.



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## I.4 – Non-Conforming Situations | Non-conforming Development

### I.4.040 Non-conforming Lot

**User's Guide:** Cities should review their minimum lot size requirements and determine whether amendments are needed. Where lots predate modern zoning and lot sizes are unusually small, it may be necessary to amend the development standards of Section 2.2.040.

A ~~legal lot or lot of record~~ lawfully established unit of land, as provided by Chapter 1.3, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone, subject to other requirements of the zone. If there is a lot area deficiency, residential use shall be limited to a single-family dwelling.

## I.5 – Code Interpretations

### Chapter I.5 — Code Interpretations

**Comment [A15]:** Compare to SHMC Section 17.08.020 Interpretation

#### Sections:

#### I.5.010 Code Interpretations

**User's Guide:** This chapter provides cities with a procedure for responding to requests for written code interpretations. Cities should keep written records of the code interpretations they make. Even informal interpretations made by staff in the course of answering questions from builders or business owners, should be noted, so that the city, through periodic code maintenance or housekeeping updates, can continually improve the code. Some cities do this annually, while others wait until they have accumulated a large number of needed changes. It is usually easier and takes less time overall to process the changes in smaller packages of code amendments every few years; however, the trade-off is that for every package of amendments, the city is required to provide public notice and conduct hearings. The important thing to remember is that the development code should be reviewed regularly and updated as conditions change and as the code is tested in ways that could not have been anticipated when first drafted.

#### I.5.010 Code Interpretations

**Comment [A16]:** Compare to SHMC Section 17.08.020 Interpretation

Some terms or phrases within this Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

**A. Authorization of Similar Uses.** Where a proposed use is not specifically identified by this Code, or the Code is unclear as to whether the use is allowed in a particular zone, the ~~{Planning Official / Planning Commission}~~ Planning Official may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Code accordingly. However, uses and activities that this Code specifically prohibits in the subject zone, and uses and activities that the ~~{Planning Official / Planning Commission}~~ Planning Official finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of City officials shall be processed following the ~~{Type II / Type III}~~ Type II procedure of Chapter 4.1. ~~{030 / 040}~~ 030. ~~{The Planning Official may refer a request for a similar use determination to the Planning Commission for its review and decision.}~~

**Comment [A17]:** Compare to SHMC Section 17.12.080 Authorization of Similar Uses

**B. Code Interpretation Procedure.** Requests for code interpretations, including, but not limited to, similar use determinations, shall be made in writing to the ~~{Planning Official}~~ and shall be processed as follows:

1. The ~~{Planning Official}~~, within ~~{(text) 7-14}~~ 14 days of the inquiry, shall advise the person making the inquiry in writing as to whether the City will make a formal interpretation.
2. Where an interpretation does not involve the exercise of discretion, the ~~{Planning Official}~~ shall advise the person making the inquiry of his or her decision within a reasonable timeframe and without public notice.
3. Where an interpretation requires discretion, the ~~{Planning Official}~~ shall inform the person making the request that an application for code interpretation is required and advise the applicant on how to make

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## I.5 – Code Interpretations | Code Interpretations

the request. At a minimum, an application for code interpretation shall include a letter citing the nature and reasons for the request, and, as required, a City fee. The {Planning Official} then shall review relevant background information, including, but not limited to, other relevant Code sections and previous City land use decisions, and follow the ~~{Type II / Type III}~~ Type II review and ~~{public hearing}~~ decision-making procedures in Section 4.1.~~{030 / 040030}~~.

- D. Written Interpretation.** Following the {close of the public comment period on an application for a code interpretation, ~~/Planning Commission's decision on a code interpretation application,~~} the {Planning Official} shall mail or deliver the City's decision in writing to the person requesting it, to any other person who specifically requested a copy of the decision, and to those who provided public testimony on the application. The decision shall become effective when the appeal period for the decision expires.
- E. Referral to City Council.** Where a code interpretation may have significant citywide policy implications, the {Planning Official} may bypass the procedure in subsection 1.5.010.B and refer the request directly to the City Council for its legislative review in a public hearing. Such public hearings shall be conducted following Type IV procedure of Chapter 4.1.050.
- F. Interpretations on File.** The City shall keep on file a record of its code interpretations.

## I.6 – Enforcement

### Chapter I.6 — Enforcement

#### Sections:

I.6.010 Violation

I.6.020 Other Remedies

**User's Guide:** This chapter should not be inserted directly into city development codes. It is a placeholder. Cities should first review any enforcement procedures already existing in other city ordinances, and then either incorporate those provisions into the Development Code by reference, or work with the city attorney to draft provisions specific to the Development Code.

**Comment [A18]:** I have removed the Model Code language and inserted the existing language in SHMC Section 17.12.150 Enforcement

#### I.6.010 Violations

**Comment [A19]:** This is the language from SHMC 17.12.150

~~Violation of this title constitutes a violation and may be prosecuted under the provisions of Sweet Home Municipal Code Chapter 9.36 as now enacted or hereafter amended. Each day's violation is a separate offense. Except as provided under Subsection I.6.020, any person violating or causing the violation of any of the provisions of this Code who fails to abate said violation has committed [an infraction / a misdemeanor], which, upon conviction thereof, is punishable as prescribed in [Section (##) of the (name) Municipal Code / Oregon Revised Statute (ORS) Chapter 161]. Such person is guilty of a separate violation for each and every day during any portion of which a violation of this Code is committed or continued. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation.~~

**A. Classification of Violation.** ~~Violations shall be identified by the [Planning Official] under one of the following classifications:~~

- ~~1. Type I – Violations which represent a serious threat to public health, safety, and welfare, or those unapproved actions deemed potentially to create serious adverse environmental or land use consequences as the result of continued development activity; or~~
- ~~2. Type II – Violations which do not pose a serious threat to public health, safety, and welfare, but do violate provisions of this code, including any conditions of approval.~~

#### **B. Notice of Violation**

- ~~1. Type I – After receiving a report of an alleged Type I violation, the [Planning Official] determines whether the violation requires that a citation be issued immediately or whether to provide notice of the violation prior to the issuance of a citation. Notice shall be in writing and shall be provided to the owner of record for tax purposes or to the person in charge of the property. Such a notice shall indicate:
  - ~~a. the location and nature of the violation;~~
  - ~~b. the provision or provisions of this Code or conditions of approval which allegedly have been violated; and~~
  - ~~c. whether immediate enforcement will be sought or if a specified time period will be allowed to correct or remove the violation.~~~~
- ~~2. Type II – After receiving a report of an alleged Type II violation from the [Planning Official], the City Attorney shall, upon determining that [probable cause] exists, promptly give notice of the alleged~~

## I.6 – Enforcement

violation by certified first-class mail, return receipt requested, or by personal service to the owner of record for tax purposes and to the person in charge of the property; however, a defect in the notice of violation with respect to this notice delivery provision shall not prevent enforcement of this code. Such a notice shall indicate:

- a. the location and nature of the violation;
- b. the provision or provisions of this Code or conditions of approval, which allegedly have been violated;
- c. whether immediate enforcement shall be sought or if 15 days will be allowed to correct or remove the violation; and
- d. the date when the notice was personally served or, if the notice was sent by first-class mail, the date three days after mailing if the address to which it was mailed is within this state and seven days after mailing if the address to which it was mailed is outside this state.

**C. City Attorney to Pursue Enforcement.** When the compliance deadline expires, the City Attorney shall proceed with any action deemed appropriate, unless:

1. the City Attorney finds that the violation has been corrected, removed, or will not be committed; or
2. a court of competent jurisdiction has halted enforcement pending the outcome of a proceeding concerning the violation.

**D. Penalties.** Code violations may be subject to criminal, civil, or other sanctions authorized under ordinances of the City.

1. **Criminal Penalties**—Unless specified otherwise, every violation of the terms of this Code is a Class A infraction, punishable by a fine of up to [\$]. Each day such violation continues, it shall be considered a separate offense.
2. **Civil Penalties and Remedies**—In addition to, or in lieu of, criminal actions, a violation of this code or a permit issued hereunder may be the subject of a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.

**User's Guide:** Limits on fines are established in ORS 161.

### I.6.020 Other Remedies

**Comment [A20]:** Current code language

The City, in addition to finding a Code violation is ~~[an infraction / a misdemeanor]~~, may use any of the other remedies available to it, including, but not limited to, the following:

**A. Stop Work Order.** The City may issue a stop work order.

**B. Public Nuisance.** The City may find a violation of this Code is a public nuisance and take enforcement action pursuant to City of ~~[name]~~ Sweet Home Ordinance No. ~~[#]~~.

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## I.6 – Enforcement

**C. — Mediation.** ~~The City and property owner may agree to engage in mediation. In case a structure is located, constructed, maintained, repaired, altered or used, or land is used in violation of this title, the structure or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use. For abatement the city may follow the procedure set out in Sweet Home Municipal Code Article II of Chapter 8.04 as now enacted or hereafter amended, except no hearing need be held before abatement occurs if a hearing before the Planning Commission or City Council has already been held on the issue in dispute and the body has made a final decision thereon. The city can recover its expenses as set forth in the abatement procedure.~~

**ARTICLE 1 — INTRODUCTION AND GENERAL PROVISIONS****CHAPTERS:**

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# Article I — Introduction and General Provisions

## Chapters:

- I.1 Introduction
- I.2 Title, Purpose, and General Administration
- I.3 Legal Lot Determination
- I.4 Non-Conforming Situations
- I.5 Code Interpretations
- I.6 Enforcement

**Users Guide:** Consult your city recorder and city attorney regarding codification requirements. Options include repealing existing zoning and subdivision ordinances and adopting one ordinance that is a chapter (or title) of your existing municipal code, or adopting a separate ordinance that is incorporated into the municipal code by reference but has its own numbering.

## Chapter I.1 — Introduction

The City of Sweet Home Development Code (“Code”) is administered by the City Manager or his or her designee; hereafter “Planning Official.” The Code regulates land use and development within the City of Sweet Home (“City”), and is organized as follows:

**Article 1.** Article 1 describes the title, purpose, authority, organization, and general administration of the Code. Article 1 also explains how City officials interpret and enforce code requirements.

**Article 2.** Article 2 contains the zoning regulations. Zones are designated by the City of Sweet Home Zoning Map, consistent with the City of Sweet Home Comprehensive Plan. The zoning regulations specify allowed land uses, and lot and development standards that are specific to particular land uses or zones. Before commencing a new use or development, changing an existing use or development, or applying for a building permit, the property owner should verify the City’s zoning requirements.

**Article 3.** Article 3 contains the City’s development design standards, including requirements for street access; pedestrian and vehicle circulation; parking; landscaping, screening, fences, and walls; outdoor lighting; adequate transportation, water, sanitary sewer, and storm drainage facilities; and utility requirements. Article 3 applies to all development, including land divisions and projects for which no land use application or review is required. Article 3 is supported by the more detailed engineering design standards in the City’s Public Works Design Manual.

**Article 4.** Article 4 contains the City’s application requirements and review procedures for land use and development decisions, including, but not limited to, procedures for land divisions, property line adjustments, conditional use permits, site design review, master planned developments, and variances.

**Article 5.** Article 5 contains definitions and other exhibits that the City uses in interpreting and administering the Code. For example, where Article 2 contains a general list of land uses allowed in each zone, Article 5 provides examples of uses that are consistent with each general category.



### Chapter I.2 — Title, Purpose, and Authority

#### Sections:

Section I.2.010 Title

Section I.2.020 Purpose

Section I.2.030 Compliance and Scope

Section I.2.040 Rules of Code Construction

Section I.2.050 Development Code Consistency with Comprehensive Plan and Laws

Section I.2.060 Development Code and Zoning Map Implementation

Section I.2.070 Zoning Checklist and Coordination of Building Permits

Section I.2.080 Official Action

#### **I.2.010 Title**

The official name of this Code is “The City of Sweet Home Development Code.” It may also be referred to as “Development Code” and “Code.”

#### **I.2.020 Purpose**

This Code is enacted to promote the public health, safety, welfare, and economy; and to encourage the orderly and efficient development and use of land within the City of Sweet Home, consistent with the City of Sweet Home Comprehensive Plan

#### **I.2.030 Compliance and Scope**

- A. Compliance with the Development Code.** No structure or lot shall hereinafter be used, developed, or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or otherwise altered except as permitted by this Code. Furthermore, annexations and amendments to the Zoning Map, and amendments Development Code shall conform to applicable provisions of this Code.
- B. Obligation by Successor.** The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons’ successors in interest.
- C. Transfer of Development Standards Prohibited.** Except as otherwise specifically authorized by this Code, no lot area, yard, landscaping, or open space that is used to satisfy a requirement of this Code for one use shall be used to satisfy the same requirement for another use.

#### **I.2.040 Rules of Code Construction**

- A. Provisions of this Code Declared to be Minimum Requirements.** The provisions of this Code, in their interpretation and application, are minimum requirements, adopted for the protection of the public health, safety, and general welfare.

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## I.2 – Title, Purpose, and Authority | Compliance and Scope

- B. Highest standard or requirement applies.** Where as the requirement of this Code varies from another provision of this Code or with other applicable regulations, the highest standard or regulation shall govern. The Planning Official, as applicable, shall determine which Code provision sets the highest standard. Where the applicability of a Code provision is unclear, the Planning Official may issue a formal interpretation pursuant to Chapter I.4 Interpretation.
- C. Tenses.** Words used in the present tense include the future; the singular form includes the plural unless otherwise specified; and the plural includes the singular.

**User's Guide:** With regard to optional subsections D and E, below, cities are required to provide clear and objective standards for needed housing under ORS 197.303 – 197.307. Where guidelines are used (e.g., commercial or historic design), the code should be tailored to the local context and the needs of community.

- D. Requirements versus Guidelines.** The use of the word “shall,” “must,” “required,” or similar directive terms, means the Code provision is a requirement. The use of the word “should,” “encouraged,” “recommended,” or similar terms, means the provision is a guideline, which may be imposed as a requirement but only where the applicable code criteria allow the (City decision-making body) to exercise such discretion.
- E. Interpreting Illustrations.** This Code contains illustrations and photographs, code “graphics,” which are intended to serve as examples of development design that either meet or do not meet particular Code standards. Except where a graphic contains a specific numerical standard or uses the word “shall,” “must,” “required,” or “prohibited,” strict adherence to the graphic is not required.

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## 1.2 – Title, Purpose, and Authority | Rules of Code Construction

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

### 1.2.050 Development Code Consistency with Comprehensive Plan and Laws

- A. City of Sweet Home Comprehensive Plan.** This Code implements the City of Sweet Home Comprehensive Plan. Except as otherwise required by applicable state or federal law, all provisions of this Code shall be construed in conformity with the Comprehensive Plan, including any Comprehensive Plan elements or public facility master plans, adopted pursuant to the Comprehensive Plan.
- B. Compliance with Other Laws Required.** In addition to the requirements of this Code, all uses and development must comply with all other applicable City, State of Oregon, and federal rules and regulations.
- C. References to Other Regulations.** All references to other City, state, and federal rules and regulations are for informational purposes only and do not constitute a complete list of such requirements. The references do not imply any responsibility by the City for enforcement of state or federal regulations. Where a proposal, permit, or approval is subject to both City of Sweet Home requirements and state or federal requirements, the property owner is responsible for contacting the applicable agencies and complying with their rules and regulations.
- D. Current Versions and Citations.** All references to the regulations of other jurisdictions refer to the most current version and citation for those regulations, except where this Code, City Council policy, or applicable law require otherwise. Where a referenced regulation has been amended or repealed, the City Planning Official, Planning Commission or, upon referral, the City Council, shall interpret this Code and, based on adopted City policy, determine whether an equivalent standard applies. Such determinations, unless made through a legislative process, may be appealed to City Council.

### 1.2.060 Development Code and Zoning Map Implementation

- A. Zoning of Areas to be Annexed.** Concurrent with annexation of land to the City of Sweet Home, the City Council, upon considering the recommendation of the Planning Commission, shall enact an ordinance applying applicable zoning designation(s) to the subject land, pursuant to Chapter 4.6. The Comprehensive Plan shall guide the designation of zoning for annexed areas.
- B. Land Use Consistent With Development Code.** Land and structures in the City of Sweet Home may be used or developed only in accordance with this Code, including all amendments thereto. A lawful use of land (“use”) is one that is permitted in accordance with this Code, or is allowed as a legal non-conforming use, pursuant to Chapter 1.4, provided state or federal law does not prohibit the use.
- C. Development Code and Zoning Map.** The City’s Official Zoning Map (“Zoning Map”), which may be published, amended, and filed separately from this Code, is part of this code. The zoning districts depicted on the Zoning Map correspond to the zoning districts in this code. In addition, this Code may contain zoning regulations for special areas (i.e., overlay zones), and for certain uses or structures that do not appear on

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## I.2 – Title, Purpose, and Authority | Development Code and Zoning Map Implementation

the Zoning Map.

- D. Interpreting the Zoning Map.** Except as otherwise specified by this Code, the City’s zoning boundaries are as designated on the Official Zoning Map, which is kept on file at City Hall. The City may adopt and publish supplemental zoning maps where it is impractical to illustrate all regulated features on one map. Examples of regulated features include, but are not limited to, historical landmarks, special street setbacks, base flood (flood plain) elevation, local wetland inventories, and specific area plans. In addition, the City may require field verification and mapping (e.g., survey) of a regulated feature as part of a development application, where the feature is thought to exist on or adjacent to the subject property but its exact location is unknown.
- E. Boundary Lines.** Zoning district boundaries are determined pursuant to Section 2.1.030.
- F. Changes to Official Zoning Map.** Proposed changes to the Official Zoning Map are subject to review and approval under Chapter 4.6 Amendments.

### **1.2.070      Zoning Checklists and Coordination of Building Permits**

- A. Land Use Approvals and Building Permits.** Land use and building approvals are processed by two City officials: The designated Building Official administers building codes including floodplain regulations, and issues building permits; and the Planning Official administers the Development Code, processes land use approvals, and coordinates with the designated Building Official on development and building projects to ensure compliance with the Development Code.
- B. Zoning Compliance Required for Building Permits.** A building permit shall not be issued until the Planning Official has confirmed that all applicable requirements of this Code are met, or appropriate conditions of approval are in place to ensure compliance.
- C. Zoning Checklist.** Where a Zoning Checklist is required prior to issuance of a building permit, pursuant to Section 4.1.020, the Planning Official through a Type I procedure shall review the project proposal. The Building Official shall not issue any building permit without an approved Zoning Checklist for the project. If in reviewing the project proposal the Planning Official determines that other permits or approvals are required before development may commence, or a building permit may be issued, the Planning Official shall advise the applicant in writing, accordingly. See Article 4 Application Requirements, Administrative Procedures, and Approval Criteria.

### **1.2.080      Official Action**

- A. Official Action.** The City of Sweet Home Planning Official, Planning Commission, and City Council are vested with authority to issue permits and grant approvals in conformance with this Code, pursuant to Article 4 Application Requirements, Administrative Procedures, and Approval Criteria. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this Code.
- B. Void Future Actions.** Any permit or approval issued or granted in conflict with the provisions of this Code shall be void, unless the City modifies it in conformance with the Code. The Planning Official shall determine when an approval is void and, as applicable, he or she shall refer it back to the decision body for modification to ensure Code compliance.
- C. Referral to Planning Commission.** In addition to those actions that require Planning Commission approval, the Planning Official may refer any question or permit request to the Planning Commission, who then shall take action on the request pursuant to the applicable provisions of this Code. See also, Chapter 1.5 Code Interpretations and Article 4 Application Requirements, Administrative Procedures, and Approval Criteria.
- D. Notices, Filing, and Validity of Actions.** The failure of any person to receive mailed notice or failure to post or file a notice, staff report, or form shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to such notice report, or form. See Chapter 4.1 General Review Procedures.

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## 1.3 – Lot of Record and Legal Lot Determination

### Chapter 1.3 —Lawfully Established Units of Land

#### Sections:

1.3.010 Purpose and Intent

1.3.020 Criteria

1.3.030 Lawfully Established Unit of Land Determination Procedure

**User's Guide:** The lot of record procedure is per state statute. Local jurisdictions may adopt local procedures for lot of record determinations, provided they are not in conflict with ORS 92.010 to 92.190.

#### **1.3.010 Purpose and Intent**

The purpose of Chapter 1.3 is to establish criteria and a process for determining when a lawfully established unit of land exists for the purpose of allowing a use or development on a conforming or non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations).

#### **1.3.020 Criteria**

A lawfully established unit of land is a unit of land that meets one or more of the following criteria, pursuant to ORS 92.010 through 92.190:

**A.** A unit of land shall be considered lawfully established if:

1. The unit of land is a lot or parcel that was lawfully created through a subdivision or partition plat in Linn County prior to annexation to the City of Sweet Home;
2. The unit of land is a lot or parcel that was lawfully created through a subdivision or partition plat in accordance with the City of Sweet Home's subdivision or partition requirements;
3. The unit of land was created by a deed or land sales contract at a time when there were no applicable planning, zoning or subdivision or partition ordinances or regulations.
4. The unit of land was created by dividing land as a result of a lien foreclosure or foreclosure of a recorded contract for the sale of real property; or
5. The unit of land was created by a deed or land sales contract prior to January 1, 2007 and the subject unit of land would have complied with the applicable planning, zoning, subdivision, or partition regulations in effect at the time it was created.

**B.** A lawfully established unit of land created under Section 1.3.020(A) shall remain a separate and discrete lawfully established unit of land unless the property lines are vacated or the lawfully established unit of land is further divided, as provided by law.

### **I.3.030 Lawfully Established Unit of Land Determination Procedure**

Upon request of a property owner, the Planning Official, through a Type II procedure, shall process requests to confirm whether a unit of land was lawfully established, pursuant to ORS 92.010 to 92.190.

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## I.4 – Non-Conforming Situations

### Chapter I.4 — Non-Conforming Situations

#### Sections:

- I.4.010 Purpose and Applicability
- I.4.020 Non-conforming Use
- I.4.030 Non-conforming Development
- I.4.040 Non-conforming Lot

**User's Guide:** Chapter I.4 should be customized to address the types of non-conforming uses and code violations that exist in a community. First, a city should consider whether its current land use standards are appropriate. If some code conflicts are so common that property owners routinely ask for and are granted variances, then that standard (e.g., setback, lot size, etc.) should be amended. Where non-conforming uses are common and predate current zoning regulations (e.g., single-family dwellings in a downtown zone), consider permitting those uses subject to a cutoff date, provided they were lawfully established when constructed.

The limitations on expanding non-conforming uses, and the requirement that “discontinued” uses after a certain period of time not be resurrected, should also be customized to community. A basic land use inventory and some spot measurements from representative neighborhoods or developments can be helpful in educating the community about non-conforming uses and in establishing numerical standards and thresholds for this chapter.

#### **I.4.010 Purpose and Applicability**

Chapter I.4 provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current Code standards (“non-conforming situations”). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The chapter contains three sections, as follows:

- A. Non-conforming uses** (e.g., industrial use in residential zone) are subject to Section I.4.020.
- B. Non-conforming developments** (e.g., structure does not meet setback or height standards) are subject to Section I.4.030.
- C. Non-conforming lots** (e.g., lot is smaller than minimum area standard) are subject to Section I.4.040.

#### **I.4.020 Non-conforming Use**

Where a use of land exists that would not be permitted under the current Code, but was lawful at the time it was established, the use may continue, provided it conforms to the following requirements:

- A. Expansion of Non-conforming Use Limited.** Expansion of a non-conforming use shall not exceed [20-50] percent of the subject site or building, and not more than [500-5,000] square feet of building area (footprint or floor area), cumulatively, whichever is less, that existed as of [cutoff date]. *[Expansion of a non-conforming use requires approval of a Conditional Use Permit under Chapter 4.3.]*



- B. Location of Non-conforming Use.** A non-conforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.
- C. Discontinuation or Abandonment of Non-conforming Use.** *[Except as provided by Section I.4.020.E]*  
A non-conforming use that is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than 12 months shall be deemed abandoned and shall no longer be an allowed use. For purposes of calculating the 12 month period, a use is discontinued when:
1. the use of land is physically vacated;
  2. the use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;
  3. any lease or contract under which the non-conforming use has occupied the land is terminated;
  4. a request for final reading of water and power meters is made to the applicable utility districts;
  5. the owner's utility bill or property tax bill account became delinquent; or
  6. an event occurs similar to those listed in subsections 1-5, above, as determined by the Planning Commission.
- D. Application of Code Criteria and Standards to Non-conforming Use.** Once the City deems a use abandoned pursuant to subsection I.4.020.C, any subsequent use of the subject lot shall conform to the current standards and criteria of this Code. After the City has deemed a non-conforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings under Chapter I.6.
- E. Extension of Non-Conforming Status for Discontinued Use.** Notwithstanding the provisions of subsection I.4.020.C, a non-conforming use that is discontinued shall not be considered abandoned where, through a Type III procedure, the Planning Commission approves an extension for repair, including as applicable ongoing, active renovation and efforts to lease the subject property. The owner must request the extension within the six-month period of discontinuance.

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## I.4 – Non-Conforming Situations | Non-conforming Uses

### I.4.030 Non-conforming Development

**User's Guide:** Section I.4.030 provides flexibility where existing developments do not conform to current code standards. For example, historic areas often have small lot sizes, mixed land uses, less parking, and smaller setbacks than areas developed under current standards. Where existing development predates modern zoning, cities should allow greater flexibility for new construction and alterations to existing development.

Section I.4.030 regulates non-conforming development. Non-conforming development includes situations where a development exists on the effective date of adoption or amendment of this Code that could not be built under the terms of the Code today, for example, by reason of restrictions on lot area, lot coverage, location on a lot, setbacks, height, yard, equipment, access, parking, landscaping, or other physical restriction or requirement. If the development was lawful when constructed, it may remain on the site so long as it remains otherwise lawful and complies with the following regulations:

- A. Alterations.** Any expansion of a non-conforming development shall not exceed 20 percent of the subject building area or development area, as applicable; for example, such area may include floor area or other surface area, paving, parking spaces, landscaping, outdoor storage, signage, lighting, or other developed areas that existed as of *[effective date of new code]*. Expansion of a non-conforming use requires approval of a Conditional Use Permit under Chapter 4.3.. A non-conforming development shall not be enlarged or altered in a way that increases its non-conformity. Approval of a variance is required to increase a development's non-conformity. A development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or moves in the direction of conformity.
- B. Destruction.** Should a non-conforming development or non-conforming portion of a development be destroyed by any means to an extent more than 50 percent of its current value as assessed by the Linn County Assessor, it shall be reconstructed only in full conformity with this Code. This does not preclude the reestablishment of a non-conforming use after fire or other catastrophe as allowed under Section I.4.020.
- C. Roadway Access.** The owner of a non-conforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the non-conforming access into conformance with the standards of the applicable roadway authority.
- D. Relocation or Removal.** Once a non-conforming structure or a portion of a non-conforming structure or development is moved it shall thereafter conform to current Code standards.

### I.4.040 Non-conforming Lot

**User's Guide:** Cities should review their minimum lot size requirements and determine whether amendments are needed. Where lots predate modern zoning and lot sizes are unusually small, it may be necessary to amend the development standards of Section 2.2.040.

A lawfully established unit of land, as provided by Chapter 1.3, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone, subject to other requirements of the zone. If there is a lot area deficiency, residential use shall be limited to a single-family dwelling.

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## I.5 – Code Interpretations

### Chapter I.5 — Code Interpretations

#### Sections:

#### I.5.010 Code Interpretations

**User's Guide:** This chapter provides cities with a procedure for responding to requests for written code interpretations. Cities should keep written records of the code interpretations they make. Even informal interpretations made by staff in the course of answering questions from builders or business owners, should be noted, so that the city, through periodic code maintenance or housekeeping updates, can continually improve the code. Some cities do this annually, while others wait until they have accumulated a large number of needed changes. It is usually easier and takes less time overall to process the changes in smaller packages of code amendments every few years; however, the trade-off is that for every package of amendments, the city is required to provide public notice and conduct hearings. The important thing to remember is that the development code should be reviewed regularly and updated as conditions change and as the code is tested in ways that could not have been anticipated when first drafted.

#### **I.5.010 Code Interpretations**

Some terms or phrases within this Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

- A. Authorization of Similar Uses.** Where a proposed use is not specifically identified by this Code, or the Code is unclear as to whether the use is allowed in a particular zone, the Planning Official may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Code accordingly. However, uses and activities that this Code specifically prohibits in the subject zone, and uses and activities that the Planning Official finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of City officials shall be processed following the Type II procedure of Chapter 4.I.030. The Planning Official may refer a request for a similar use determination to the Planning Commission for its review and decision.
- B. Code Interpretation Procedure.** Requests for code interpretations, including, but not limited to, similar use determinations, shall be made in writing to the Planning Official and shall be processed as follows:
1. The Planning Official, within 14 days of the inquiry, shall advise the person making the inquiry in writing as to whether the City will make a formal interpretation.
  2. Where an interpretation does not involve the exercise of discretion, the Planning Official shall advise the person making the inquiry of his or her decision within a reasonable timeframe and without public notice.
  3. Where an interpretation requires discretion, the Planning Official shall inform the person making the request that an application for code interpretation is required and advise the applicant on how to make the request. At a minimum, an application for code interpretation shall include a letter citing the nature

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## I.5 – Code Interpretations | Code Interpretations

and reasons for the request, and, as required, a City fee. The Planning Official then shall review relevant background information, including, but not limited to, other relevant Code sections and previous City land use decisions, and follow the Type II review and decision-making procedures in Section 4.1.030.

- D. Written Interpretation.** Following the close of the public comment period on an application for a code interpretation, the Planning Official shall mail or deliver the City's decision in writing to the person requesting it, to any other person who specifically requested a copy of the decision, and to those who provided public testimony on the application. The decision shall become effective when the appeal period for the decision expires.
- E. Referral to City Council.** Where a code interpretation may have significant citywide policy implications, the Planning Official may bypass the procedure in subsection 1.5.010.B and refer the request directly to the City Council for its legislative review in a public hearing. Such public hearings shall be conducted following Type IV procedure of Chapter 4.1.050.
- F. Interpretations on File.** The City shall keep on file a record of its code interpretations.

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## I.6 – Enforcement

### Chapter I.6 — Enforcement

#### Sections:

I.6.010 Violation

I.6.020 Other Remedies

**User's Guide:** This chapter should not be inserted directly into city development codes. It is a placeholder. Cities should first review any enforcement procedures already existing in other city ordinances, and then either incorporate those provisions into the Development Code by reference, or work with the city attorney to draft provisions specific to the Development Code.

#### **I.6.010 Violations**

Violation of this title constitutes a violation and may be prosecuted under the provisions of Sweet Home Municipal Code Chapter 9.36 as now enacted or hereafter amended. Each day's violation is a separate offense.

**User's Guide:** Limits on fines are established in ORS 161.

#### **I.6.020 Other Remedies**

In case a structure is located, constructed, maintained, repaired, altered or used, or land is used in violation of this title, the structure or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use. For abatement the city may follow the procedure set out in Sweet Home Municipal Code Article II of Chapter 8.04 as now enacted or hereafter amended, except no hearing need be held before abatement occurs if a hearing before the Planning Commission or City Council has already been held on the issue in dispute and the body has made a final decision thereon. The city can recover its expenses as set forth in the abatement procedure.

[Print](#)[Attachment D](#)

Sweet Home, OR Code of Ordinances

## CITY OF SWEET HOME, OREGON CODE OF ORDINANCES

2017 S-5 Supplement contains:  
local legislation current through Ord. 1268, passed 2017

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### CHAPTER 17.04: TITLE, PURPOSE AND DEFINITIONS

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#### Section

- 17.04.010 Title.
- 17.04.020 Purpose.
- 17.04.030 Definitions.

#### **§ 17.04.010 TITLE.**

Title 17 of the Municipal Code shall be known as the “Zoning Ordinance” of the City of Sweet Home.  
(Ord. 1153, § 1, 2003)

#### **§ 17.04.020 PURPOSE.**

The purpose of the Zoning Ordinance is to promote local health, safety, welfare and economy and to assist in carrying out the general policies of the Sweet Home Comprehensive Plan. The Zoning Ordinance assists in implementing the statewide planning goals and guidelines.

(Ord. 1153, § 1, 2003)

#### **§ 17.04.030 DEFINITIONS.**

As used in this title, the following words and phrases shall mean:

**ABUT.** Adjoining with a common boundary line or contiguous to each other.

**ACCESS.** The place, way or means by which pedestrians, bicycles and motor vehicles enter and leave property.

**ACCESSORY DWELLING.** A complete separate residential unit, including facilities for cooking and sanitation, provided either as a separate structure on the same lot or as part of a primary single-family dwelling.

**ACCESSORY STRUCTURE OR USE.** A structure or use incidental, appropriate and subordinate to the main use of a property and located on the same lot as the main use.

**ADJACENT.** Near or close.

**ALLEY.** A public way which affords only a secondary means of access to property.

**ALTER.** Any change, addition or modification in the construction of a building or structure.

**AMUSEMENT OR RECREATION SERVICES.** Establishments engaged in providing entertainment for a fee and including such activities as dance halls; studios; theatrical productions; bands, orchestras and other musical entertainment; commercial facilities such as arenas, rings, rinks and racetracks; public golf courses; coin operated devices; amusement parks; membership sports and health clubs; swimming pools; and expositions.

**APARTMENT.** A dwelling unit in a multiple-family building.

**APPROACH or DRIVEWAY APPROACH.** That portion of land which accesses onto a public or private street.

**AUTOMOBILE WRECKING YARD.** An area used for the dismantling or disassembling of motor vehicles, machinery or trailers, or the storage or sale of dismantled, obsolete or wrecked motor vehicles, machinery or trailers or their parts, or the storage of motor vehicles unable to be moved under the power of the vehicle.

**BANKFULL STAGE.** The elevation at which water overflows the natural banks of the stream.

**BASE FLOOD.** Inundation during periods of higher than normal stream flow, high winds or combinations thereof, that has a 1% chance of being equaled or exceeded in any given year. Also referred to as the **100 YEAR FLOOD**.

**BED AND BREAKFAST ESTABLISHMENT.** A single-family dwelling or part thereof, where lodging with meals are provided, for compensation, to transient guests for less than 15 days at a time. Such an establishment shall be occupied by the proprietor and contain not more than five guest rooms.

**BIOENGINEERING.** A method of erosion control and landscape restoration using live plants, such as willows.

**BOARDING OR ROOMING HOUSE.** A dwelling or part thereof, other than a hotel or motel, where lodging with or without meals are provided, for compensation, for three or more persons on a daily basis.

**BUILDING.** A structure built or assembled for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

**BUILDING COVERAGE.** The maximum percent of a lot that may be covered with all buildings on the lot and based on the ground floor area.

**BUILDING ENVELOPE.** The land area, outside of all required setbacks, which is available for construction of a primary structure on a particular property.

**BUILDING LINE.** A line parallel to the front lot line and passing through the most forward point or plane of a building.

**BUILDING, PRIMARY.** A building within which is conducted the principal use permitted on the lot, as provided in this title.

**BUILDING OFFICIAL.** The Building Official of the City of Sweet Home, Oregon.

**CITY.** The City of Sweet Home, Oregon.

**CITY COUNCIL.** The City Council of the City of Sweet Home, Oregon.

**CITY MANAGER.** The City Manager of the City of Sweet Home or designee.

**CLUB.** A facility owned or operated for a social, educational or recreational purpose, to which membership is required for participation and which is neither operated primarily for profit nor to render a service which is customarily carried on by a business.

**COMMUNITY CENTER OR BUILDING.** A facility owned and operated by a government agency or a non-profit community organization which is open to any resident of the city or surrounding area; provided that, the primary purpose of the facility is for recreation, social welfare, community improvement or public assembly.

**COMMUNITY DEVELOPMENT DIRECTOR.** The Community Development Director for the City of Sweet Home, Oregon.

**COMPREHENSIVE PLAN.** The duly adopted Sweet Home Comprehensive Plan.

**CONDOMINIUM.** A type of residential development utilizing zero lot lines, individual ownerships of units and common ownership of open space and other facilities, and which are regulated, in part by O.R.S. Chapter 100.

**DAY NURSERY.** Any institution, establishment or place, including nursery schools or private kindergartens, in which are commonly received at one time three or more children not of common parentage, under the age of six years for a period or periods not exceeding 12 hours for the purpose of being given board, care or training apart from their parents or guardians for compensation or reward.

**DELINEATION.** An analysis of a resource by a qualified professional that determines its boundary according to an approved methodology.



**DENSITY.** The number of residential dwelling units per acre of land or the amount of land area expressed in square feet of land assignable to each dwelling unit in a residential development, not including areas dedicated for streets, or public facilities.

**DWELLING, MULTI-FAMILY.** A building or portion thereof designed for occupancy by three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY.** A detached building or manufactured home designed for and occupied by not more than one family and containing one dwelling unit, excluding tents, teepees, travel trailers and other similar uses.

**DWELLING, SINGLE-FAMILY ATTACHED.** Two or more dwelling units with common end walls.

**DWELLING, TWO-FAMILY (DUPLEX).** A detached building designed for and occupied by not more than two families and containing two dwelling units.

**DWELLING UNIT.** One or more rooms in a building designed for eating, sleeping, cooking and sanitation, as required by Building Code, for not more than one family.

**EXCAVATION.** The removal of organic or inorganic material (e.g. soil, sand, sediment, muck) by human action.

**FAMILY.** An individual or two or more persons related by blood, marriage, legal adoption or legal guardianship living together as one housekeeping unit, using one kitchen and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five unrelated persons living together as one housekeeping unit using one kitchen.

**FENCE.** Any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including hedges or living bushes or shrubs, encircling either wholly or any portion of any area.

**FENCE, SIGHT OBSCURING.** A continuous fence, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view.

**FILL.** The deposition of organic or inorganic material (e.g. soil, sand, sediment, muck, debris) by human action.

**FLOODPLAIN.** The area adjoining a stream, tidal estuary or shoreline that is subject to inundation by a base flood.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the waters of a base flood.

**FLOODWAY FRINGE.** The area of the floodplain lying outside of the floodway.

**FLOOR AREA.** The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts.

**FRONTAGE.** The linear edge of a property along the property line abutting a street, or private accessway.

**GRADE - GROUND LEVEL.** The average elevation of the finished ground level at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the **GROUND LEVEL**.

**HARD SURFACE.** An area surfaced with asphalt, concrete, paving blocks or an equivalent substance approved by the City Engineer but shall not include gravel.

**HEDGE.** A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary in the front yard or street side yard.

**HEIGHT OF BUILDING.** The vertical distance from the grade to the highest point of coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

**HIGH GROUNDWATER.** The near surface groundwater which can present a problem to land development and engineering construction.

**HOME OCCUPATION.** A lawful occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence.

**HOTEL.** A building in which lodging is provided to guests for compensation and in which no provisions are made for cooking in the lodging rooms.

**IMPERVIOUS SURFACE.** Any material (e.g. rooftops, asphalt, concrete) which reduces or prevents absorption of water into soil.

**IMPROVED STREET or STREETS IMPROVED.** A hard surfaced roadway with curb and gutter.

**INTERMITTENT RUNOFF.** The officially designated natural or manmade, open drainage channel or course necessary to convey stormwater runoff

**JUNK YARD.** An area where any person is engaged in breaking up, dismantling, sorting, storing, distributing, buying, selling, packing or bailing any scrap, waste material, junk or used equipment or machinery of any nature.

**LAWN.** Any grass or similar materials usually maintained as a ground cover of less than six inches in height. For purposes of this chapter, **LAWN** is not considered native vegetation regardless of the species used.

**LIVESTOCK.** Animals of the bovine species, horses, mules, asses, sheep, goats and swine.

**LOT.** Unit of land created by a subdivision of land and intended as a unit for the purpose, whether immediate or future, of transfer of ownership and/or for development.

**LOT AREA.** Total horizontal area within the lot lines of a lot.

**LOT, CORNER.** A lot abutting on two or more streets, other than an alley, at their intersection.

**LOT COVERAGE.** That percentage of the total lot area covered by structures, as herein defined.

**LOT DEPTH.** The horizontal distance between the front and the rear lot lines.

**LOT, INTERIOR.** A lot or parcel of land other than a corner lot.

**LOT LINE.** A recorded boundary of a lot.

**LOT LINE, FRONT.** A lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the City Manager or designee shall choose which lot line is to be the front. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length.

**LOT LINE, INTERIOR.** The lot line separating two lots.

**LOT LINE, REAR.** The lot line that is opposite and most distant from the front lot line. In the case of irregular, triangular or other shaped lots, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

**LOT LINE, SIDE.** A lot line that is neither a front or rear lot line.

**LOT LINE, STREET SIDE.** A lot line that is both a side lot line and a street lot line. On a corner lot, the longer lot line which abuts a street is a side street lot line.

**LOT, THROUGH.** A lot that has frontage on two streets, and where the lot frontages do not intersect.

**LOT WIDTH.** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

#### **MANUFACTURED DWELLING.**

1. **MANUFACTURED HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

2. **MOBILE HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

3. **RESIDENTIAL TRAILER.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

**MANUFACTURED HOME PARK.** Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person.

**MARIJUANA FACILITY.** Any marijuana related facility operated by a person registered or licensed by the State of Oregon including a marijuana producer, a marijuana processor, a marijuana retailer, a marijuana wholesaler, a marijuana laboratory, a marijuana test facility, a marijuana grow site, a marijuana processor site and a medical marijuana dispensary.

**MASS MOVEMENT.** The slow or rapid, natural or artificially induced movement of rock, soil or fill downslope in response to gravity. The major geologic types of mass movement include earthflow, slump, rockslide, rockfall and mudflow.

**MITIGATION.** Compensating for impacts to a significant natural resource or its buffer including: restoration, creation or enhancement. Some examples of mitigation actions are construction of new wetlands to replace an existing wetland that has been filled, replanting trees, removal of nuisance plants and restoring streamside vegetation where it is disturbed.

**MOBILE HOME PARK.** See **MANUFACTURED HOME PARK.**

**MOTEL.** A building or group of building lots in which lodging is provided to guests for compensation, with lodging units having separate entrances directly exterior and which may or may not have cooking facilities in the lodging units.

**NATIVE VEGETATION.** Plants identified as naturally occurring and historically found within the City of Sweet Home.

**NATURAL RESOURCE.** An area of any locally inventoried wetland, pond, stream, channel, river, lake or habitat area.

**NATURAL RESOURCE ENHANCEMENT.** A modification of a natural resource to improve its quality.

**NATURAL RESOURCE OVERLAY.** A designation given to all significant wetlands and riparian corridors delineated on the Significant Natural Resources Map.

**NON-CONFORMING STRUCTURE OR LOT.** A lawful existing structure or lot at the time this chapter or any amendment thereto becomes effective which does not conform to the dimensional or similar standards of the zone in which it is located.

**NON-CONFORMING USE.** A lawful existing use at the time this chapter or any amendment thereto becomes effective which does not conform to the use requirements of the zone in which it is located.

**NURSING HOME.** Any home, place or institution which operates and maintains facilities providing convalescent or chronic care, or both, for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage.

**OPEN STORAGE.** To put aside or accumulate property for use when needed or at a later date, or for disposal, in an area that is exposed to the public view from a public street.

**OWNER.** An owner of record of real property as shown on the tax rolls of Linn County, or a person purchasing a piece of property under contract.

**PARCEL.** For the purposes of this title, an area of land defined by specific boundaries that was created legally at the time it was created.

**PARKING LOT.** An area of a lot, except for one and two family dwellings, used for parking vehicles.

**PARKING SPACE.** An off-street enclosed or unenclosed surfaced area of not less than 20 feet by eight feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a street by a surfaced driveway which affords ingress and egress for automobiles.

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

**PLANNED UNIT DEVELOPMENT (PUD).** A type of development and the regulatory process that permits a developer to meet overall community density and land use goals without being bound by existing zoning requirements.

**PLANNING COMMISSION.** The Planning Commission of the City of Sweet Home, Oregon.

**PONDING.** The local accumulation of rainwater on the surface of the ground or to rising groundwater which actually has surfaced.

**PRIVATE STREET.** A street which is privately owned and maintained.

**PROFESSIONAL OFFICE.** An office occupied by medical professionals, accountants, attorneys, architects, professional engineers or surveyors or persons engaged in similar occupations.

**QUALIFIED NATURAL RESOURCE PROFESSIONAL.** An individual who has proven expertise and vocational experience in a given natural resource field. A qualified professional conducting a wetland delineation must have the delineation approved by the Oregon Division of State Lands.

**RECREATION PARK.** Any area for picnicking or overnight camping by the general public or any segment of the public.

**RECREATIONAL FACILITY.** A recreation facility under private ownership and operated by a profit or nonprofit organization, open to bona fide members, and providing one or more type of recreation activity.

**RECREATIONAL RETAIL.** An establishment engaged in selling goods or merchandise when associated with a recreational development, marina and docks, and other similar uses.

**RECREATIONAL VEHICLE.** A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle and includes travel trailer, camping trailer, truck camper or motor home.

**RESIDENTIAL FACILITY.** A facility licensed by or under the authority of the Department of Human Resources under O.R.S. 443.400 to 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. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential facility.

**RESORT.** A facility for transient guests where the primary attraction is generally recreational features or activities.

**REVIEW AUTHORITY.** The City of Sweet Home.

**RIPARIAN BOUNDARY.** An imaginary line that is a certain distance upland from the top of the bank and encompasses everything within the area between the wetland and the upper edge of the riparian area. The City of Sweet Home has adopted the safe harbor setback methodology for this identification.

**RIPARIAN CORRIDOR.** A Goal 5 resource that includes the water areas, fish habitat, riparian areas and wetlands within the riparian corridor boundary. For purposes of this chapter, riparian areas are identified on the Significant Natural Resource Overlay Zone Maps, as adopted in the Comprehensive Plan.

**SERVICE STATION, AUTOMOBILE.** A place or station designed and used primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhauling.

**SETBACK.** The minimum allowable horizontal distance from the point or line of reference, such as a property line, to the nearest vertical wall or other element of a building or structure.

**SHOPPING CENTER.** A retail store or combination of stores, usually including a grocery store, which provide goods for sale to the general public.

**SHRUBS.** For the purpose of the Natural Resource Zone, a woody vegetation usually greater than three feet, but less than 20 feet tall, including multi-stemmed shrubs and small trees and saplings.

**SIGN.** An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution or business. Each display surface of a sign other than two surfaces parallel and back-to-back on the same structure shall be considered a **SIGN**.

**SIGN, ADVERTISING.** A sign which directs attention to or identifies a business, product, activity or service which is not necessarily conducted, sold or offered upon the premises where such sign is located.

**SIGN, BUSINESS.** A sign which directs attention to or identifies a business, product, activity or service which is conducted, sold or offered upon the premises where such sign is located.

**SIGNIFICANT NATURAL RESOURCE.** Significant wetlands and riparian corridors within the City of Sweet Home's Urban Growth Boundary and designated on the Significant Natural Resources Map.

**SIGNIFICANT WETLANDS.** A wetlands mapped on the City of Sweet Home Local Wetlands Inventory which meets the primary criteria of the Oregon Division of State Lands Administrative Rules for Identifying Significant Wetlands (July, 1996).

**SITE PLAN.** A plan prepared to scale, showing accurately and with complete dimensions, all of the uses proposed for a specific parcel of land.

**STATE AND FEDERAL NATURAL RESOURCE AGENCIES.** The Oregon Division of State Lands, Oregon Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Department of Agriculture Natural Resources Conservation Service, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency.

**STREAM.** A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding human-made irrigation and drainage channels.

**STREAMBANK EROSION.** The loss of land by stream action.

**STREET.** A public right-of-way for pedestrian and/or vehicular traffic.

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

**STRUCTURE.** Anything that 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.

**SUBSTANTIAL IMPROVEMENTS.**

1. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

a. Before the improvement or repair is started; or

b. 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.

2. The term does not, however, include either:

a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**TREES.** For the purpose of the Natural Resource Zone, a woody plant five inches or greater in diameter at breast height and 20 feet or taller.

**TOP OF BANK.** A distinct break in slope between the stream bottom and the surrounding terrain, which corresponds with the bankfull stage, which is the two-year high water mark, of the stream.

**TRAILER HOUSE.** A vehicle or similar portable device originally designed or presently constructed to permit temporary or permanent human occupancy for living and sleeping purposes, and including mobile homes and recreation vehicles having permanent kitchen and bath facilities.

**TRAVEL TRAILER.** A portable vehicular unit mounted on wheels designed to be drawn by a motorized vehicle and designed and constructed primarily for temporary human occupancy for travel, recreational and vacation uses.

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

**VARIANCE.** A grant of relief from the requirements of this title, which permits activity in a manner that would otherwise be prohibited by this title.

**WALL.** A structure of brick, stone, etc., that surrounds an area or separates one area from another.

**WETLAND BOUNDARY.** The edges of a wetland as delineated by a qualified professional.

**WETLANDS.** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. For purposes of this title, **RIPARIAN AREAS** are identified on the Significant Natural Resource Overlay Zone Maps, as adopted in the Comprehensive Plan.

**YARD.** Open space on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except for encroachments provided for in this title.

**YARD, CORNER LOT.** The front yard is adjacent to the shortest lot line along a street. The rear yard is opposite the front yard. The street side yard is adjacent to the longest lot line along a street. The side yard is opposite the street side yard.

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

**YARD, FRONT - INSET.** A yard on a flag lot, or similarly configured lot, paralleling the street and at the rear of another lot.

**YARD, REAR.** A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

**YARD, SIDE.** A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a main building.

**YARD, STREET SIDE.** A yard adjacent to a street between the front yard and rear lot line measured horizontally at right angles from the side lot line to the nearest point of a building.

**ZERO LOT LINE SUBDIVISION OR PARTITION.** A type of residential subdivision or partition utilizing zero lot lines between dwelling units and providing for individual ownership of each lot.

(Ord. 1255, § 1, 2017; Ord. 1246, § 2, 2015; Ord. 1235, § 1(part), 2013; Ord. 1153, § 1, 2003)

## CHAPTER 17.08: GENERAL PROVISIONS

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- 17.08.010 Compliance with title provisions.
- 17.08.020 Interpretation.
- 17.08.030 General provisions regarding accessory uses.
- 17.08.033 Fences, hedges, and walls.
- 17.08.035 Burial of human remains on private property.
- 17.08.040 Clear-vision areas.
- 17.08.050 Exceptions to lot size requirements.
- 17.08.060 Exceptions to yard requirements.
- 17.08.070 Exception to building height limitations.
- 17.08.080 Projections from buildings.
- 17.08.090 Off-street parking requirements.
- 17.08.100 Accesses and driveways.

***Prior ordinance history:***

*Ord. 644, §§ 2.010, 2.020, 6.010—6.110, 6.200; Ord. 687, §§ 8, 9; Ord. 1026, § 4; Ord. 1032, § 1; Ord. 1061, §§ 22—27; and Ord. 1069, §§ 6—9.*

**§ 17.08.010 COMPLIANCE WITH TITLE PROVISIONS.**

- A. A lot may be used and a structure or part of a structure may be constructed, altered, occupied or used only as this title permits.
  - B. No lot area, yard, off-street parking area or other open space existing on or after the effective date of the ordinance codified in this title shall be reduced below the minimum required for it by this title.
  - C. Every lot shall abut a street, other than an alley, for a width of at least 25 feet.
- (Ord. 1101, § 1(part), 1997)

**§ 17.08.020 INTERPRETATION.**

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

(Ord. 1101, § 1(part), 1997)

**§ 17.08.030 GENERAL PROVISIONS REGARDING ACCESSORY USES.**

- An accessory use shall comply with all requirements for a principal use, except where specifically modified by this section. Accessory uses shall not be used for human habitation except as specified elsewhere in this title. Accessory uses shall comply with the following limitations:
- A. [Reserved]
  - B. No sales shall be made from a greenhouse or hothouse maintained accessory to a dwelling in a residential zone unless it has been approved as a home occupation under the home occupation provisions of this title.
  - C. A guest house may be maintained accessory to a dwelling; provided, there are no cooking facilities in the guest house.
  - D. An accessory structure shall be detached from all other buildings by at least six feet. Accessory structures shall have a maximum floor area of 864 square feet.
  - E. An accessory structure shall meet minimum setbacks, except that a garage shall be located a minimum of 20 feet from the front and street side property lines in a residential zone and must be included in the lot coverage allowed.
  - F. Accessory structures shall be maintained in a condition of reasonable repair and shall not be allowed to become or remain in

condition of disrepair or neglect, including noticeable leaning and missing sections.

G. Boats, trailers, pickup campers, motorized dwellings and similar recreation equipment may be stored, but not used for human habitation, on a lot as an accessory use to a dwelling; provided that:

1. Parking or storage in a front or street side yard shall be permitted only on a driveway located at least three feet from any property line; and
2. If the equipment is not kept on a front or street side driveway, parking or storage shall be at least three feet from an interior side or rear lot line or in an enclosed garage or accessory structure.

H. Accessory structures used for agricultural purposes shall be built no closer than 25 feet from the side or rear lot line.

I. Mobile/manufactured homes, recreational vehicles, box cars or other equipment commonly used for transporting goods may not be used as an accessory structure.

J. Recycling provisions for multi-family dwellings with five or more units. New multi-family dwelling units with five or more units must provide the following:

1. A separate location for recycling containers, which is convenient for collections;
2. Adequate containers for at least four principal recyclable materials; and
3. At least every other week (EOW) collection service of the recyclable materials.

(Ord. 1246, § 3, 2015; Ord. 1212, § 1, 2009; Ord. 1211, § 1, 2009; Ord. 1121, § 2, 1998; Ord. 1101, § 1(part), 1997)

### **§ 17.08.033 FENCES, HEDGES, AND WALLS.**

A. *Purpose.* Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

B. *Front Yard Definition.* For purposes of this section, "front yard" means a yard extending across the full width of a lot or parcel of land and extending from the front lot line to the entire actual front building line or shall be the same as the respective front setbacks required by underlying zone, whichever is less. The following standards shall apply to all fences, hedges, and walls.

C. *General Standards.* Construction of fences and walls shall conform to all of the following requirements:

1. *Clear vision areas.* All fences, hedges, and walls adjacent to a roadway intersection shall comply with the requirements of § 17.08.040 (Clear-Vision Areas).
2. *Land use approval.* The Planning Commission may require installation of walls and/or fences as a condition of development in a land use approval. When so conditioned by a land use action, no further land use review is required for the fence or wall.
3. *Measuring Fence Height.* Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm. Where the natural grade changes (i.e., hillside or swale) the fence, hedge, and wall height shall change with the grade.
4. *Temporary Fences.* A temporary fence may be constructed with wire, rolled plastic, wood or other suitable material as determined by the City Manager or designee. The City Manager or designee shall establish the time duration for a temporary fence not to exceed 12 months. All temporary fences, prior to installation, must first have the approval of the City Manager or designee.
5. *Hedges.* Hedges located within five feet of a property line abutting a street shall not exceed a maximum height of three and one-half feet.
6. *Gates.* Gates shall not open or swing into public right-of-way.

D. *Materials.* Fences and walls shall comply with the materials standards set forth in this subsection.

1. *Fences.* Fences shall be constructed of materials specifically designed and manufactured for fencing purposes, including, but not limited to, wood, wrought iron, vinyl, aluminum, and chain link (with a top rail support). Materials not specifically designed as fencing material, include, but not limited to, corrugated cardboard, corrugated metal, plywood, wooden pallets, concrete rubble, and junked material, are prohibited.

2. *Walls.* Walls shall be constructed of materials specifically designed and manufactured for use as walls, including, but not

limited to, masonry, rock, concrete, concrete block, or other similar materials.

3. *Hazardous Materials*. Fences and walls shall not be constructed of or contain any material that will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as follows:

a. Barbed wire is permitted on top of a six-foot tall fence in the industrial (M) zone. The total height of the fence and barbed wire is limited to seven feet. Barbed-wire-only fences are prohibited except as allowed in subsection 1) below.

1) *Livestock Containment*. Where cattle, sheep, horses or other livestock are permitted or existed when the property was annexed to the city, barbed wire is permitted when used to contain or restrict livestock provided that the fences are posted at 15-foot intervals with clearly visible warnings of the hazard.

b. Above ground electrically charged fences are only permitted when used to pasture or control livestock, for farming or other similar agricultural uses in zones where such uses are permitted and when the following standards can be met:

- 1) On boundary fences, the electrically charged wires shall be located on the inside face of the fence posts;
- 2) The electrically charged fence shall not exceed four feet in height;
- 3) The electrically charged fence shall be a pulsed charge system, and not a continuous charge system; and
- 4) Warning signs stating, "Warning, Electric Fence" shall be posted at intervals not less than 15 feet.

E. *Location and Height*. Fences and walls shall comply with the location and height standards set forth in this subsection.

1. *Residential Zoning Districts (R-1, R-2, R-3, R-4, & RMT)*. The maximum height of a fence and wall within residential zoning districts shall be as follows and as illustrated by Figure 17.08.033 A (Fence Height Limits in the Residential Zoning Districts).

a. *Fences and Walls*

1) *Front Yard Abutting Street*. Fences and walls within a front yard abutting a street shall not exceed a maximum height of three and one-half feet when constructed with solid materials (i.e. wood fence) or four feet when constructed with open material (i.e. chain-link fence).

2) *Side and Rear Yards Abutting Street*.

a) Fences and walls located less than three feet from a street property line shall not exceed a maximum height of three and one-half feet when constructed with solid materials (i.e. cedar fence) or four feet when constructed with open material (i.e. chain-link fence).

b) Fence and walls located more than three feet from the street property line shall not exceed a maximum height of seven feet.

3) *Interior Side and Rear Yards*. Fences and walls located at a property line not abutting a street shall not exceed a maximum height of seven feet.

4) *Through lots*. Fences and walls shall be constructed in accordance with the front setbacks required by underlying zone on both streets.

5) *Flag lots*. On flag lots, the maximum height of a front yard fence or wall shall not exceed seven feet, provided the front yard of the flag lot is abutting interior side or rear yards on all sides.

a) Fences and walls located in the portion of the pole that abut a front or corner side yard (i.e. from the street property line to the front building line of the adjacent property, or respective front setbacks required by underlying zone, whichever is less) shall not exceed a maximum height of three and one half feet when constructed with solid materials (i.e. cedar fence) or four feet when constructed with open material (i.e. chain-link fence).



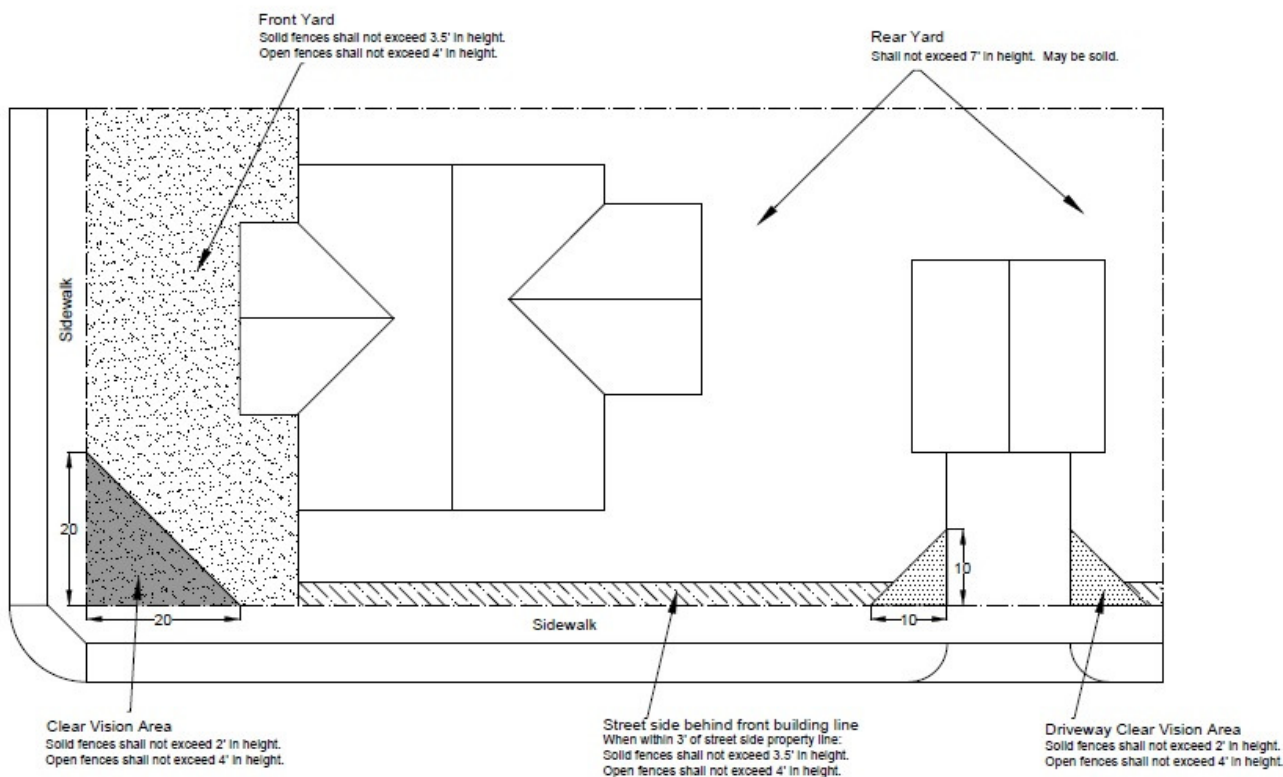


Figure 17.08.033 A - Fence Height Limits in the Residential Zoning Districts

2. *Nonresidential zoning districts.* The maximum height of a fence and wall within the commercial (C-1, C-2, C-3, & RC) and industrial zoning districts (M), shall be as follows.

a. Fences and Walls

1) *Yards Abutting Street*

a) Fences and walls located less than five feet from a street property line shall not exceed a maximum height of three and one-half feet when constructed with solid materials (i.e. cedar fence) or four feet in when constructed with open material (i.e. chain-link fence).

b) Fences and walls located more than five feet from the street property line shall not exceed a maximum height of seven feet.

2) *Interior Side and Rear Yards.* Fences and walls located at a property line not abutting a street shall not exceed a maximum height of seven feet.

(Ord. 1246, § 4, 2015)

**§ 17.08.035 BURIAL OF HUMAN REMAINS ON PRIVATE PROPERTY.**

The use of private property for the burial of human remains and family burial grounds is prohibited within the City of Sweet Home.

(Ord. 1229, § 2, 2012)

**§ 17.08.040 CLEAR-VISION AREAS.**

A. *Purpose.* Clear vision areas are established to ensure that obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists, and other approaching potential conflict points at intersections.

B. *Applicability.* In all zones, clear vision areas as described below and illustrated in Figure 17.08.033 A and Figure 17.08.040 B (Clear Vision Areas at Intersections) shall be established at the intersection of two streets, an alley and a street, a driveway and a street or a street and a railroad right-of-way in order to provide adequate vision of conflicting traffic movements as well as street signs. These standards are applicable to public and private streets, alleys, mid-block lanes, and driveways.

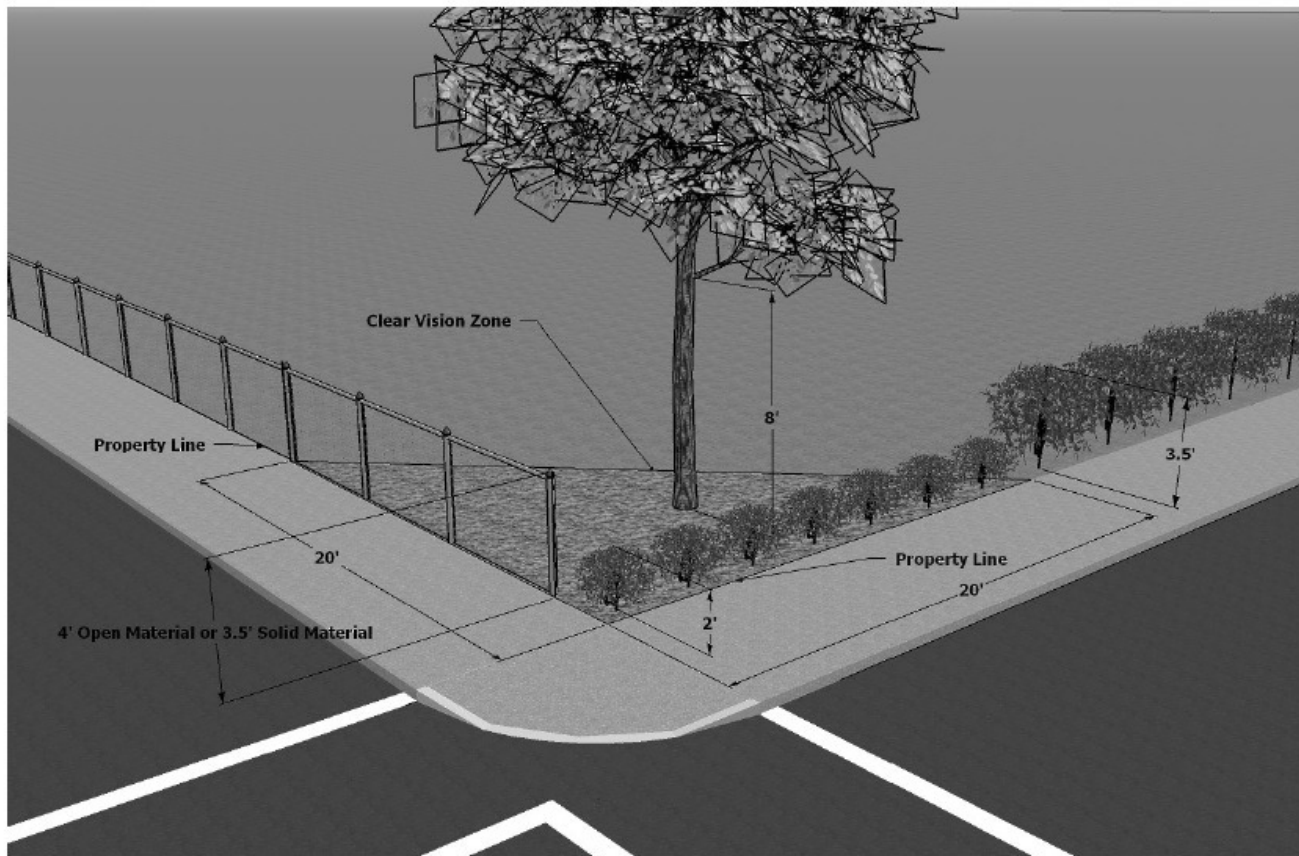


Figure 17.08.040B - Clear Vision Areas at Intersection

C. *Standards.* The clear vision areas extend across the corner of the private property from one street to another. The two legs of the clear vision triangle defining the private property portion of the triangle are each measured 20 feet back from the point of intersection of the two corner lot lines, special setback line or access easement line (where lot lines have rounded corners, the lot lines are extended in a straight line to a point of intersection). Additional clear vision area may be required at intersections, particularly those intersections with acute angles, as directed by the City Manager or designee, upon finding that additional sight distance is required (i.e. due to roadway alignment, etc.).

There shall be no solid fence, wall, vehicular parking, landscaping, building, structure, or any other obstruction to vision other than a street sign pole (e.g. power, signal, or luminaire pole) or tree trunk (clear of branches or foliage) within the clear vision area between the height of two feet and eight feet above the grade, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except as follows.

D. *Exceptions.*

1. In all zones, at the intersection of an alley and a street or a driveway and a street, the minimum length of the two legs of the clear vision triangle defining the private property portion shall be ten feet.
2. In all commercial zones, except the C-1 zone, at the intersection of an alley and a street or a driveway and a street the minimum length of each of the two legs shall be 15 feet.
3. In the C-1 zone, the clear vision area does not apply.
4. Open chain link fences which permit visibility shall be allowed in a clear vision area, but shall not exceed four feet in height.

(Ord. 1246, § 4, 2015; Ord. 1101, § 1(part), 1997)

#### **§ 17.08.050 EXCEPTIONS TO LOT SIZE REQUIREMENTS.**

This section shall apply in the event that a lot or the aggregate of contiguous lots held in a single ownership as recorded in the office of the Recorder of the county and located in the city as of January 1, 1971, or the date of annexation of the property to the city, whichever is later, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located. In this case, the holdings may be by a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the lot area per dwelling unit requirement of the zone.

(Ord. 1101, § 1(part), 1997)

#### **§ 17.08.060 EXCEPTIONS TO YARD REQUIREMENTS.**

The following exceptions to the yard requirements are authorized for a lot in any zone.

A. If there are buildings on both abutting lots which are within 100 feet of the intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yard of the abutting lots.

B. If there is a building on one abutting lot which is within 100 feet of the lot, and this building has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the front yard of the abutting lot and the required front yard depth.

C. Garage and carport setbacks shall not be reduced below 20 feet.

(Ord. 1101, § 1(part), 1997)

#### **§ 17.08.070 EXCEPTION TO BUILDING HEIGHT LIMITATIONS.**

Vertical projections such as chimneys, spires and flag poles, are not subject to the building height limitations of this title. Amateur radio, AM radio, police and fire antennas are not subject to the building height limitation of this title when approved by the Planning Commission.

(Ord. 1160, § 2, 2003; Ord. 1101 §1(part), 1997)

#### **§ 17.08.080 PROJECTIONS FROM BUILDINGS.**

Architectural features such as cornices, eaves, canopies, sun shades, gutters, chimneys and flues shall not project more than 30 inches into a required yard.

(Ord. 1101, § 1(part), 1997)

#### **§ 17.08.090 OFF-STREET PARKING REQUIREMENTS.**

For each new structure or use, each structure or use increased in area and each change in the use of an existing structure there shall be provided and maintained off-street parking areas in conformance with the provisions of this section.

A. Parking lots:

1. *Design and improvement requirements.*

a. All parking lots and driveway approaches shall be hard surfaced and permanently marked.

b. All parking lots shall be designed or graded so as not to drain storm water over the sidewalk or onto any abutting public or private property.

c. Parking lots shall be designed so that no backing movements or other maneuvering within a street other than an alley shall be required.

d. Parking spaces along the outer boundaries of a parking lot shall be contained by a curb or bumper placed to prevent a motor vehicle from extending over adjacent property or a street right-of-way.

e. All parking lots must be designed in accordance with city standards for stalls and aisles as set forth in the following table:

<i><b>Parking Angle (Degree)</b></i>	<i><b>Stall Width</b></i>	<i><b>Stall to Curb</b></i>	<i><b>Aisle Width</b></i>	<i><b>Curb Length</b></i>
0	8'0"	8.0	12.0	22.0
45	9'6"	20.1	13.0	13.4
60	9'6"	21.2	18.0	11.0
90	9'6"	19.0	24.0	9.5

f. For two-way circulation, the minimum aisle width shall be 20 feet. Adequate ingress, egress and turnaround space shall be provided.

g. No portion of a parking lot shall be located in a required landscaped yard.

h. Service drives to parking lots shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic ingress and egress and maximum safety of pedestrian and vehicular traffic in the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic.

i. Where a parking lot or loading area abuts a public right-of-way, there shall be provided a minimum five-foot wide landscaped buffer located on the lot.

2. *Location standards.*

a. Parking lots for dwellings shall be located on the same lot as the dwellings.

b. Parking lots for all other uses shall be located not further than 500 feet from the building or use they are required to serve.

c. In residential zones, parking lots shall not be located in a required front or street side yard.

d. Parking lots with access to arterial or collector streets shall be designed as to connect with existing or future parking lots on adjacent sites thereby eliminating the necessity of utilizing the arterial or collector street for cross movements.

B. Required off-street parking spaces shall be available for the parking of operable motor vehicles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

C. The provision and maintenance of off-street parking spaces are continuing obligations of the property owner. No building, zoning or other permit shall be issued until plans are presented that show parking space. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this title.

D. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking requirements, it is unlawful and a violation of this title to begin or maintain such altered use until the required increase in off-street parking is provided.

E. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

F. Owners of two or more uses, structures or parcels of land may agree to use the same parking spaces jointly when the shared parking meets the required number of spaces for the combined uses. A joint use agreement pertaining to the cooperative use of the parking spaces must be submitted to the City Manager for approval.

G. A plan, drawn to scale, indicating how the off-street parking requirements are to be fulfilled, shall accompany a request for a building permit.

H. Space requirements for off-street parking shall be as listed in this section. Fractional space requirements shall be counted as a whole space. When square feet are specified, the area measured shall be the gross floor area of the building, but shall exclude any space within a building used for off-street parking or loading.

<i><b>Use</b></i>	<i><b>Space Requirement</b></i>
1. Single-, two- and multi-family dwelling	Two spaces per dwelling unit
2. Mobile home park	Two spaces per dwelling unit

3. Hotel or motel	Three spaces per two guest accommodations
4. Welfare or correctional institution, convalescent hospital, nursing home, retirement home, home for the aged	One space per two beds for residents, patients or inmates
5. Hospital	Three spaces per two beds
6. Place of public assembly including church, auditorium, gymnasium, community center, theater, club, lodge hall or fraternal organization	One space per four seats or eight feet of bench length in the main auditorium, or if seating is not fixed to the floor, one space per 60 square feet of floor area
7. Library, museum, art gallery	One space per 300 square feet of floor area
8. Preschool nursery, day nursery, kindergarten	Two spaces per teacher
9. Elementary, junior high school	Two spaces per classroom and special instruction area, or the requirement for a place of public assembly, whichever is the greater
10. Senior high school	Eight spaces per classroom and special instruction area or the requirement for a place of public assembly, whichever is greater
11. Bowling alley	Six spaces per alley
12. Dance hall, skating rink, pool hall or similar indoor commercial amusement enterprise	One space per 100 square feet of floor area
13. Retail store, except as provided in subsection 14. of this section	One space per 200 square feet of floor area
14. Retail store exclusively handling bulky merchandise such as automobiles and furniture	One space per 600 square feet of floor area
15. Service or repair establishment	One space per 600 square feet of floor area
16. Bank or office (except medical or dental)	One space per 300 square feet of floor area
17. Medical or dental office, clinic	One space per 250 square feet of floor area
18. Eating or drinking establishment	One space per 100 square feet of floor area
19. Mortuary	One space per four seats or eight feet of bench length in chapels
20. Manufacturing, fabricating, processing, assembling, packing, storage or wholesaling establishment; freight depot; truck terminal	One space per two employees working on the premises during the largest shift at peak season
21. Unspecified uses	Any use not specifically listed in this section shall have a parking requirement determined by the City Manager, based on the parking space requirement for comparable uses listed in this section. The decision of the City Manager may be appealed to the Planning Commission, using procedures as spelled out in this title

I. All areas located within the C-1 zone are exempt from the off-street parking requirements of this section, but where parking is provided, it shall meet all other requirements of this section.

(Ord. 1101, § 1(part), 1997)

#### **§ 17.08.100 ACCESSES AND DRIVEWAYS.**

Accessways onto a public right-of-way shall be subject to issuance of a public works permit and review by the city planner. In addition, the following specific requirements shall apply to all accessways, approaches, curbcuts and driveways.

A. *Approaches.* Additions to, or new construction of, a garage or accessory structure, or an addition to the main structure in excess of 120 square feet, shall provide the basis for requiring the following.

1. An access approach to a city street, state highway, alley or other public right-of-way shall be hard surfaced and constructed in

accordance with city design standards.

2. An access approach shall extend 20 feet onto the property, measured from the right-of-way or property line, whichever is closest to a structure on the property.

3. In addition to the above, if the street is hard surfaced the approach will extend to the existing hard surface roadway edge or curb whichever applies.

4. An access approach to streets which are not yet improved or hard surfaced, requires that the property owner enter into an agreement with the city, prior to issuance of a public works permit, to hard surface the approach when the street is hard surfaced or improved.

B. *Construction specifications.* A driveway and sidewalk used as a part of an accessway shall be designed and constructed in accordance with plans and specifications on file in the office of the City Engineer. The designs, plans and specifications are by reference incorporated into and made a part of this code.

C. *Driveway width and placement.*

1. If only one driveway is desired, the maximum width of the driveway at the edge of the roadway or curbline is as follows:

- a. Twenty feet for property with less than 50 feet of frontage;
- b. Twenty-five feet for property with between 50 and 75 feet of frontage; and
- c. Thirty feet for property with more than 75 feet of frontage.

2. If more than one driveway is desired for property with 50 to 100 feet of frontage, the maximum width for each driveway is 20 feet and no more than two driveways may be permitted.

3. There shall be a minimum separation of 22 feet between all driveways except for single-family and two-family dwellings.

4. For frontage in excess of 100 feet, each additional 100 feet or fraction thereof shall be considered as separate frontage.

5. One-way driveway approaches, except for those used in conjunction with a single-family dwelling, shall be clearly marked or signed as approved by the City Engineer and shall not be less than ten feet in width. Two-way driveways shall not be less than 20 feet in width.

D. *Distance from intersection.*

1. All driveways shall be located the maximum distance which is practical from a street intersection and in no instance shall the distance from an intersection be closer than the following measured from the nearest curb return radius, which is the nearest beginning point of the arc of a curb:

Local street	20 feet
Collector street	30 feet
Arterial street	40 feet

2. Where streets of different functional classification intersect, the distance required shall be that of the higher classification.

E. *Number of accesses permitted.* Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street.

F. *Double frontage properties.* Properties which have frontage on more than one street may be restricted to access on the streets of a lower classification through site plan review or other review procedures.

G. *Joint access encouraged.* Common accessways at a property line shall be encouraged and, in some instances, may be required, in order to reduce the number of access points to street. Construction of common accessways shall be preceded by recording of joint access and maintenance easements.

H. *Maximum slope.* Access and approach grades shall not exceed 10% slope except as otherwise approved by the City Engineer.

I. *Access to state highways.* Access to designated state highways shall be subject to the provisions of this chapter in addition to requirements of the Highway Division, Oregon Department of Transportation. Where regulations of the city and state may conflict, the more restrictive requirement shall apply.

(Ord. 1101, § 1(part), 1997; Ord. 1067, § 3, 1994)

## CHAPTER 17.12: ADMINISTRATION AND ENFORCEMENT

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### Section

- 17.12.010 Authorization to initiate amendments.
- 17.12.020 Public hearings on amendments.
- 17.12.025 Review criteria for map amendments.
- 17.12.030 Record of amendments.
- 17.12.040 Limitation.
- 17.12.050 Administration.
- 17.12.060 Fence permits.
- 17.12.070 [Reserved].
- 17.12.080 Authorization of similar uses.
- 17.12.090 Appeals.
- 17.12.100 Form of petitions, applications and appeals.
- 17.12.110 Filing fees.
- 17.12.120 Notice of public hearing.
- 17.12.130 Public hearing procedure.
- 17.12.140 General administrative provisions.
- 17.12.150 Enforcement.

### **§ 17.12.010 AUTHORIZATION TO INITIATE AMENDMENTS.**

An amendment to the text of the ordinance codified in this title or a legislative zoning map amendment may be initiated by the City Manager, the City Planning Commission, the City Council or a property owner. A quasijudicial zoning map amendment may be initiated by a property owner, a representative of the property owner, the City Manager, the Planning Commission or the City Council. A request for a quasijudicial zone map amendment by a property owner shall be accomplished by filing an application with the City Planner at least 45 days prior to the Planning Commission meeting and using forms prescribed pursuant to § 17.12.100.

(Ord. 1111, § 1(part), 1997; Ord. 1061, § 29, 1993; Ord. 644, § 9.010, 1974)

### **§ 17.12.020 PUBLIC HEARINGS ON AMENDMENTS.**

- A. The Planning Commission may elect to conduct a public hearing on a proposed amendment.
- B. The Planning Commission shall recommend to the City Council approval, disapproval or modification of the proposed amendment.
- C. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment.
- D. All public hearing procedures shall be in accordance with §§ 17.12.120 and 17.12.130.
- E. Within five days after a decision has been rendered with reference to an amendment, the City Manager shall provide the applicant with written notice of the decision. Written notice of a decision shall apply to recommendations made by the Planning Commission and to final action made by the City Council.

(Ord. 1111, § 1(part), 1997; Ord. 905, § 27, 1983; Ord. 644, § 9.020, 1974)

### **§ 17.12.025 REVIEW CRITERIA FOR MAP AMENDMENTS.**



An amendment to the official zoning or comprehensive plan map may be authorized provided that the proposal satisfied all relevant requirements of this title and also provided that the applicant demonstrates the following:

- A. The proposed amendment is consistent with the goals and policies of the comprehensive plan;
- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;
- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district; and
- D. The proposed amendment to the comprehensive plan map is consistent with Oregon's statewide planning goals.

(Ord. 1111, § 1(part), 1997: Ord. 1061, § 30, 1993)

#### **§ 17.12.030 RECORD OF AMENDMENTS.**

The City Recorder shall maintain records of amendments to the text and zoning map of the ordinance codified in this title.

(Ord. 1111, § 1(part), 1997: Ord. 644, § 9.030, 1974)

#### **§ 17.12.040 LIMITATION.**

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

(Ord. 1111, § 1(part), 1997: Ord. 644, § 9.040, 1974)

#### **§ 17.12.050 ADMINISTRATION.**

The City Manager shall have the power and duty to enforce the provisions of this title.

(Ord. 1111, § 1(part), 1997: Ord. 644, § 10.010, 1974)

#### **§ 17.12.060 FENCE PERMITS.**

No person shall construct or reconstruct any fence or wall without first obtaining a permit.

(Ord. 1246, § 5, 2015; Ord. 1235, § 1(part), 2013; Ord. 1111, § 1(part), 1997: Ord. 644, § 10.020, 1974)

#### **§ 17.12.070 [RESERVED].**

#### **§ 17.12.080 AUTHORIZATION OF SIMILAR USES.**

The city may permit uses in a zone similar to uses permitted outright in that zone.

(Ord. 1235, § 1(part), 2013; Ord. 1111, § 1(part), 1997: Ord. 644, § 10.030, 1974)

#### **§ 17.12.090 APPEALS.**

A. An appeal of an administrative decision concerning this title will be made to the Planning Commission. Appeals of a Planning Commission decision will be made to the City Council.

B. A fee set by resolution of Council will be paid upon filing of an appeal.

C. At an appeals hearing, the ordinances and criteria must be stated and the applicant or appellant must address these criteria with sufficient specificity to allow decision makers an opportunity to respond to the issue.

D. Upon appeal, the appellate authority must consider the record of the action of which resulted in appeal.



E. An aggrieved party in a proceeding for a zone change or discretionary permit may appeal the decision to LUBA.

(Ord. 1235, § 1(part), 2013; Ord. 1111, § 1(part), 1997; Ord. 1012, § 8, 1990; Ord. 644, § 10.040, 1974)

#### **§ 17.12.100 FORM OF PETITIONS, APPLICATIONS AND APPEALS.**

A. Petitions, applications and appeals provided for in this title shall be made on forms prescribed by the city.

B. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this title.

(Ord. 1111, § 1(part), 1997; Ord. 644, § 10.050, 1974)

#### **§ 17.12.110 FILING FEES.**

The City Council shall establish application fees and fee policies by separate resolution for the performance of the actions and reviews required by this title.

(Ord. 1111, § 1(part), 1997; Ord. 1061, § 31, 1993; Ord. 1012, § 9, 1990; Ord. 920, § 1, 1989; Ord. 644, § 10.060, 1974)

#### **§ 17.12.120 NOTICE OF PUBLIC HEARING.**

A. Each notice of hearing authorized by this title shall be published in a newspaper of general circulation in the city at least ten days prior to the date of the hearing.

B. In addition, the following notice requirements shall apply.

1. A notice of hearing on a variance shall be mailed to the applicant and to all owners of record of property on the most recent property tax assessment role available to the city within 100 feet of the subject property.

2. A notice of a hearing on a conditional use or an amendment to a zoning map shall be mailed to the applicant and to all owners of record of property on the most recent property tax assessment role available to the city within 300 feet of the subject property.

3. A notice of a hearing shall be mailed to the residents of a property located within the above notice areas.

C. Notice shall also be provided to any neighborhood or community organization recognized by the city and whose boundaries include the site.

D. Notice distances will be measured from the exterior boundaries of the subject property for which the application request has been made.

E. The notice shall be mailed at least 20 days prior to the date of hearing.

F. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.

G. The notice provisions of this section shall not restrict the giving of notice by other means, including the posting of property or the use of radio.

H. When a zone change is proposed for a mobile home park, the residents of the mobile home park shall be given 20 days' notice of the required public hearing.

I. Reserved.

J. All notices of public hearings shall contain the following information:

1. Explain the nature of the application and the proposed use or uses which could be approved;
2. List of applicable criteria from this title and the comprehensive plan that apply to the application at issue;
3. Set forth the street address or other easily understood geographic identifier;
4. State the date, time and location of the hearing;
5. State that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to

afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;

6. Include the name and telephone number of a local government representative to contact for more information;
  7. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost;
  8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost; and
  9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (Ord. 1235, § 1(part), 2013; Ord. 1111, § 1(part), 1997; Ord. 1069, § 11, 1994; Ord. 1012, § 10, 1990; Ord. 827, 1981; Ord. 644, § 10.070, 1974)

#### **§ 17.12.130 PUBLIC HEARING PROCEDURE.**

##### **A. Order of public hearing procedure.**

1. At the outset of the hearing, the Chair shall review the public hearing procedure.
2. City staff shall briefly review the basic facts involved in the proposal.
3. The Chair shall provide the opportunity for questions to be asked by the Board or from the floor regarding clarification of the matter to be heard.
4. All those persons who support the proposed application shall first be permitted to present their case. The applicant or his or her representative shall proceed first to be followed by all others who support the application.
5. All those who oppose the proposed application shall then present their case. Representatives of a group shall proceed first followed by others in opposition.
6. All those who do not necessarily support or oppose the proposed application shall then have an opportunity to speak.
7. City staff shall then make further presentation, if appropriate. City staff may also answer questions or clarify issues during other stages of the hearing whenever permitted by the Chair during the hearing.
8. Following all presentation, brief rebuttal shall be permitted by all parties in the same general order as initial presentations. The Chair shall have broad discretion to limit rebuttal to avoid repetition and redundancy.

B. Members of the Board conducting the hearing may question anyone making a presentation at a hearing, but the questioning shall occur after, not during, the individual's presentation.

C. Any questions from the floor shall be addressed to the Chairperson. The Chair shall then direct the question to the appropriate person.

D. No person shall be disorderly, disruptive or abusive during the conduct of the hearing.

E. No person shall testify without receiving recognition from the Chair and stating his or her full name and address.

F. All presentations shall be as brief as possible and redundancy and repetition shall be avoided.

G. The Chair shall have authority to:

1. Regulate the course and decorum of the hearing;
2. Dispose of procedural matters;
3. Rule on relevancy of testimony and request documentation at any time; and
4. Impose reasonable limitations on the number of witnesses and time limits for presentation and rebuttal.

H. At the close of all presentations and rebuttal, the Chair shall declare that the hearing is closed, and thereafter, no further evidence or argument shall be received. Once a hearing has been closed, it shall be reopened only upon vote of the City Council or Planning Commission.

I. Any person making a presentation may present one or more written exhibits, visual aids, affidavits and similar material to be considered as a part of the evidence.

J. At City Council hearings, all Planning Commission minutes and records shall be a part of the record before the City Council. A Planning Commission representative may testify as part of the city staff presentation at a City Council hearing.

K. The Planning Commission or City Council may allow a continuance of the public hearing in order to obtain additional information or to serve further notice upon other persons it decides may be interested in the proposal being considered. If continued, the time and date when the hearing is to be resumed shall be announced.

(Ord. 1111, § 1(part), 1997; Ord. 644, § 10.080, 1974)

#### **§ 17.12.140 GENERAL ADMINISTRATIVE PROVISIONS.**

A. An applicant may apply at one time for all permits or zone changes needed for a development project.

B. The city shall take final action on all land use actions, limited land use actions or zone change applications including all appeals, within 120 days of completion of the application. Applications or appeals which require consideration by agencies or entities outside the city jurisdiction are excepted from this deadline. The 120-day deadline may be extended for a reasonable amount of time at the request of the applicant.

C. If an application is incomplete, the city shall notify the applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete, at least for the purpose of subsection B. of this section, on the thirty-first day after the city received the application. If the applicant agreed to supply the missing information, the application shall be deemed complete for the purpose of subsection B. of this section when the missing information is supplied.

D. If the application was complete when first submitted, or if the applicant supplies requested additional information within 180 days of initial submittal, approval or denial of the application shall be based upon the standards and conditions which were in effect at the time of submittal.

E. If an application is not acted upon within 120 days after completion:

1. The city shall refund to the applicant either the unexpended portion of any application fees previously paid or 50% of the total amount of the fees, whichever is greater.

2. The applicant may apply in the Circuit Court of Linn County for a writ of mandamus to compel the city to issue the approval.

F. Ex parte contacts with a member of the decision making body shall not invalidate a final decision or action of the decision making body. The member receiving the information shall report the information for the record at the hearing. The Chair shall allow rebuttal of the content at the first hearing where action will be considered or taken.

(Ord. 1111, § 1(part), 1997; Ord. 1012, § 11, 1990)

#### **§ 17.12.150 ENFORCEMENT.**

A. *Penalty.* Violation of this title constitutes a violation and may be prosecuted under the provisions of Sweet Home Municipal Code Chapter 9.36 as now enacted or hereafter amended. Each day's violation is a separate offense.

B. *Alternative remedy.* In case a structure is located, constructed, maintained, repaired, altered or used, or land is used in violation of this title, the structure or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use. For abatement the city may follow the procedure set out in Sweet Home Municipal Code Article II of Chapter 8.04 as now enacted or hereafter amended, except no hearing need be held before abatement occurs if a hearing before the Planning Commission or City Council has already been held on the issue in dispute and the body has made a final decision thereon. The city can recover its expenses as set forth in the abatement procedure.

(Ord. 1235, § 1(part), 2013; Ord. 1111, § 1(part), 1997)

## **CHAPTER 17.16: OFFICIAL CITY COMPREHENSIVE PLAN**

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### Section

#### 17.16.010 Adoption of Comprehensive Plan.

## 17.16.020 Official land use guide.

**§ 17.16.010 ADOPTION OF COMPREHENSIVE PLAN.**

A. The purpose of this chapter is to promote the public health, safety and general welfare of the City of Sweet Home and to assist in implementing the adopted Statewide Planning Goals.

B. The amendments to the Comprehensive Plan, as attached to the ordinance codified herein, are approved, based on the findings and facts as presented in Appendix G of the Transportation System Plan and testimony received by the Sweet Home City Council after holding a public hearing on June 14, 2005.

C. The study attached to the ordinance codified herein is added as a specific technical resource documents to the Comprehensive Plan, replacing the Sweet Home Transportation System Plan by W&H Pacific done in 1998. This study is adopted and incorporated into the Comprehensive Plan by reference and serves as an official document of the specific topics: *Sweet Home Transportation System Plan*, Satre Associates, 2005.

(Ord. 1172, §§ 1-3, 2005)

**§ 17.16.020 OFFICIAL LAND USE GUIDE.**

The Comprehensive Plan as amended and approved by ordinance by the City council is the official guide for decisions related to land use, and by this reference is made a part thereof.

(Ord. 1235, § 1(part), 2013)

**CHAPTER 17.20: ESTABLISHMENT OF ZONES**

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## Section

17.20.010 Classification of zones.

17.20.020 Location of zones.

17.20.030 Zoning maps.

17.20.040 Zoning of annexed areas.

17.20.050 Zone boundaries.

**§ 17.20.010 CLASSIFICATION OF ZONES.**

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

<i><b>Zone</b></i>	<i><b>Abbreviated Designation</b></i>
Residential Low-density	R-1
Residential High-density	R-2
Residential Medium-density	R-3
Residential Mixed Use	R-4
Commercial Central	C-1
Commercial Highway	C-2
Commercial Neighborhood	C-3
Industrial	M
Planned Development	PD
Recreation Commercial	RC

Residential Industrial	R/M (T)
Transitional Natural Resources Overlay	NR

(Ord. 1235, § 1(part), 2013; Ord. 1182, § 3, 2006; Ord. 1069, 1994; Ord. 905, 1983; Ord. 644, § 10, 1974)

#### **§ 17.20.020 LOCATION OF ZONES.**

The boundaries for the zones listed in this title are indicated on the City Zoning Map of 2003 and all amendments made, which are adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference.

(Ord. 1235, § 1(part), 2013; Ord. 1882, § 4, 2006; Ord. 906, 1983; Ord. 644, § 20, 1974)

#### **§ 17.20.030 ZONING MAPS.**

A zoning map or zoning map amendment adopted by § 17.20.020 of this title or by an amendment thereto shall be prepared by authority of the City Council. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the City Clerk as long as this title remains in effect.

(Ord. 644, § 30, 1974)

#### **§ 17.20.040 ZONING OF ANNEXED AREAS.**

All areas annexed to the city shall continue to be zoned under the existing county zoning, unless the area or a part of the area is specifically placed in a zone or zones by the City Council, after receiving and considering the recommendations of the city's Planning Commission.

(Ord. 673, 1976; Ord. 644, § 40, 1974)

#### **§ 17.20.050 ZONE BOUNDARIES.**

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, centerlines of street or railroad rights-of-way or such lines extended.

(Ord. 644, § 50, 1974)

## **CHAPTER 17.84: NONCONFORMING USES**

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### **Section**

17.84.010 Purpose.

17.84.020 Continuation of a nonconforming use.

17.84.030 Nonconforming structure.

17.84.035 Nonconforming parcels.

17.84.040 Discontinuance of a nonconforming use.

17.84.050 Change of a nonconforming use.

17.84.060 Destruction of a nonconforming use or structure.

17.84.070 Repairs and maintenance.

17.84.080 Completion of structure.

**§ 17.84.010 PURPOSE.**

It is the purpose of this chapter to permit preexisting uses and structures which do not conform to the use or standards of this title to continue under conditions specified herein.

(Ord. 1235, § 1(part), 2013; Ord. 644, § 7.010, 1974)

**§ 17.84.020 CONTINUATION OF A NONCONFORMING USE.**

A. Subject to the provisions of this chapter, a nonconforming use of a structure or a nonconforming use may be continued and maintained.

B. In any commercial or industrial zone, a preexisting single-family dwelling may be altered or extended provided that such alteration or extension shall not exceed the standards of the R-2 zone.

(Ord. 1235, § 1(part), 2013)

**§ 17.84.030 NONCONFORMING STRUCTURE.**

A structure conforming as to use but nonconforming as to height, setback, lot coverage or similar dimensional standard may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this title.

(Ord. 644, § 7.030, 1974)

**§ 17.84.035 NONCONFORMING PARCELS.**

Parcels not conforming to the size and dimensional standards of the zone may be adjusted if the adjustment does not cause the parcel to deviate further from the standards of this title.

(Ord. 1235, § 1(part), 2013)

**§ 17.84.040 DISCONTINUANCE OF A NONCONFORMING USE.**

A. If a nonconforming use involving a structure is discontinued from active use for a period of one year, further use of the property shall be for a conforming use.

B. If a nonconforming use not involving a structure is discontinued from active use for a period of six months, further use of the property shall be for a conforming use.

(Ord. 644, § 7.040, 1974)

**§ 17.84.050 CHANGE OF A NONCONFORMING USE.**

If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the zone in which it is located.

(Ord. 644, § 7.050, 1974)

**§ 17.84.060 DESTRUCTION OF A NONCONFORMING USE OR STRUCTURE.**

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 60% of its fair market value as indicated by the records of the County Assessor, a future structure or use on the site shall be in accordance with the provisions of the zone in which the property is located.

(Ord. 644, § 7.060, 1974)

**§ 17.84.070 REPAIRS AND MAINTENANCE.**

Any building housing a nonconforming use may be maintained or restored to conform with the standards of the Building Code,

including repair or replacement of fixtures, wiring or plumbing; provided, the building is not increased in cubic content or floor area.

(Ord. 644, § 7.070, 1974)

**§ 17.84.080 COMPLETION OF STRUCTURE.**

Nothing contained in this title shall require any change in the plans, construction, alteration or designated use of a structure for which a building permit has been lawfully issued and construction has commenced prior to adoption of this title; provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within one year from the time the permit is issued.

(Ord. 644, § 7.080, 1974)

## MEMORANDUM

**DATE:** June 12, 2017

**TO:** Sweet Home City Council and Planning Commission

**FROM:** John N. Morgan

**SUBJECT:** Sweet Home Code Audit

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I am pleased to present the finished Code Audit of Chapters 16 and 17 of the Sweet Home Municipal Code, commonly known as the Subdivision Code and the Zoning Code.

We created the draft audit about one year ago, reviewing the two chapters that regulate development with an eye for findings areas for improvement. The goal was to find ways to make the development process more streamlined and consistent with modern market trends and best practices. In this work, areas of the Code were identified that have confusing language, erroneous cross-references, language inconsistent with current state law, and other structure issues with suggestions for how they might be improved. Also, most substantive areas were identified where the Code's regulations and processes might be modernized and improved. Always an eye was given to streamlining and simplifying processes.

Over the last year, we met with the Planning Commission several times to walk through the audit document so as to incorporate the Commission's ideas and responses to the recommendations. During that same period, the City staff offered many other suggestions and ideas. These were all incorporated into this final Code Audit document.

The purpose of the audit is two-fold:

- Create a road map for making desired amendments to the Code.
- Save money by evaluating needs and opportunities before spending the funds to actually write new Code language. In this audit model, only the amendments that are desired are drafted and done so with direction on desired changes already established. This can save significantly compared to a wholesale revision process writing new language before evaluating its desirability and need.

At the workshop, we will help the Council and Planning Commission review the audit document and answer questions.



The issue before the Council and Commission is where to go from here. Obviously, there are budget implications to going ahead with actually drafting the Code language amendment proposals and carrying them through Planning Commission review and the required Commission and Council public hearing and adoption process. However, this might be the choice the Council makes to move forward.

An option is to prioritize the recommended amendments and pace the process over several budget years.

We ask the Council to give informal direction on how it wishes to proceed with implementing the Code Audit.

Thank you for this opportunity to serve the Sweet Home community.

**TO:** John Morgan  
**FROM:** Walt Wendolowski  
**SUBJECT:** Title 16 – Proposed Revisions  
**DATE:** August 15, 2017

## **I. BACKGROUND**

The MorganCPS consulting team completed an audit of the Subdivision Ordinance (Title 16) and the Zoning Ordinance (Title 17). The Sweet Home Planning Commission, and City staff, reviewed the audit and identified Chapters and sections requiring revision.

The purpose of this memorandum is to provide suggested changes in the Title 16 Ordinance language consistent with Commission objectives.

## **II. REVISIONS**

This memorandum incorporates three types of revisions:

- A. Language to be Removed – Suggested language to be eliminated ~~will be stricken~~.
- B. New Language – All suggested new language will be underlined.
- C. Commentary – Any commentary as part of the revisions *will be in italics*. **Note:** some words in Title 16 are currently italicized. These will remain and unless underlined, do not reflect new language.

These revisions follow the original audit report as well as suggestions compiled by MorganCPS through various workshops and meetings. This memorandum includes the entire Title so that the changes can be viewed in context. Finally, the revisions do not address larger issues of combining Titles (Title 16 and Title 17) nor formatting issues related to organization. Those will be addressed in subsequent memos.

## **III. TITLE 16**

### **TITLE 16: LAND DIVISIONS AND LINE ADJUSTMENTS**

- 16.04. PURPOSE, SCOPE AND DEFINITIONS
- 16.08. ADMINISTRATION AND ENFORCEMENT
- 16.12. DESIGN STANDARDS
- 16.16. TENTATIVE PLAN
- 16.20. FINAL PLAT
- 16.24. IMPROVEMENTS
- 16.28. EXCEPTIONS AND VARIANCES
- 16.32. PROPERTY LINE ADJUSTMENTS

## **CHAPTER 16.04: PURPOSE, SCOPE AND DEFINITIONS**

16.04.010 Purpose.

16.04.020 Scope of regulations.

16.04.030 Definitions.

### **§ 16.04.010 PURPOSE.**

The purpose of this title is to establish standards and procedures for the subdivision and partitioning of property, and the adjusting of property lines of land within the City of Sweet Home, Oregon. These regulations are necessary in order to:

- A. Protect the public health, safety and welfare.
- B. Provide clear and objective procedures and standards for the subdivision and partitioning of land and adjusting of property lines.
- C. Implement the Comprehensive Plan.
- D. Provide for consistency in construction within classifications of streets.
- E. Ensure adequate provision of utilities and other public facilities.
- F. Provide for the protection, conservation and proper use of land.
- G. Meet the standards and procedures for the division of land in compliance with O.R.S. Chapter 92.

### **§ 16.04.020 SCOPE OF REGULATIONS.**

Subdivision and partition plats shall be reviewed and acted upon in accordance with these regulations. A person desiring to subdivide or partition land shall submit tentative plans and final documents for approval as provided for in Sweet Home Municipal Code Title 16 - Land Divisions and Line Adjustments. All subdivisions, partitions, and property line adjustments shall also conform with the provisions of O.R.S. Chapter 92, Sweet Home Municipal Code Title 17 ~~and the Comprehensive Plan.~~

### **§ 16.04.030 DEFINITIONS.**

As used in this title, the following words and phrases shall mean:

**ACCESS EASEMENT.** A private easement providing ingress and egress across a property to another property.

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

**ARTERIAL, MAJOR.** Links communities and activity centers on a regional basis, and serves a high number of local trips.

**ARTERIAL, MINOR.** Provides both access and circulation within residential neighborhoods and commercial/industrial areas.

**BICYCLE WAY.** A path created primarily for use by bicycles.

**BUILDING LINE.** A line parallel to the front lot line and passing through the most forward point of a place of a building.

**CITY.** The City of Sweet Home, Oregon.

**CITY ENGINEER.** The City Engineer of the City of Sweet Home, or a fully qualified person designated by the Public Works Director to fulfill the responsibilities of a City Engineer as specified by this title.

**COLLECTOR.** A street that distributes trips from the major arterials through the area to their ultimate destination minimizing the impact of traffic to adjacent land uses while recognizing the need to serve less intense residential areas.

**COMPREHENSIVE PLAN.** The most current adopted version of the Sweet Home Comprehensive Plan.

**CUL-DE-SAC.** A turnaround at the end of a dead-end street.

**DEAD-END STREET.** A street with a single common ingress and egress.

**EASEMENT.** A grant of the right to use a portion of land for a specified purpose.

**HALF STREET.** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another land division.

**HALF STREET IMPROVEMENTS.** Will usually consist of pedestrian way, curb, parking, and two travel lanes.

**HAMMERHEAD.** A vehicle turnaround on a dead-end street configured in the shape of a hammerhead or in a similar configuration.

**LOCAL ACCESS STREET.** A local street which parallels an arterial, providing access to through lots that have no access from the arterial street.

**LOCAL STREET.** A street that provides access to adjacent land, and is designed to minimize the impact of traffic on adjacent development.

**LOT.** A single unit of land that is created by a subdivision of land.

**MAP.** A drawing representing selected features in relationship to other features present on or near the subject property.

**PARCEL.** A single unit of land that is created by partitioning of land.

**PARTITION LAND.** To divide an area or tract of land into not more than three parcels within a calendar year, but does not include:

1. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
2. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with Sweet Home Municipal Code Title 17;
3. The division of land resulting from the recording of a subdivision or condominium plat;
4. A sale or grant by a person to a public agency or public body for a state highway, city street or other right-of-way purposes provided that such road or right-of-way complies with the City's Comprehensive Plan and Oregon Revised Statutes; or
5. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, city streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property.

**PEDESTRIAN WAY.** A right-of-way for pedestrian traffic.

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

**PLANNED DEVELOPMENT.** A specific area that is planned to allow diversification between buildings and open space while meeting the objectives of the underlying zoning regulations.

**PLANNING COMMISSION.** The Planning Commission of the City of Sweet Home.

**PLAT.** A map representing a tract of land showing the boundaries and location of individual properties and streets, and includes a final subdivision plat, replat or partition plat.

**PLAT - FINAL.** A map of all or a portion of a subdivision, replat, or partition, that is presented to the City for final approval.

**PRIVATE STREET.** A street that has not been accepted by the City of Sweet Home or other governmental entity.

**PROPERTY LINE ADJUSTMENT.** The relocation or elimination of a common property line between abutting properties.

**PROPERTY LINE ADJUSTMENT REPLAT.** The relocation or elimination of a common property line between abutting properties within a subdivision or partition plat.

**QUEUING.** A line of vehicles waiting their turn.

**RADIUS.** The single point intersection of a curve and straight line that touches the curve but does not intersect it.

**REPLAT.** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

**RESIDENTIAL NEIGHBORHOOD STREET.** A street, within a Planned Development, that may have queuing, drainage swales, and off-set pedestrian ways.

**RIGHT-OF-WAY.** The area between boundary lines of a street.

**ROADWAY.** The portion or portions of a street right-of-way developed for vehicular traffic.

**SIDEWALK.** A pedestrian walkway with a hard surface.

**STREET.** A public or private way that is created to provide ingress or egress for vehicles to one or more lots, parcels, areas or tracts of land, excluding private driveways, including the terms "road," "highway," "lane," "avenue," or similar designations.

**SUBDIVIDE LAND.** To divide an area or tract of land into four or more lots within a calendar year

**SUBDIVIDER.** Any person who causes land to be subdivided or partitioned or who undertakes to develop a subdivision.

**SUBDIVISION.** Either an act of subdividing land or an area or tract of land subdivided.

**TANGENT.** A straight line starting, ending or touching a curve at a single point.

**THROUGH LOT.** A lot that fronts upon two streets that do not intersect at the boundaries of the lot.

**TRACT.** An area, parcel, lot, site, piece of land, or property that is the subject of a development application.

**TRAFFIC GENERATOR.** A use in a particular geographic area that is likely to attract into the area substantial vehicular or pedestrian traffic.

## **CHAPTER 16.08 ADMINISTRATION AND ENFORCEMENT**

### **16.08.010 Appeal.**

*Subsequent Sections renumbered.*

16.08.010 Amendment.

16.08.020 Interpretation.

16.08.030 Filing fees.

16.08.040 Segregation of assessments.

16.08.050 Violations-penalty.

*The audit originally suggested moving Section 16.08.010 to the end of this Chapter. However, as it is involved with the processing of the application, the Section was moved to Chapter 16.16. All remaining Sections in this Chapter are renumbered.*

#### **§ 16.08.010 AMENDMENT.**

*The audit originally suggested moving Section 16.08.020 to the end of this document. However, this Chapter covers “general” provisions relating to Title 16 and its current location is acceptable.*

The provisions of this title may be amended after consideration by the Planning Commission and the City Council. The Planning Commission shall first transmit its findings and recommendations to the City Council. The Planning Commission will hold a public hearing on the proposed amendments prior to making findings and recommendations. The City Council shall hold a public hearing on the proposed amendments and shall consider the recommendations of the Planning Commission in making its decision.

#### **§ 16.08.020 INTERPRETATION.**

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

#### **§ 16.08.030 FILING FEES.**

The City Council shall establish fees by separate resolution for the performance of the actions and reviews required by this title.

#### **§ 16.08.040 SEGREGATION OF ASSESSMENTS.**

- A. Whenever property has been assessed in its entirety and there is an intent to divide the property into lots or parcels, the owner of the subject property may file a written request with the Finance Director for a segregation of the assessment.
- B. Requests for the segregation of liens shall include the following:
  1. A description of the property to be divided.
  2. A current copy of a recorded deed with Linn County Deed Records, Volume and Page numbers or Instrument number, showing ownership of the subject property.
- C. Upon receipt of the application request, the Finance Director shall calculate the total amount of assessment eligible for segregation according to the method of apportionment used in the original improvement assessment, unless inappropriate because of special circumstances. The eligible portion of the assessment shall be

determined by the Public Works Director, or designee, according to the value of the original construction costs. The assessment will then be prorated by each lot or parcel.

- D. No requested segregation shall be granted unless the segregation complies with O.R.S. Chapter 92, City Codes and the Comprehensive Plan.
- E. The Finance Director shall record the liens in the city lien docket. From that time, the city shall have a lien upon the described lots or parcels for the amount of the assessment, as determined above, together with interest on the unpaid balance at the rate of 10% per annum.

#### **§ 16.08.050 VIOLATION--PENALTY.**

Failure to comply with any of the provisions and requirements of Sweet Home Municipal Code Title 16 shall constitute a violation and may be prosecuted under the provisions of Sweet Home Municipal Code Chapter 9.36. Abatement of a violation of this title can be accomplished by any remedy open to the city, including using the procedures set out in Sweet Home Municipal Code Chapter 8.04 for the abatement of nuisances. Each day that a violation exists is a separate offense.

### **CHAPTER 16.12: DESIGN STANDARDS**

- 16.12.010 Principles of acceptability
- 16.12.015 General development standards and design criteria.
- 16.12.020 Streets.
- 16.12.025 Blocks.
- 16.12.030 Lots and parcels.
- 16.12.035 Easements.
- 16.12.040 Water system.
- 16.12.045 Sanitary sewer system.
- 16.12.050 Storm water and surface drainage.
- 16.12.055 Lot grading.
- 16.12.060 Erosion control.
- 16.12.070 Underground utilities.
- 16.12.075 Large tract land division.

#### **§ 16.12.010 PRINCIPLES OF ACCEPTABILITY.**

Subdivisions and partitions shall conform with the ~~Comprehensive Plan~~, Sweet Home Municipal Code Title 17, applicable provisions of other city ordinances, state law and the standards established by this title. Locations and standards related to transportation and community facilities shall be based on the provisions of the Comprehensive Plan.

#### **§ 16.12.015 GENERAL DEVELOPMENT STANDARDS AND DESIGN CRITERIA.**

The developer shall design and improve all streets, storm drains, sanitary sewers, water lines, access ways and other public easements which are part of the development, and those off-site public improvements necessary to serve the development consistent with the Comprehensive Plan or any specific plan thereof, and such other public improvements as required by this title.

- A. All designs and improvements shall be in accord with the standards and criteria set forth in any conditions of approval and this title.
- B. All improvements shall be covered by a warranty guarantee for the materials and workmanship for a period of at least one year from the date of their completion.
- C. All improvements as set forth herein shall be considered necessary for the general use of the following:
  1. The property owner(s) of the development;
  2. The local neighborhood; and
  3. The city's traffic and drainage needs, including without limitation the following:
    - a. Grading and surfacing of streets and access ways;
    - b. Installation of facilities to supply domestic water;
    - c. Construction of sanitary collection treatment facilities;
    - d. Construction of storm water drainage conveyances, including flow controls, infiltration and water quality facilities;
    - e. Any other improvement work required.
- D. All improvement work shall be at the sole cost and expense of the developer, unless otherwise specifically provided.

#### **§ 16.12.020 STREETS.**

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical and drainage conditions, public convenience and safety, the proposed use of land to be served by the streets, and full land utilization which will not result in tracts of vacant inaccessible land. Street design standards are intended to provide city staff with standards and guidelines for protecting the function and integrity of the city's transportation system. The following table implements the standards of the Transportation System Plan.

<b>Standards</b>	<b>Major Arterial</b>	<b>Minor Arterial</b>	<b>Collector</b>	<b>Local Street</b>	<b>Residential Neighborhood Street ***</b>
ROW Width	80' (max)	70' (max)	60' (max)	50' (max)	20' (min)
Curb to curb width	60' (max)	40' (max)	40' (max)	36' (max)	20' (min)
Travel Lane width	11' (min)	10.5' (min)	10' (min)	7' (min)	7' (min)
Number of lanes	4 (max)	3 (max)	2 (min)	2 (max)	2 (min)
Median/center turn width (max)	12'	11.5'	Not required	Not required	Not required
Bike Lane width (min)	2 @ 6'	2 @ 6'	1 @ 6'	7'	Not required
Parking width (max)	8'	8'	8'	7'	Not required
Curb *	6"	6"	6"	6"	Not required
Planting Strip width (min)**	7'	7'	7'	3'	3'



Sidewalk width (min)	8'	7'	6'	5'	Not required
System spacing	1 mile	½ mile	½ mile	250'	100'
Design speed - (max)	40 mph	35 mph	25 mph	25 mph	20 mph
Access management: intersection spacing (min)****	300'	100'	100'	75'	50'
Access Management: driveway spacing	No direct driveway access	Shared driveway access	Shared driveway access	Direct access allowed	Direct access allowed

\* Other City approved alternatives may be proposed, such as "Green Streets" standards, as defined by Portland Metro Green Streets handbook, and subsequent updates. A green street can be defined as a street designed to integrate a system of storm water management within its right of way, and to

- Reduce the amount of water that is piped directly to streams and rivers.
- Be a visible component of a system of "green infrastructure" that is incorporated into the aesthetics of the community.
- Make the best use of the street tree canopy for storm water interception as well as temperature mitigation and air quality improvement.
- Ensure the street has the least impact on its surroundings, particularly at locations where it crosses a stream or other sensitive area.

\*\* Planting strips may include filtration strips and swales.

\*\*\* Allowed only within a Planned Unit Development.

\*\*\*\* Measured as adjacent edge to edge of right-of-way, with the higher street category controlling.

A. A transportation impact analysis (TIA) may be required, if the proposed development appear to have traffic generators with a significantly high level of traffic.

1. Applicants may be required to have a pre-application meeting with city staff to determine if the proposed development will have a significantly high level of traffic. If determined by city staff that a TIA is required, the TIA must be submitted as a part of the application or the application will not be considered complete and will be on hold as per Oregon Revised Statutes.
2. "Significantly high level of traffic" means that the average number of daily trips on any existing street would increase by 20% or more as a result of the proposed development, based on the Institute of Traffic Engineers - Trip Generation. Base numbers must be established as a part of the TIA analysis using standard traffic count methodology.
3. Any TIA shall be prepared by a qualified professional.

B. *Alignment.* If possible, streets shall be in alignment with existing streets by continuation of the center lines of each street.

1. Staggered street alignment resulting in "T" intersections at local streets should have a minimum distance of 75' between the adjacent right-of-way of streets having approximately the same bearing.
  2. Staggered street alignment making "T" intersections at collectors and arterials should leave a minimum distance of 100' between adjacent right-of-way on streets having approximately the same bearing.
- C. *Future extensions of streets.* Where necessary to give access or to permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivision or partition.
1. A street ending at a property line may be approved with or without a turnaround but shall have a reserve area.
  2. Reserve areas. Reserve areas, easements, or street plugs controlling access to streets shall be required when necessary to ensure street extensions and the widening of half streets. The reserve strip will normally be one foot in width and under the ownership of the city.
  3. Property abutting the city limits will not require street extensions to the boundary unless the abutting property is within the Urban Growth Boundary or the City's Transportation System Plan identifies a future connection. If there is a bridge identified in the Transportation System Plan for future connectivity, street extensions to the boundary will be required.
- D. *Intersection angles.* Streets shall be designed to intersect at angles as near to right angles as practical except where constrained topography or abutting properties requires a lesser angle.
1. The intersection of arterial or collector streets with other arterial or collector streets shall have at least 100' of tangent adjacent to the intersection unless constraints require a lesser distance, but in no case shall the tangent be less than 30'.
  2. Intersections which are not at right angles shall have a minimum corner radius at the curb of between 20' and 30' along the right-of-way lines of the acute angle.
  3. The acute angle of the intersecting street shall be no more than 10° off perpendicular to the cross street.
  4. When street rights-of-way are not able to intersect at right angles, then the curbs, parking area, and planter strips shall be modified to align the travel lanes at right angle to the cross street.
  5. Right-of-way lines at intersections with arterial streets shall have a corner radius of not less than 20'.
- E. *Existing streets.* Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision.
- F. *Half-streets.* Half streets shall be required for existing right-of-way on the perimeter of the subdivision with the following conditions:
1. Located adjacent to unimproved streets.
  2. Located adjacent to one-half street condition on the same side of the street.

3. Located opposite of a constructed one-half street.
- G. *Dead end streets.* A dead end street shall terminate with a turnaround designed to the minimum size standards of the International Fire Code.
1. Dead end streets can be allowed only when the extension of street is not possible due to one or more of the following reasons:
    - a. A natural feature, such as a wetland, stream or steep slope makes it impractical for the street to be extended.
    - b. An existing structure or use is located on an adjacent parcel within the alignment of the proposed street.
    - c. An existing deed restriction or covenant or political boundary does not allow the extension of the street.
    - d. The alignment is approved as part of a Planned Development.
- H. *Street names.* Except for extensions to existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names shall conform to Sweet Home Municipal Code Title 12.
- I. *Grades.* Grades shall conform to any conditions of approval of the city, Oregon Building Codes, and the International Fire Code.
- J. *Curves.* Center line radii of curves shall not be less than 500 feet on arterials, 350 feet on collectors, and 100 feet on local streets and alleys. Where existing conditions, particularly topography, make it impractical to meet these standards, the Planning Commission may approve sharper curves.
- K. *Local access streets.* Where a subdivision or partition abuts or contains an existing or proposed arterial street, the Planning Commission may require a local access street.
- L. *Railroad right-of-way.* New railroad crossings and modifications to existing crossings are subject to review and approval by ODOT - Rail Division and must have written support prior to submittal of a tentative subdivision or partition plan for a land use application to be deemed complete.
- M. *Alleys.* Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission. The corners of alley intersections shall have a radius of not less than 12 feet.
- N. *Private streets.* Private streets shall be allowed in Planned Developments, as approved by the Planning Commission.
- O. *Access to new subdivisions.* All existing streets providing access to a subdivision should be improved to city standards only when warranted by a traffic impact study.
1. Improvements shall be made to ensure that the street has the capacity to meet the projected impacts from the development.
  2. Improvements shall extend for a minimum of one block, or as determined by the TIA or Planning Commission.
  3. Improvements shall provide the minimum of accessibility for vehicles and pedestrians.
  4. The city may partner with the developer for extended improvements beyond the minimum access area. A local improvement district (LID) may be initiated by the city to meet the extended needs to local improvements.

- P. *Bicycle and pedestrian ways.* All new subdivisions shall provide for pedestrian and bicycle connectivity and accessibility, as required in the Transportation System Plan, Chapter 6, including the following:
1. Sidewalks along arterials and collectors.
  2. Bikeways along arterials and collectors.
  3. Use of access ways, multi-use paths or easements to overcome barriers to bicycle and pedestrian circulation.
  4. All pedestrian and bicycle ways will be constructed to city standards.

**§ 16.12.025 BLOCKS.**

Block and perimeter length shall take into account at minimum the following:

- A. Property shape;
- B. Traffic flow;
- C. Fire safety;
- D. Access control onto adjacent streets;
- E. Natural features;
- F. Access to schools;
- G. Access to parks;
- H. Mid-block pedestrian ways, which shall have an all-weather surface with a minimum width of 10 feet; and
- I. Existing development.

**§ 16.12.030 LOTS AND PARCELS.**

- A. *Size and shape.* Lot and parcel size, width, shape and orientation shall be appropriate for the zone and location of the subdivision, as well as for the type of use contemplated.
- B. No lot or parcel shall be dimensioned to contain a part of an existing or proposed street.
- C. Residential lots and parcels shall be consistent with the residential lot size and width standards of Sweet Home Municipal Code Title 17.
- D. Lot depth shall not exceed two and one-half times the average width.
- E. *Frontage.* Each lot or parcel, except those abutting private streets, shall abut upon a publicly owned street, other than an alley, for a width of at least 25 feet.
- F. *Access easements.* Where no other practical access to lots or parcels exists, the Planning Commission may allow an access easements for actual access to lots or parcels.
- G. Through lots should be avoided except where they are essential to provide separation of residential development from non-residential activities, arterial streets, or to overcome a specific disadvantages of topography and orientation.
  1. A planting screen easement of at least ten feet in width and across which there shall be no right of access may be required along the lines of lots or parcels abutting a collector or arterial street or other incompatible uses.
  2. Lots shall be served from only one side via a local street.
  3. A through lot shall have the yard abutting a street that has no access to the back yard, and shall utilize setbacks for a back yard as per the underlying zone standards.

- H. *Lot side lines.* The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.
  - 1. Topographical conditions or street configurations may warrant an angle.
  - 2. Generally, any angle should not exceed 30° from a right angle to the street.
- I. *Flag Lots.* Flag lots should be avoided if local street connection can reasonably be included in lieu of the flag lot configuration. The thin strip of land, known as the flag pole, which provides access to the lot(s) furthest from the street shall not be used in determining lot size, lot width or yard setback requirements.
- J. If special setbacks are to be established in a subdivision or partition through the variance process, they shall be shown on the tentative plan and final plat and included in the deed restrictions.
- K. *Future Residential Re-Division Plan* - When subdividing or partitioning tracts in a residential zone into large lots (i.e., greater than four times the minimum lot size allowed by the underlying land use zone), the City may require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted for large lots identifying:
  - 1. Potential future lot division(s), consistent with the density and lot size standards of the underlying zone.
  - 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. Acknowledgement that the plan is a conceptual plan intended to show potential future urban density development. It shall not be binding on the City or property owners, except as may be required through conditions of approval to achieve future urban density.

#### **§ 16.12.035 EASEMENTS.**

- A. *City utility lines.*
  - 1. Easements for city sanitary sewer, storm water collection systems, and water mains, or other utilities, not located within the public right-of-way, shall be dedicated wherever necessary.
  - 2. City easements shall ~~be at least 20 feet wide and offset on rear or side lot lines with five feet on one side and 15 feet on the other~~ comply with adopted City Public Works Standards.
- B. Franchise utility easements ~~will be seven feet in width and generally abutting the right-of-way~~ shall comply with local franchise agreement requirements regarding width and location.
- C. *Drainage channels.* If a subdivision or partition is traversed by a drainage channel, there shall be provided a public drainage easement. The drainage easement shall conform substantially with the lines of the drainage channel, with additional width as needed for channel maintenance.

#### **§ 16.12.040 WATER SYSTEM.**

The design shall be to city standards and shall be approved by the City Engineer. The design shall take into account provisions for extension beyond the subject property. The design shall adequately loop the city system.

**§ 16.12.045 SANITARY SEWER SYSTEM.**

The design shall be to city standards and shall be approved by the City Engineer. The design shall take into account capacity and grade to allow for desirable extension beyond the subject property.

**§ 16.12.050 STORM WATER AND SURFACE DRAINAGE.**

Design of drainage within a subdivision or partition shall be to city standards, and shall be approved by the City Engineer.

- A. The design shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision or partition and to allow extension of the system to serve such areas.
- B. Provision shall be made for water quality and retention storage areas designed and constructed to meet the standards set by the city.

**§ 16.12.055 LOT GRADING.**

Lot grading shall conform to all applicable Oregon Building Codes and Sweet Home Municipal Code Titles 12, 13, and 15 requirements.

**§ 16.12.060 EROSION CONTROL.**

Erosion control must be approved as per the City's Erosion Control requirements of Sweet Home Municipal Code Chapter 13.06.

**§ 16.12.070 UNDERGROUND UTILITIES.**

All permanent franchise utility service to subdivision lots shall be provided from underground facilities. No overhead utility facilities in connection with permanent utility service to a subdivision or partition shall be permitted. In the case of a partition in an area where underground utility service is not presently provided, permanent service may be supplied by means of overhead wires or cables.

**§ 16.12.075 LARGE TRACT LAND DIVISION.**

In subdividing or partitioning tracts into large lots or parcels which may be divided in the future, the city may impose requirements which will allow for subsequent division of any lot, parcel, or tract.

**CHAPTER 16.16: TENTATIVE PLAN**

16.16.010 General information.

16.16.020 Pre-application review.

16.16.025 Tentative subdivision, subdivision replat or partition, partition replat plan submittal.

16.16.030 Procedures.

- 16.16.040 Tentative subdivision, subdivision replat or partition, partition replat plan review criteria.
- 16.16.050 Tentative plan conditions of approval.
- 16.16.060 Development phasing.
- 16.16.070 Duration of tentative plan approval.
- 16.16.080 Extension to tentative plan approval.

#### **§ 16.16.010 GENERAL INFORMATION.**

The city shall make available all information on file with the city relating to the area of a proposed subdivision or partition. The subdivider shall also be advised of the design and improvement standards and other requirements established by the city in connection with the review and approval of plats.

#### **§ 16.16.020 PRE-APPLICATION REVIEW.**

A pre-application conference ~~may~~ shall be required by the eCity for any subdivision. The subdivider shall submit a sketch to the City Planner and the Public Works Engineering Division of the proposed tentative plan for the property to be divided. Following preliminary review, the subdivider may proceed to prepare a tentative plan for submission to the city.

The City may require a pre-application conference for a partition. The determination shall be made by the Planning Official to address unique circumstances associated with the project.

#### **§ 16.16.025 TENTATIVE SUBDIVISION OR SUBDIVISION REPLAT ~~OR PARTITION, PARTITION REPLAT PLAN SUBMITTAL.~~**

All applications for a tentative ~~partition or~~ subdivision approval must include a complete application form. ~~For a subdivision or subdivision replat, In addition, ten full size copies and one 8½" by 11" copy of a plan shall be submitted with the following details. For a partition or partition replat, three full size copies and one 8½" by 11" copy of a plan shall be submitted showing the following details.~~ The tentative plan need not be a finished drawing but it shall show all pertinent information to scale.

- A. Where the land to be subdivided contains only part of the tract owned or controlled by the subdivider, a sketch is required of a tentative layout for streets and utilities in the unsubdivided portion indicating connections to existing or future improvements.
- B. The following information shall be submitted:
  - 1. All existing subdivisions, streets and property lines of the land immediately adjoining the proposed subdivision.
  - 2. All existing streets between the subject property and the nearest existing arterial or collector streets.
  - 3. The name of the owners of all land immediately adjoining the proposed subdivision.
  - 4. How streets and alleys in the proposed subdivision may connect with existing or proposed streets and alleys in neighborhood.

- C. The name, if any, of the land division. The subdivision name must not duplicate or resemble the name of another subdivision in Linn County and shall be subject to approval by the Linn County Surveyor. Pre-approval of the subdivision name by Linn County Surveyor's Office is recommended.
- D. Date of the original submittal and of any subsequent revisions.
- E. North arrow.
- F. Scale of drawing.
- G. Names and addresses of owner or owners, subdivider, surveyor, and design engineer if applicable.
- H. The location, widths and names of all existing or platted streets or other public ways within or directly adjacent to the tract of railroad right-of-way, city boundaries, and other important features.
- I. The location on the site and in the adjoining streets or property for the following existing and proposed items:
  - 1. Sewers and water mains and private services.
  - 2. Invert elevations of sewers at points of proposed connections or adjacent manholes must also be shown.
  - 3. Culverts.
  - 4. Ditches and drain pipes.
  - 5. Electric, gas and telephone conduits.
- J. Contour lines having the following minimum intervals:
  - 1. One foot contour intervals for ground slopes less than 5%.
  - 2. Two foot contour intervals for ground slopes between 5% and 10%.
  - 3. Five foot contour levels for ground slopes exceeding 10%.
  - 4. The elevations of all control points which are used to determine the contours.
- K. Geo-tech reports as needed.
- L. Location and elevation of properties within the 100-year flood plain and other areas subject to flooding or ponding and areas subject to inundation from storm water overflow with approximate high water elevation.
- M. Location, width, direction and rate of flow at peak discharge of all water ways.
- N. Location of any wetlands identified on the City of Sweet Home Local Wetlands Inventory, locally known, or identified by some other means.
- O. Location of any required riparian zone identified by Sweet Home Municipal Code Chapter 17.72.
- P. Properties in the natural resource zone, must show natural features, such as rock outcroppings, wooded areas and preservable trees over 12 inches in diameter measured at 4½ feet from the ground.
- Q. Existing uses of the property and adjacent property within 100 feet including location of all existing structures to remain on the property.
- R. Known structures, landmarks, sites and areas of cultural, historic or archaeological significance.
  - 1. The City of Sweet Home historic sites listing and the State Historic Preservation Office shall be consulted if a historic site is identified.
  - 2. Sweet Home Municipal Code Title 15 rules for historic structures must be addressed.
- S. Zoning on and adjacent to the subject property.



- T. For all proposed streets, the following information must be shown:
1. Location;
  2. Total right-of-way width;
  3. Curb to curb width;
  4. Sidewalk;
  5. Beauty strip;
  6. Proposed name;
  7. Grade;
  8. Approximate radii or curves;
  9. Fire hydrants;
  10. Street lights;
  11. Stop signs;
  12. Location of post office boxes.
- U. The tentative plan shall be drawn to a standard engineer's scale where 1 inch equals 20 feet to 100 feet.
- V. Proposed signage.
- W. Proposed perimeter fencing.
- X. The relationship of all proposed streets to any existing or approved streets and proposed future streets in the transportation system plan.
- Y. Existing and proposed easements on the site, including the width and the purpose of the easements.
- Z. Existing easements on adjoining properties, including the width and purpose of the easements.
- AA. Information on the proposed lots must include the following:
1. The location of each lot,
  2. The dimensions and square footage of each lot, and
  3. Lot, block, tract, or parcel numbers.
- BB. Proposed uses for each lot.
- CC. Land to be deeded or dedicated for public purposes.
- DD. Statement indicating whether the property has an existing water right or permit. If so, the Certificate or permit number must be listed.
- EE. ODOT Rail approval for any proposed crossing or development within 300' of the railroad right-of-way.
- FF. The following additional information must be submitted with the tentative plan:
1. Total acreage of the parcel to be subdivided.
  2. The percent of land dedicated to the public, not including easements.
  3. All public improvements proposed to be installed, including:
    - a. The approximate timing of installation, and
    - b. The method of financing.
  4. Special improvements to be made by the developer and the approximate timing of such improvements are to be complete. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of these regulations, State laws and other applicable city ordinances.
- GG. Proposed services or other listed items may be on a separate map for clarity.

#### **§ 16.16.028 TENTATIVE PARTITION OR PARTITION REPLAT PLAN SUBMITTAL.**

All applications for a tentative partition approval must include a complete application form. In addition, three full size copies and one 8½" by 11" copy of a plan shall be submitted showing the following details. The tentative plan need not be a finished drawing but it shall show all pertinent information to scale and include the following information:

1. The location of each parcel.
2. The dimensions and square footage of each parcel.
3. Date of submittal, north arrow and scale of drawing.
4. Names and addresses of owner(s), surveyor, and design engineer as applicable.
5. The location, widths and names of all existing or platted streets or other public ways directly adjacent to the tract including railroad right-of-way, city boundaries, and other important features.
6. The location of City utilities adjacent to the property.
7. Location of land within 100-year flood plain and identified wetland areas.
8. Existing structures on the property.
9. Existing and proposed easements on the site, including the width and the purpose of the easements.
10. Land to be deeded or dedicated for public purposes.
11. Other information as requested by City staff to ensure conformance with Zoning Ordinance.

#### **§ 16.16.030 PROCEDURES.**

##### **A. Tentative subdivision and replat plans.**

##### **1. Notice.**

- a. Each notice of hearing authorized by this title shall be published in a newspaper of general circulation in the city at least ten days prior to the date of the hearing.
- b. A notice of hearing on a subdivision or replat shall be mailed to the applicant and to all owners of record of property on the most recent property tax assessment role available to the city within 100 feet of the subject property.
- c. A notice of hearing on a subdivision or replat shall be mailed to non-owner residents within 100 feet of the subject property.
- d. Notice shall be provided to the following city staff:
  - i. City Manager
  - ii. Police
  - iii. Finance
  - iv. Public Works.
- e. Notice shall also be provided to affected agencies as identified by City staff. ~~the following service agencies:~~
  - i. ~~Natural gas providers~~
  - ii. ~~Communications providers~~
  - iii. ~~Broadband providers~~
  - iv. ~~Power providers~~
  - v. ~~City of Sweet Home franchise holders~~

- ~~vi. United States Postal Service~~
- ~~vii. Linn County Planning~~
- ~~viii. Linn County Road Department~~
- ~~ix. Linn County Surveyor~~
- ~~x. Sweet Home School District 55~~
- ~~xi. Sweet Home Fire and Ambulance District~~
- ~~xii. ODOT Region 2 Access Development~~
- ~~xiii. ODOT District 4 Office~~

- f. Notice shall also be provided to any neighborhood or community organization which has requested notice from the city and whose boundaries include the site.
  - g. Notice distances will be measured from the exterior boundaries of the subject property for which the application request has been made.
  - h. The notice shall be mailed at least 20 days prior to the date of hearing.
  - i. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.
  - j. All notices of public hearings shall contain the following information:
    - i. Explain the nature of the application which could be approved;
    - ii. List of applicable criteria from this title and the comprehensive plan that apply to the application at issue;
    - iii. Set forth the street address or other easily understood geographic identifier;
    - iv. State the date, time and location of the hearing;
    - v. State that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
    - vi. Include the name and telephone number of a local government representative to contact for more information;
    - vii. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost;
    - viii. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost; and
    - ix. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
2. *Approval authority.* The Planning Commission shall have the authority to take action on a tentative subdivision or replat plan after holding a public

hearing in accordance with the procedures set forth in §16.16.030 of this chapter.

3. Approval of the tentative plan shall indicate approval of the final plat if there is no substantial change from the tentative plan as approved by the Planning Commission and if the subdivider complies with the requirements of this title and of the provisions of O.R.S. Chapter 92.
4. The notice of decision shall be mailed no more than five days after the decision has been finalized.

B. *Tentative partition plans.*

1. *Notice:*
  - a. A notice of a pending partition or replat shall be mailed to the applicant and to all owners of record of property on the most recent property tax assessment role available to the city within 100 feet of the subject property.
  - b. A notice of a pending partition or replat shall be mailed to non-owner residents within 100 feet of the subject property.
  - c. Notice shall be provided to the following city staff:
    - i. City Manager
    - ii. Police
    - iii. Finance
    - iv. Public works.
  - d. Notice shall also be provided to affected agencies as identified by City staff. ~~the following service agencies:~~
    - i. ~~Natural gas providers~~
    - ii. ~~Communications providers~~
    - iii. ~~Broadband providers~~
    - iv. ~~Power providers~~
    - v. ~~City of Sweet Home franchise holders~~
    - vi. ~~United States Postal Service~~
    - vii. ~~Linn County Planning~~
    - viii. ~~Linn County Road Department~~
    - ix. ~~Linn County Surveyor~~
    - x. ~~Sweet Home School District 55~~
    - xi. ~~Sweet Home Fire and Ambulance District~~
    - xii. ~~ODOT Region 2 Access Development~~
    - xiii. ~~ODOT District 4 Office.~~
  - e. Notice shall also be provided to any neighborhood or community organization which has requested notice from the city and whose boundaries include the site.
  - f. Notice distances will be measured from the exterior boundaries of the subject property for which the application request has been made.
  - g. The notice shall be mailed at least 20 days prior to the date of the decision.
  - h. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the decision.

- i. Notices shall contain the following information:
  - i. Explain the nature of the application and which could be approved;
  - ii. List of applicable criteria from this title and the Comprehensive Plan that apply to the application at issue;
  - iii. Set forth the street address or other easily understood geographic identifier;
  - iv. State the date for submittal of testimony on the request;
  - v. State that the failure of an issue to be raised in writing within the specified time frame, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals based on that issue;
  - vi. Include the name and telephone number of a local government representative to contact for more information;
  - vii. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost;
  - viii. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost; and
  - ix. Include a general explanation of the requirements for submission of testimony.
2. *Decision.* The City Manager, or designee, shall take action on the tentative partition plan as submitted, or as it may be modified, if all decision criteria can be met. The notice of decision shall be mailed no more than five days after the decision has been finalized.
3. The City Manager, or designee, may refer the request to the Planning Commission. Re-notification of all surrounding property owners is required.

**§ 16.16.040 TENTATIVE SUBDIVISION OR SUBDIVISION REPLAT ~~OR PARTITION,~~  
PARTITION REPLAT PLAN REVIEW CRITERIA.**

Approval of tentative plans will be granted if the city finds that the proposal substantially conforms to the applicable provisions of Sweet Home Municipal Code Titles 16 and 17 and the comprehensive plan. The following criteria apply:

- A. The information required by this Chapter has been provided.
- B. The design and development standards of Sweet Home Municipal Code, Titles 16 and 17 and the comprehensive plan, have been met where applicable.
- C. Development of any remainder of the property under the same ownership can be accomplished in accordance with this code.
- D. Adjoining land can be developed or is provided access that will allow its development in accordance with all applicable city codes.
- E. The proposed street plan provides for the circulation of traffic and meets the street design standards of this title.

- F. The location and design allows development to be conveniently served by public utilities.
- G. Any special features of the site, including topography, floodplains, wetlands, vegetation, or historic sites, have been adequately considered, and protected if required by city, state or federal law.
- H. If the tentative plan provides for development in more than one phase, the Planning Commission must make findings and conclusions that such phasing is necessary due to the nature of the development.
- ~~I. An application for residential development can be denied based on a lack of school capacity if:~~
  - ~~1. The city has been informed by the Sweet Home School District that their adopted school facility plan has identified the lack of school capacity; and~~
  - ~~2. The city has considered option to address school capacity; and~~
  - ~~3. The capacity of a school facility is not the basis for a development moratorium under O.R.S. 197.505 to 197.540.~~
  - ~~4. This section does not confer any power to the school district to declare a building moratorium.~~

#### **§ 16.16.040 TENTATIVE PARTITION OR PARTITION REPLAT PLAN REVIEW CRITERIA.**

Approval of tentative partition plans will be granted if the city finds that the proposal substantially conforms to the applicable provisions of Sweet Home Municipal Code Titles 16 and 17 and the comprehensive plan. The following criteria apply:

- A. The information required by this Chapter has been provided.
- B. The parcels comply with the minimum area and dimension requirements of the underlying zone design and design requirements of this Chapter.
- C. The parcels retain access to a public street or are served by an approved access easement.
- D. Necessary public facilities are either available or may be extended to the parcels.

#### **§ 16.16.050 TENTATIVE SUBDIVISION, SUBDIVISION REPLAT OR PARTITION, PARTITION REPLAT PLAN CONDITIONS OF APPROVAL.**

- A. The approving authority may attach conditions of approval of a tentative subdivision or partition plan to ensure that the proposal will conform to the applicable review criteria.
- B. Conditions of approval may include, but are not limited to, the following:
  - 1. Street improvements as required to assure that transportation facilities are adequate for the proposed development, both on and off of the subject property.
  - 2. Storm water drainage plans.
  - 3. Fencing.
  - 4. Landscaping.
  - 5. Public land dedication.

#### **§ 16.16.060 APPEAL.**

- A. An appeal of an administrative decision concerning this title will be made to the Planning Commission. Appeals of a Planning Commission decision will be made to the City Council.
- B. An appeal must be filed within 21 days of the date of the decision.
- C. The established fee will be paid upon filing of an appeal.
- D. At an appeals' hearing, the ordinances and criteria must be stated, and the applicant or appellant must address these criteria with sufficient specificity to allow decision makers an opportunity to respond to the issue.
- E. Upon appeal, the appellate authority must consider the record of the action or ruling which resulted in appeal.
- F. An aggrieved party in a proceeding may appeal the City Council decision to the Land Use Board of Appeals (LUBA).

**Note:** *Subsequent Chapters are renumbered.*

#### **§ 16.16.070 DEVELOPMENT PHASING.**

Phasing shall be permitted with no limit to the number of phases. The initial phase of a subdivision plat shall be recorded within two years of the date of final approval, and the final phase shall be recorded within 10 years of the date of final approval. A tentative subdivision plan may provide for platting in as many as four phases. The tentative plan must show each phase and be accompanied by proposed time limitations for approval of the final plat for each phase. Each phase is independent from the other phases and must be completed within the following time frame, or earlier. Time limitations for the various phases must meet the following requirements:

- A. Phase 1 Final Plat shall be approved within 12 months of preliminary approval.
- B. Phase 2 Final Plat shall be approved within 30 months of preliminary approval.
- C. Phase 3 Final Plat shall be approved within 42 months of preliminary approval.
- D. Phase 4 Final Plant shall be approved within 60 months of the preliminary approval.

**Note:** *Chapter 16.16.080 and 16.16.090 also required modification to ensure consistency with revisions to Chapter 16.16.070.*

#### **§ 16.16.080 DURATION OF TENTATIVE PLAN APPROVAL.**

- A. Approval of a The tentative plan shall be valid for 12 24 months from the date of approval of the tentative plan, provided that if the approved tentative plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the limitations of § 16.16.070 of this Chapter.
- B. If any time limitation is exceeded, approval of the tentative subdivision plan, or of any un-platted phase of the tentative subdivision plan shall be void. Any subsequent proposal by the applicant for division of the property shall require a new application.

#### **§ 16.16.090 EXTENSIONS TO TENTATIVE PLAN APPROVAL.**

An applicant may request an extension of a tentative plan approval. or extension of the preliminary approval with respect to the un-platted phases. Such requests shall be

considered an administrative action, and shall be submitted to the city in writing, stating the reason why an extension should be granted.

- A. The ~~Planning Commission~~ Planning Official may grant an extension of up to 12 months of a tentative subdivision plan approval, ~~or if the tentative plan provides for phased development, an extension of up to 12 months of a tentative plan approval with respect to the phase then being developed,~~ if it is determined that a change of conditions, for which the applicant was not responsible, would prevent the applicant from obtaining final plat approval within the original time limitation.
- B. Further extensions of ~~up to~~ one year each, but not to exceed a total of ten years from date of original approval, as per O.R.S. 92.040(3), may be granted by the Planning Commission if special circumstances are shown by the applicant.

## **CHAPTER 16.20: FINAL PLAT**

16.20.010 Procedures.

16.20.020 Final plat review criteria.

16.20.030 Final plat submittal and filing.

~~16.20.040 Filing of final plat.~~

### **§ 16.20.010 PROCEDURES.**

A. *Final subdivision plat.*

1. Within one year after approval of the tentative plan, the subdivider shall prepare a final plat in conformance with the approved tentative plan, the provisions of this title and the provisions of O.R.S. Chapter 92.
2. A draft copy of the final plat is required for review by the City Planner and City Engineering Division.
  - a. City staff may make checks in the field to verify that the plat is sufficiently correct on the ground and they may enter the property for this purpose.
  - b. If it is determined that there has not been full conformity, the City Engineer and City Planner shall advise the subdivider of the changes or additions that must be made and afford the subdivider an opportunity to make such changes or additions.
  - c. The City Engineer and City Planner shall review the plat in accordance with Title 16 and the Planning Commission approval.
3. The person submitting the final plat must concurrently submit a copy of the plat to the Linn County Surveyor. The County Surveyor shall examine the plat for compliance with requirements for accuracy and completeness and shall collect such fees for this purpose as are provided for by state law.
4. If it is determined that full conformity has been made, the City Engineer and City Planner shall sign the plat. ~~advise the Chairperson of the Planning Commission.~~
  - a. ~~The Chairperson of the Planning Commission may then sign the plat without further action by the Planning Commission.~~
  - i. ~~The plat will be reviewed by the Planning Commission Chairperson for compliance with the Planning Commission approval of the tentative plan.~~



- ~~ii. If the plat is signed without further review by the Planning Commission, the action shall be reported to the Planning Commission at the next regular meeting.~~
  - ~~b. The Planning Commission Chairperson may elect to require the applicant to submit the plat to the Planning Commission for further review, based on non-conformance with the original approval.~~
    - ~~i. If the Chairperson chooses to require the final plat be brought back to the Planning Commission, the subdivider must submit a subdivision application with information supporting the changes made since the original approval and pay the fee for a subdivision.~~
    - ~~ii. A new hearing will be scheduled and held in compliance with Sweet Home Municipal Code Chapter 17.12.~~
- 5. Approval of a final plat shall not occur until one of the following conditions has been met:
  - a. All required infrastructure has been built and approved by the city;  
or
  - b. Performance guarantees are in place for all required infrastructure;  
or
  - c. A combination of the above has been approved by the city.
- 6. When the city has approved all streets, water and sewer main lines, parks, drainage ways, or other dedication for which the city will have responsibility for maintenance, the following must be provided:
  - a. The city must be supplied all required "as-built" construction documents and verifications for all constructed infrastructure. As-built submittal shall be on good quality, 5 mil mylar.
  - b. For all infrastructure built, a warranty guarantee, as determined by the city, must be in place.
- 7. When not fully constructed, performance guarantees have been approved by the city, and are in place, as per Sweet Home Municipal Code Chapter 16.24:
  - a. All work covered by a performance guarantee must be completed within one year of approval of the final plat.
  - b. Upon completion of work covered by a performance guarantee, as-built construction documents and verifications must be supplied to the city.
- 8. Approval of a final plat shall not constitute or effect an acceptance by the city of any street, recreation area, drainage way, area reserved for water and sewer line, or other dedication shown on the plat.
- 9. Prior to recording of the final plat, the subdivider must apply for approval of all public officials, as specified in O.R.S. 92. Signatures on the final plat by a majority of the Board of County Commissioners shall constitute approval of the plat by that Board.
- 10. The subdivider shall submit, in a timely manner, the approved final plat to the Office of the County Clerk and have it recorded.

11. An exact copy of the final plat as approved by the city and submitted to Linn County shall be submitted to the city.
  - a. The exact copy shall be on good quality, 5 mil mylar.
  - b. The copies shall be identified as an exact copy of the plat by the engineer or surveyor who caused the plat to be made as follows: "I hereby certify this to be an exact copy of the original plat."
- B. *Final partition plat.*
  1. Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of this title and the provisions of O. R. S. Chapter 92.
  2. A draft copy of the final plat is required for review by the City Planner and City Engineering Division.
    - a. City staff may make checks in the field to verify that the plat is sufficiently correct on the ground and they may enter the property for this purpose.
    - b. If it is determined that there has not been full conformity, the City Engineer and City Planner shall advise the subdivider of the changes or additions that must be made and afford the subdivider an opportunity to make such changes or additions.
    - c. The City Engineer and City Planner shall review the plat in accordance with Title 16 and the city's approval.
  3. The person submitting the final plat must concurrently submit a copy of the plat to the Linn County Surveyor. The County Surveyor shall examine the plat for compliance with requirements for accuracy and completeness and shall collect such fees for this purpose as are provided for by state law.
  4. If it is determined that full conformity has been made, the City Engineer and City Planner shall advise the Public Works Director and the City Manager, or designees.
  5. The City Manager and the Public Works Director, or their designees, may then sign the plat without further action.
  6. All dedications must be built and warranty guarantees in place.

#### **§ 16.20.020 FINAL PLAT REVIEW CRITERIA.**

Approval of a final subdivision plat or partition plat by City staff will be granted if the final plat has met the following criteria:

- A. The final plat is in substantial conformance with the tentative plan.
- B. Conditions of approval attached to the tentative plan have been satisfied.
- C. All required improvements have been constructed and approved, or performance guarantees are in place, as required by this title.

#### **§ 16.20.030 FINAL PLAT SUBMITTAL AND FILING.**

A partition or subdivision final plat shall conform to provisions of ORS Chapter 92 and applicable requirements of the Linn County Surveyor. ~~must include the following information:~~

- A. ~~The date, scale, north arrow, legend, significant natural features and other features, such as highways and railroad right-of-way.~~
- B. ~~Legal description of the tract boundaries.~~
- C. ~~Name and address of the owners and surveyor.~~
- D. ~~Reference points of existing surveys identified, related to the Plat by distances and bearings and referenced to a field book or map as follows: stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land division.~~
- E. ~~Adjoining corners of adjoining subdivisions or existing surveys.~~
- F. ~~City boundary lines when crossing or adjacent to the land division.~~
- G. ~~All permanent monuments within the subdivision.~~
- H. ~~National Geodetic Survey Control points as recorded in the County Surveyor's office.~~
- I. ~~Description and "ties" to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred.~~
- J. ~~The location and width of streets and easements intercepting the boundaries of the tract.~~
- K. ~~The 100-year flood plain.~~
- L. ~~Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings for tract, lot, and boundaries and street bearings shall be shown to the nearest second with basis of bearings. All distances shall be shown to the nearest one hundredth of a foot.~~
- M. ~~The widths of the following:~~
  - 1. ~~Any portion of streets being dedicated.~~
  - 2. ~~All existing rights of way. The width of each side of the center line.~~
  - 3. ~~All easements.~~
- N. ~~All covenants or restricted areas are identified and noted as required.~~
- O. ~~For streets on curvature, curve data shall be based on the street center line and, in addition to the center line dimensions, the radius, chord distance, bearing, and central angle shall be indicated.~~
- P. ~~Streets held for private use shall be clearly indicated on the final plat and all reservations, easements, or restrictions relating to such private streets shall be indicated.~~
- Q. ~~Public utility and private easements shall be clearly identified.~~
  - 1. ~~If already on record, their recorded reference information must be identified.~~
  - 2. ~~Where possible, the bearing, and sufficient ties to locate the easement with respect to the land division, shall be shown.~~
  - 3. ~~If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication. The purposes of easements shall also be identified.~~
- R. ~~Lot numbers shall begin with the number "1" and continue consecutively through the subdivision.~~
- S. ~~No block numbers or letters will be used unless the subdivision is a continued phase of a previously recorded subdivision of the same name that has previously used block numbers or letters.~~

- ~~T. Identification of land to be dedicated for any purpose, public or private, as a "Tract" to distinguish it from lots or parcels intended for sale. The following phrasing shall be used when identifying open space dedications:~~
- ~~1. "Common Open Space" shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowners association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.~~
  - ~~2. "Public Open Space" shall be used when identifying those parcels of land dedicated to the city for open space purposes.~~
  - ~~3. "Open Space Easement" shall be used to identify that portion of a lot, or lots that have established an open space easement agreement with the city.~~
- ~~U. Explanations of all common improvements or special standards required as conditions of approval of the tentative plan of a subdivision or partition shall be recorded and referenced on the subdivision or partition final plat. These shall be properly referenced in the owner's certificates of dedication.~~
- ~~1. The following certificates, which may be combined where appropriate, must be present:~~
  - ~~2. A certificate signed by the City Manager and Public Works Director, or their designees, certifying city approval.~~
  - ~~3. For subdivisions only, an additional certificate signed by the Planning Commission Chairperson certifying city approval.~~
  - ~~4. A certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.~~
  - ~~5. A certificate signed and acknowledged as above, dedicating to the public all land shown on the final plat intended for public access, use, or benefit.~~
  - ~~6. A certificate signed by the surveyor responsible for the survey and final plat, which shall include the surveyor's Oregon Registered Professional Land Surveyor seal, and attesting that applicable requirements of city, state and county have been met, and the certificate must be signed by the Linn County Surveyor.~~
  - ~~7. Other certifications as appropriate.~~
- ~~V. All signatures on the original subdivision or partition plat must be in permanent black ink.~~
- ~~W. Filing of separate legal documents to achieve any of the above requirements may be permitted by the City Planner when it can be shown that placing such information on the final plat is not required to achieve the purposes of this code. A description or reference to any other restrictions attached to the subdivision approval shall also be noted on the city copy.~~
- ~~X. Supplementary information.~~
- ~~1. A copy of any deed restrictions.~~
  - ~~2. A copy of any dedication requiring separate documents.~~
  - ~~3. Legal documents conveying property to the city.~~

4. ~~Financial assurances for all required improvements as required by Sweet Home Municipal Code Chapter 16.24.~~
5. ~~Boundary and lot closure computations and total area of each lot, parcel, and open space dedication, in square feet or acres.~~
6. ~~Current copy of a title report.~~
- Z. ~~For subdivisions, all monumentation shall comply with the standards established in O.R.S. Chapter 92.~~
  1. ~~Witness corners may be set when it is impractical or impossible to set a monument in its true position providing course and distance is given to the true position.~~
  2. ~~All monuments shall be clearly identified with the surveyor's name or registration number.~~
  3. ~~The intersection of all street centerline's shall be monumented according to state specifications.~~

#### **~~§ 16.20.040 FILING OF FINAL PLAT.~~**

- A. ~~The subdivider shall submit the final plat for signatures of all public officials required by this title and O.R.S. Chapter 92.~~
- B. ~~Approval of the final plat shall be null and void if the plat is not recorded within 60 days after the date of the last required signature has been obtained.~~
- C. ~~Approval of the final plat shall be null and void if the plat is not recorded within 90 days after the date of signature by the City Manager.~~
- D. ~~The final plat must also be submitted to the State of Oregon Water Resources Department if a water right or permit exists on the subject property.~~

### **CHAPTER 16.24: IMPROVEMENTS**

- 16.24.010 Agreement for improvements.
- 16.24.020 Developer's guarantee.
- 16.24.030 Procedures.
- 16.24.040 Specifications.
- 16.24.050 Improvements in land divisions.

#### **§ 16.24.010 AGREEMENT FOR IMPROVEMENTS.**

Before Planning Commission approval is certified on the final plat of a subdivision, one of the following conditions or a combination thereof must be met:

- A. The subdivider shall either install required improvements and/or make needed repairs.
  1. Repair of any existing city owned and operated streets, storm system, or underground utilities damaged in the development of the subdivision shall be a part of any improvement agreement.
  2. The agreement shall provide for a reasonable amount of time for the repair of streets.
- B. The subdivider may enter into an agreement with the city, allowing one year for the required improvements and repairs to be completed.

1. The agreement shall provide that if the work is not completed within the period specified, the city may complete the work and recover the full cost and expense thereof from the subdivider.
  2. A performance guarantee as provided for in Sweet Home Municipal Code Chapter 16.24 shall be required.
  3. The agreement may provide for the construction of the improvements and/or for an extension of time under specific conditions. For all extension, cost estimates must be updated, and if necessary, the agreement updated based on the new cost estimates.
- C. The subdivider must have all or part of the improvements constructed under a Local Improvement District procedure as set forth in Sweet Home Municipal Code Chapter 3.16.

**§ 16.24.020 DEVELOPER'S GUARANTEE.**

- A. When a subdivider chooses to file an agreement and a performance guarantee in lieu of constructing the required improvements prior to platting to assure full and faithful performance of the required work, one of the following shall apply:
1. A surety bond shall be obtained in an amount fixed by the Public Works Director, executed by a surety company authorized to transact business in the State of Oregon in a form approved by the Finance Director and the City Attorney.
  2. At the discretion of the Public Works Director, in lieu of a surety bond, the subdivider may provide a certification by a bank or other reputable lending institution that money or a note, in an amount fixed by the Public Works Director, is being held in the subdivider and city's name, to cover the cost of the improvements and incidental expenses. The money held by the bank may to be released only upon authorization of the Public Works Director.
- B. No surety will be accepted until construction plans are completed and approved by the city.
- C. Such assurance of full and faithful performance shall be for a sum determined by the Public Works Director as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses. This sum shall be ~~115%~~ 125% of the city's estimate of costs or an actual construction contract amount, whichever is greater.
- D. If the subdivider fails to carry out provisions of the agreement and the city has un-reimbursed costs or expenses resulting from such failure, the city shall call on the performance guarantee for reimbursement.
1. If the amount of the performance guarantee exceeds the cost and expense incurred, the remainder shall be released.
  2. If the amount of the performance guarantee or cash deposit is less than the cost and expense incurred, the subdivider shall be liable to the city for the difference.
- E. After completion of work covered in the performance guarantee, a warranty guarantee, as determined by the city, must be in place.

- F. For sidewalk construction deferrals, a performance guarantee in the amount of ~~115%~~ 125% of the cost of construction is required. After completion of work covered in the performance guarantee, a warranty guarantee, as determined by the city, must be in place.

#### **§ 16.24.030 PROCEDURES.**

In addition to other requirements, improvements installed by a subdivider, either as a requirement of a condition of approval, this title, or at the developers option, shall conform to the requirements of this title and all other improvement standards and specifications adopted by the city. All improvements shall be installed in accordance with the following procedure:

- A. Improvement work shall not be commenced until plans have been reviewed for adequacy and approved by the city.
- B. Improvement work shall not commence until all city and state permits have been issued.
  - 1. All work on public infrastructure will require a public works permit.
  - 2. All work on what will remain private property will require a permit from the building inspection program.
- C. If work is discontinued for any reason for over 180 days or as otherwise allowed by city permits, it shall not be resumed until after the city is notified and any required reinstatement actions are completed.
- D. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer and/or Building Official, depending on the permit requirements.
- E. A map showing public improvements as built shall be filed with the city upon completion of the improvements.

#### **§ 16.24.040 SPECIFICATIONS.**

The City of Sweet Home specifications for improvements include all of the following:

- A. *Sweet Home Policy and Standards Manual.*
- B. *Oregon Specifications for Construction standards.*
- C. *International Fire Code standards.*
- D. *American Water Works Association standards.*
- E. *American Public Works Association standards.*
- F. ODOT standards.
- G. DEQ standards.
- H. EPA standards.
- I. Army Corp of Engineer standards.

#### **§ 16.24.050 IMPROVEMENTS IN LAND DIVISIONS.**

The following improvements shall be installed at the expense of the subdivider:

- A. Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed and tested prior to the surfacing of the streets.
  - 1. Stubs for service connections for underground utilities and sanitary sewers shall be placed to avoid the need to disturb street improvements when service connections are made.

2. Franchise utility services and distribution conduits shall be constructed underground providing service to each lot.
- B. *Water system.* Fire hydrants and water lines serving each lot in the land division and connecting the land division to city mains shall be installed.
- C. *Sanitary sewer system.* Sanitary sewers serving each lot in the land division and connecting the land division to city mains shall be installed.
- D. *Storm water and surface drainage facilities.* Grading shall be performed and drainage facilities shall be provided connecting the area drainage to drainage ways or storm sewers outside of the subject property.
- E. *Streets.* Public streets, including alleys, within the subject property, and public streets adjacent but only partially within the subject property, shall be improved.
  1. Improvements shall be made to the paving line of existing streets which intersect with streets in the land division if adequate travel lanes exist. If the travel area does not meet city standards, the improvement will include adequate travel width to provide two way traffic.
  2. Catch basins shall be installed and connected to the storm water system.
  3. Street center lines, crosswalks, bikeways, and other traffic-control symbols shall be marked.
  4. Street lights shall be installed per city standards.
  5. If parking is on only one side of the street, or if there is a collector or arterial street involved, signage and striping shall be shown on the plans.
- F. *Sidewalks, pedestrian and bicycle routes.* Sidewalks, pedestrian, and bicycle routes shall be constructed to meet city standards. Sidewalk construction may be deferred up to one year. If so, a performance guarantee is required.
- G. *Street name signs.* Traffic-control devices and street name signs, designed to city specifications, shall be installed at all street intersections and other locations as required by the city.

## **CHAPTER 16.28: EXCEPTIONS AND VARIANCES**

16.28.010 Exceptions in a planned unit development.

16.28.020 Variances.

16.28.030 Criteria used in granting a variance.

### **§ 16.28.010 EXCEPTIONS IN A PLANNED UNIT DEVELOPMENT.**

The standards of this title may be modified by the decision making authority in the case of a planned development in compliance with Sweet Home Municipal Code Chapter 17.48. Subdivisions or partitions shall be required to meet the standards of O.R.S. Chapter 92 and the provisions for final plats and for improvement as specified by this title.

### **§ 16.28.020 VARIANCES.**

When necessary, the Planning Commission may authorize variances to the requirements of this title. The variance for this title will utilize the process for a variance in Sweet Home Municipal Code Chapter 17.88.

### **§ 16.28.030 CRITERIA USED IN GRANTING A VARIANCE.**



Before a variance may be granted, the Planning Commission shall determine that all of the following criteria can be satisfied:

- A. Special circumstances apply to the property which do not apply generally to other properties in the same vicinity, including, but not limited to the following:
  - 1. Lot size or shape,
  - 2. Topography, or
  - 3. Other circumstances over which the owners of property have had no control.
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners for other property in the same vicinity possess.
- C. The variance would not be detrimental to the purposes of this title, or to property in the same vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.
- D. The variance requested is the minimum variance which would alleviate the identified special circumstances.

## **CHAPTER 16.32: PROPERTY LINE ADJUSTMENT**

16.32.010 Procedure.

16.32.020 Review criteria.

16.32.030 Submittal requirements.

16.32.040 Recording requirements.

16.32.050 Recording requirements for a property line adjustment replat.

### **§ 16.32.010 PROCEDURE.**

- A. *Referral.* Upon receipt of a completed application for a property line adjustment, the City Planner shall furnish one copy of the application for review by the City Manager and City Engineer. The City Manager and City Engineer shall have ten days to review the application materials and provide comments to the City Planner.
- B. *Property line adjustment - replat.* Within an existing subdivision, a property line adjustment will be considered as a replat. Notice will be as per Sweet Home Municipal Code Chapter 16.16.
- C. *Approval authority.* The City Planner shall have the authority to take action on a request for a property line adjustment.

### **§ 16.32.020 REVIEW CRITERIA.**

The City Planner will approve, approve with conditions, or deny the request for a property line adjustment based on the following criteria:

- A. The property line adjustment does not create a new lot or a ~~land-locked~~ parcel.
- B. The adjusted properties are not reduced below the minimum standards of the zoning district and do not otherwise violate standards of this title or Title 17 or any applicable building code.
- C. The adjusted properties do not encroach into required yard setbacks, existing buildings or easements.

- D. The adjusted properties comply with any previous requirements or conditions imposed on the property in previous land use decisions or permitting processes.
- E. ~~A property line adjustment within a subdivision or partition plat will conform with O.R.S. 92.190. If a lot or parcel is nonconforming to any City standard, it shall not be made less conforming by a property line adjustment.~~
- F. ~~Lot line adjustments shall be surveyed and monumented as required by O.R.S. Chapter 92.~~

#### **§ 16.32.030 SUBMITTAL REQUIREMENTS.**

An application for a property line adjustment shall be signed by all property owners involved in the proposed adjustment, and a map showing the following details shall be submitted:

- A. The scale, north arrow and date of the map.
- B. The Linn County Tax Map and Tax Lot number identifying each parcel involved in the adjustment.
- C. The location, width and purpose of any existing or proposed easements.
- D. Existing and proposed driveway accesses to a public right-of-way.
- E. The current and proposed property lines for each subject property.
- F. The existing and proposed dimensions of each property and the lot area of each property.
- G. All existing structures on the properties.
- H. Existing and proposed utility services and stub locations. ~~including the following:~~
  - 1. ~~Water;~~
  - 2. ~~Sanitary sewer;~~
  - 3. ~~Storm and surface water drainage;~~
  - 4. ~~Power;~~
  - 5. ~~Gas;~~
  - 6. ~~Telephone;~~
  - 7. ~~Cable; and~~
  - 8. ~~Other utilities.~~
- I. Adjacent public right-of-ways, including the width of each.
- J. ~~The legal description for each subject property involved in the adjustment describing their new boundaries.~~

#### **§ 16.32.040 RECORDING REQUIREMENTS.**

Documents must conform with the survey for the subject properties in accordance with O.R.S. Chapter 92 and shall be recorded with Linn County. ~~A property line adjustment deed shall contain the following:~~

- A. ~~The names of the parties;~~
- B. ~~The description of the adjusted line;~~
- C. ~~References to original recorded documents; and~~
- D. ~~Signatures of all parties with proper acknowledgment.~~

#### **§ 16.32.050 RECORDING REQUIREMENTS FOR A PROPERTY LINE ADJUSTMENT REPLAT.**

A property line adjustment replat will meet all requirements for a replat as per O.R.S. 92.190.

**City of Sweet Home Development Code Update Project 2017**

**Title 17 – Chapters 17.04-17.72 DRAFT**

**PLANNING COMMISSION REVIEW DRAFT**

**I. BACKGROUND**

The MorganCPS team completed an audit of the Subdivision Ordinance (Title 16) and the Zoning Ordinance (Title 17). The Sweet Home Planning Commission, and City staff, reviewed the audit and identified Chapters and sections requiring revision. The purpose of this memorandum is to provide suggested changes in the Title 17 Ordinance language consistent with the Commission's objectives.

**II. REVISIONS AND NOTES**

This memorandum incorporates three types of revisions:

1. Language to be Removed – Suggested language to be eliminated ~~will be stricken~~.
2. New Language – Suggested new language will be underlined.
3. Commentary – Commentary as part of the revisions *will be in italics*. **Note:** some title headings are currently italicized. These will remain and do not reflect additional commentary.

Some additional notes:

- These revisions follow the original audit report as well as suggestions compiled through various workshops and meetings.
- Some of the workshop/meeting comments required a re-examination of the original analysis. This resulted in some additional changes which are so noted with new language, and where applicable, *commentary*.
- The memorandum includes the entire Title language of Chapters 17.04 to 17.72 so that the changes can be viewed in context.
- The revisions do not address larger issues of combining Titles (Title 16 and Title 17) nor formatting issues related to organization. These will happen in the last part of this project.
- Instead of attempting to “fix” all the headings, chapter contents, section numbers and associated renumbering at once, these changes will wait until the document is in its final form. For this reason, some referenced Chapters may simply be referenced as “Chapter 17.XX”.

**City of Sweet Home Development Code Update Project 2017**  
**Title 17 – Chapters 17.04-17.72 DRAFT**  
**PLANNING COMMISSION REVIEW DRAFT**

**III. TITLE 17**

Chapter

- 17.04. TITLE, PURPOSE AND DEFINITIONS
- 17.08. GENERAL PROVISIONS
- 17.12. ADMINISTRATION AND ENFORCEMENT
- 17.16. OFFICIAL CITY COMPREHENSIVE PLAN
- 17.20. ESTABLISHMENT OF ZONES
- 17.24. R-1 RESIDENTIAL LOW-DENSITY ZONE
- 17.28. R-2 RESIDENTIAL HIGH-DENSITY ZONE
- 17.30. R-3 MEDIUM DENSITY RESIDENTIAL ZONE
- 17.31. R-4 RESIDENTIAL MIXED USE ZONE
- 17.32. C-1 COMMERCIAL CENTRAL ZONE
- 17.36. C-2 COMMERCIAL HIGHWAY ZONE
- 17.40. C-3 COMMERCIAL NEIGHBORHOOD ZONE
- 17.44. M INDUSTRIAL ZONE
- 17.48. PD PLANNED DEVELOPMENT ZONE
- 17.52. MI MOBILE HOME INFILL OVERLAY ZONE
- 17.60. RC RECREATION COMMERCIAL ZONE
- 17.68. R/M(T) RESIDENTIAL INDUSTRIAL TRANSITIONAL
- 17.72. NR NATURAL RESOURCES

**CHAPTER 17.04: TITLE, PURPOSE AND DEFINITIONS**

Section

- 17.04.010 Title
- 17.04.020 Purpose
- 17.04.030 Definitions

§ 17.04.010 TITLE.

## City of Sweet Home Development Code Update Project 2017

### Title 17 – Chapters 17.04-17.72 DRAFT

#### PLANNING COMMISSION REVIEW DRAFT

Title 17 of the Municipal Code shall be known as the “~~Zoning Ordinance~~Development Code” of the City of Sweet Home.

#### § 17.04.020 PURPOSE.

The purpose of the ~~Zoning Ordinance~~ Development Code is to promote local health, safety, welfare and economy and to assist in carrying out the general policies of the Sweet Home Comprehensive Plan. The ~~Zoning Ordinance~~ Development Code assists in implementing the statewide planning goals and guidelines.

#### § 17.04.030 DEFINITIONS.

- A. All words used in the present tense include the future tense.
- B. All words in the plural include the singular, and all words used in the singular include the plural unless the context clearly indicates to the contrary.
- C. All words used in the masculine gender include the feminine gender.
- D. The word "shall" is mandatory and the word "may" is permissive.
- E. The word "structure" includes the word "building".
- F. The phrase "used for" includes the phrases "arranged for ", "designed for", "intended for", and "occupied for".
- G. The words "land", "property", "site", "lot", "parcel" and "premise" are used interchangeably unless the context clearly indicates to the contrary.
- H. The words "proposal", "application", and "request" are used interchangeably unless the context clearly indicates to the contrary.
- I. The word "lot" includes the word "parcel" unless the context clearly indicates to the contrary.
- J. Where words are not defined in this Code, the following sources shall be consulted: State statute, and any dictionary of common usage, all of which shall be interpreted by context.

As used in this title, the following words and phrases shall mean:

**ABUT.** Adjoining with a common boundary line or contiguous to each other.

**City of Sweet Home Development Code Update Project 2017**

**Title 17 – Chapters 17.04-17.72 DRAFT**

**PLANNING COMMISSION REVIEW DRAFT**

**ACCESS.** The place, way or means by which pedestrians, bicycles and motor vehicles enter and leave property.

**ACCESSORY DWELLING.** A complete separate residential unit, including facilities for cooking and sanitation, provided either as a separate structure on the same lot or as part of a primary single-family dwelling.

**ACCESSORY STRUCTURE OR USE.** A structure or use incidental, appropriate and subordinate to the main use of a property and located on the same lot as the main use.

**ADJACENT.** Near or close.

**ALLEY.** A public way which affords only a secondary means of access to property.

**ALTER.** Any change, addition or modification in the construction of a building or structure.

**AMUSEMENT OR RECREATION SERVICES.** Establishments engaged in providing entertainment for a fee and including such activities as, but not limited to, dance halls; studios; theatrical productions; bands, orchestras and other musical entertainment; commercial facilities such as arenas, rings, rinks and racetracks; public golf courses; coin operated devices; amusement parks; membership sports and health clubs; swimming pools; and expositions.

**APARTMENT.** A dwelling unit in a multiple-family building.

**APPROACH or DRIVEWAY APPROACH.** That portion of land which accesses onto a public or private street.

**AUTOMOBILE WRECKING YARD.** An area used for the dismantling or disassembling of motor vehicles, machinery or trailers, or the storage or sale of dismantled, obsolete or wrecked motor vehicles, machinery or trailers or their parts, or the storage of motor vehicles unable to be moved under the power of the vehicle.

**BANKFULL STAGE.** The elevation at which water overflows the natural banks of the stream.

**BASE FLOOD.** Inundation during periods of higher than normal stream flow, high winds or combinations thereof, that has a 1% chance of being equaled or exceeded in any given year. Also referred to as the 100 YEAR FLOOD.

**BED AND BREAKFAST ESTABLISHMENT.** A single-family dwelling or part thereof, where lodging with meals are provided, for compensation, to transient guests ~~for less than 15 days at a time~~. Such an establishment shall be occupied by the proprietor ~~and contain not more than five guest rooms~~.

**BIOENGINEERING.** A method of erosion control and landscape restoration using live plants, such as willows.

**City of Sweet Home Development Code Update Project 2017**

**Title 17 – Chapters 17.04-17.72 DRAFT**

**PLANNING COMMISSION REVIEW DRAFT**

**BOARDING OR ROOMING HOUSE.** A dwelling or part thereof, other than a hotel or motel, where lodging with or without meals are provided, for compensation, for three or more persons on a daily basis.

**BUILDING.** A structure built or assembled for the support, shelter or enclosure of persons, animals, chattels or property of any kind. A structure not requiring a building permit and not exceeding a height of two feet above average grade is not to be considered a building.

**BUILDING COVERAGE.** The maximum percent of a lot that may be covered with all buildings on the lot and based on the ground floor area.

**BUILDING ENVELOPE.** The land area, outside of all required setbacks, which is available for construction of a primary structure on a particular property.

**BUILDING LINE.** A line parallel to the front lot line and passing through the most forward point or plane of a building.

**BUILDING, PRIMARY.** A building within which is conducted the principal use permitted on the lot, as provided in this title.

**BUILDING OFFICIAL.** The Building Official of the City of Sweet Home, Oregon.

**CITY.** The City of Sweet Home, Oregon.

**CITY COUNCIL.** The City Council of the City of Sweet Home, Oregon.

**CITY MANAGER.** The City Manager of the City of Sweet Home or designee.

**CLUB.** A facility owned or operated for a social, educational or recreational purpose, to which membership is required for participation and which is neither operated primarily for profit nor to render a service which is customarily carried on by a business.

**COMMUNITY CENTER OR BUILDING.** A facility owned and operated by a government agency or a non-profit community organization which is open to any resident of the city or surrounding area; provided that, the primary purpose of the facility is for recreation, social welfare, community improvement or public assembly.

**COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR.** The Community and Economic Development Director for the City of Sweet Home, Oregon.

**COMPREHENSIVE PLAN.** The duly adopted Sweet Home Comprehensive Plan.

**CONDOMINIUM.** A type of residential development utilizing zero lot lines, individual ownerships of units and common ownership of open space and other facilities, and which are regulated, in part by O.R.S. Chapter 100.



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**DAY CARE CENTER:** A facility in which there are 13 or more children in which the operator of the Center may or may not reside at the residence.

**DAY CARE HOME:** A facility in which there are no more than 5 children in which the operator of the Home resides at the residence.

**DAY NURSERY.** Any institution, establishment or place, including nursery schools or private kindergartens, in which are commonly received at one time for less than 24 hours per day, 6 or more non-resident children under the age 6 years for the purpose of being given care, supervision or training apart from a parent or legal guardian.

~~**DAY NURSERY.** Any institution, establishment or place, including nursery schools or private kindergartens, in which are commonly received at one time three or more children not of common parentage, under the age of six years for a period or periods not exceeding 12 hours for the purpose of being given board, care or training apart from their parents or guardians for compensation or reward.~~

**DELINEATION.** An analysis of a resource by a qualified professional that determines its boundary according to an approved methodology.

**DENSITY.** The number of residential dwelling units per acre of land or the amount of land area expressed in square feet of land assignable to each dwelling unit in a residential development, not including areas dedicated for streets, or public facilities.

**DWELLING, MULTI-FAMILY.** A building or portion thereof designed for occupancy by three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY.** A detached building or manufactured home designed for and occupied by not more than one family and containing one dwelling unit, excluding tents, teepees, travel trailers and other similar uses.

**DWELLING, SINGLE-FAMILY ATTACHED.** Two or more dwelling units designed for and occupied by not more than one family with common end walls.

**DWELLING, TWO-FAMILY (DUPLEX).** A detached building designed for and occupied by not more than two families and containing two dwelling units.

**DWELLING UNIT.** One or more rooms in a building designed for eating, sleeping, cooking and sanitation, as required by Building Code, for not more than one family.

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**EXCAVATION.** The removal of organic or inorganic material (e.g. soil, sand, sediment, muck) by human action.

**FAMILY.** An individual or two or more persons related by blood, marriage, legal adoption or legal guardianship living together as one housekeeping unit, using one kitchen and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five unrelated persons living together as one housekeeping unit using one kitchen.

**FENCE.** Any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including hedges or living bushes or shrubs, encircling either wholly or any portion of any area.

**FENCE, SIGHT OBSCURING.** A continuous fence, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view.

**FILL.** The deposition of organic or inorganic material (e.g. soil, sand, sediment, muck, debris) by human action.

**FLOODPLAIN.** The area adjoining a stream, tidal estuary or shoreline that is subject to inundation by a base flood.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the waters of a base flood.

**FLOODWAY FRINGE.** The area of the floodplain lying outside of the floodway.

**FLOOR AREA.** The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts.

**FRONTAGE.** The linear edge of a property along the property line abutting a street, or private accessway.

**GRADE - GROUND LEVEL.** The average elevation of the finished ground level at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the GROUND LEVEL.

**HARD SURFACE.** An area surfaced with asphalt, concrete, paving blocks or an equivalent substance approved by the City Engineer but shall not include gravel.

**HEDGE.** A row of bushes or small trees planted close together which may form a barrier, enclosure or boundary in the front yard or street side yard.

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**HEIGHT OF BUILDING.** The vertical distance from the grade to the highest point of coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

**HIGH GROUNDWATER.** The near surface groundwater which can present a problem to land development and engineering construction.

**HOME OCCUPATION.** A lawful occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence.

**HOTEL.** A building in which lodging is provided to guests for compensation and in which no provisions are made for cooking in the lodging rooms.

**IMPERVIOUS SURFACE.** Any material (e.g. rooftops, asphalt, concrete) which reduces or prevents absorption of water into soil.

**IMPROVED STREET or STREETS IMPROVED.** A hard surfaced roadway with curb and gutter.

**INTERMITTENT RUNOFF.** The officially designated natural or manmade, open drainage channel or course necessary to convey stormwater runoff

**JUNK YARD.** An area where any person is engaged in breaking up, dismantling, sorting, storing, distributing, buying, selling, packing or bailing any scrap, waste material, junk or used equipment or machinery of any nature.

**LAWN.** Any grass or similar materials usually maintained as a ground cover of less than six inches in height. For purposes of this chapter, LAWN is not considered native vegetation regardless of the species used.

**LIVESTOCK.** Animals of the bovine species, horses, mules, asses, sheep, goats and swine.

**LOT.** Unit of land created by a subdivision of land and intended as a unit for the purpose, whether immediate or future, of transfer of ownership and/or for development.

**LOT AREA.** Total horizontal area within the lot lines of a lot.

**LOT, CORNER.** A lot abutting on two or more streets, other than an alley, ~~at their intersection~~ provided the angle of intersection of the adjacent streets does not exceed 135 degrees.

**LOT COVERAGE.** That percentage of the total lot area covered by structures, as herein defined.

**LOT DEPTH.** The horizontal distance between the front and the rear lot lines.

**LOT, INTERIOR.** A lot or parcel of land other than a corner lot.

**LOT LINE.** A recorded boundary of a lot.

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**LOT LINE, FRONT.** A lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the ~~City Manager or designee~~ property owner shall choose which lot line is to be the front.

However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length.

**LOT LINE, INTERIOR.** The lot line separating two lots.

**LOT LINE, REAR.** The lot line that is opposite and most distant from the front lot line. In the case of irregular, triangular or other shaped lots, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

**LOT LINE, SIDE.** A lot line that is neither a front or rear lot line.

**LOT LINE, STREET SIDE.** A lot line that is both a side lot line and a street lot line. On a corner lot, the longer lot line which abuts a street is a side street lot line.

**LOT, THROUGH.** A lot that has frontage on two streets, and where the lot frontages do not intersect.

**LOT WIDTH.** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

#### **MANUFACTURED DWELLING.**

1. **MANUFACTURED HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.
2. **MOBILE HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
3. **RESIDENTIAL TRAILER.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

**MANUFACTURED HOME PARK.** Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person.

**MASS MOVEMENT.** The slow or rapid, natural or artificially induced movement of rock, soil or fill downslope in response to gravity. The major geologic types of mass movement include earthflow, slump, rockslide, rockfall and mudflow.

**MITIGATION.** Compensating for impacts to a significant natural resource or its buffer including: restoration, creation or enhancement. Some examples of mitigation actions are construction of new wetlands to replace an existing wetland that has been filled, replanting trees, removal of nuisance plants and restoring streamside vegetation where it is disturbed.

**MOBILE HOME PARK.** See MANUFACTURED HOME PARK.

**MOTEL.** A building or group of buildings in which lodging is provided to guests for compensation, with lodging units having separate entrances directly exterior and which may or may not have cooking facilities in the lodging units.

**NATIVE VEGETATION.** Plants identified as naturally occurring and historically found within the City of Sweet Home.

**NATURAL RESOURCE.** An area of any locally inventoried wetland, pond, stream, channel, river, lake or habitat area.

**NATURAL RESOURCE ENHANCEMENT.** A modification of a natural resource to improve its quality.

**NATURAL RESOURCE OVERLAY.** A designation given to all significant wetlands and riparian corridors delineated on the Significant Natural Resources Map.

**NON-CONFORMING STRUCTURE OR LOT.** A lawful existing structure or lot at the time this chapter or any amendment thereto becomes effective which does not conform to the dimensional or similar standards of the zone in which it is located.

**NON-CONFORMING USE.** A lawful existing use at the time this chapter or any amendment thereto becomes effective which does not conform to the use requirements of the zone in which it is located.

**NURSING HOME.** Any home, place or institution which operates and maintains facilities providing convalescent or chronic care, or both, for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage.

**OPEN STORAGE.** To put aside or accumulate property for use when needed or at a later date, or for disposal, in an area that is exposed to the public view from a public street.

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**OWNER.** An owner of record of real property as shown on the tax rolls of Linn County, or a person purchasing a piece of property under contract.

**PARCEL.** For the purposes of this title, an area of land defined by specific boundaries that was created legally at the time it was created.

**PARKING LOT.** An area of a lot, except for one and two family dwellings, used for parking vehicles.

**PARKING SPACE.** An off-street enclosed or unenclosed surfaced area of not less than 20 feet by eight feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a street by a surfaced driveway which affords ingress and egress for automobiles.

**PERMITTED OUTRIGHT LAND USES:** A Permitted Outright Land Use is a use for which a Building Permit is issued after it is determined that all setbacks and other lot and building site requirements are satisfied.

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

**PLANNED UNIT DEVELOPMENT (PUD).** A type of development and the regulatory process that permits a developer to meet overall community density and land use goals without being bound by existing zoning requirements.

**PLANNING COMMISSION.** The Planning Commission of the City of Sweet Home, Oregon.

**PLANNING OFFICIAL.** Individual, designated by the City Manager, responsible for the administration of the Development Code.

**PONDING.** The local accumulation of rainwater on the surface of the ground or to rising groundwater which actually has surfaced.

**PRIVATE STREET.** A street which is privately owned and maintained.

**PROFESSIONAL OFFICE.** An office occupied by medical professionals, accountants, attorneys, architects, professional engineers or surveyors or persons engaged in similar occupations.

**QUALIFIED NATURAL RESOURCE PROFESSIONAL.** An individual who has proven expertise and vocational experience in a given natural resource field. A qualified professional conducting a wetland delineation must have the delineation approved by the Oregon Division of State Lands.

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**QUASI-JUDICIAL DECISION:** A decision by the Planning Commission or City Council that requires notice and a public hearing and requires the City to apply specific criteria in the development code and the comprehensive plan to a land use application.

**RECREATION PARK.** Any area for picnicking or overnight camping by the general public or any segment of the public.

**RECREATIONAL FACILITY.** A recreation facility under private ownership and operated by a profit or nonprofit organization, open to bona fide members, and providing one or more type of recreation activity.

**RECREATIONAL RETAIL.** An establishment engaged in selling goods or merchandise when associated with a recreational development, marina and docks, and other similar uses.

**RECREATIONAL VEHICLE.** A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle and includes travel trailer, camping trailer, truck camper or motor home.

**RESIDENTIAL HOME:** A home licensed by or under the authority of the Oregon Department of Human Resources that provides residential care alone or in conjunction with treatment or training or a combination thereof for 5 or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any other resident of the residential home. This definition includes residential treatment homes, residential training homes and adult foster homes.

**RESIDENTIAL FACILITY.** A facility licensed by or under the authority of the Department of Human Resources under O.R.S. 443.400 to 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. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential facility.

**RESORT.** A facility for transient guests where the primary attraction is generally recreational features or activities.

**REVIEW AUTHORITY.** The City of Sweet Home.

**RIPARIAN BOUNDARY.** An imaginary line that is a certain distance upland from the top of the bank and encompasses everything within the area between the wetland and the upper edge of the riparian

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area. The City of Sweet Home has adopted the safe harbor setback methodology for this identification.

**RIPARIAN CORRIDOR.** A Goal 5 resource that includes the water areas, fish habitat, riparian areas and wetlands within the riparian corridor boundary. For purposes of this chapter, riparian areas are identified on the Significant Natural Resource Overlay Zone Maps, as adopted in the Comprehensive Plan.

**SERVICE STATION, AUTOMOBILE.** A place or station designed and used primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhauling.

**SETBACK.** The minimum allowable horizontal distance from the point or line of reference, such as a property line, to the nearest vertical wall or other element of a building or structure.

**SHOPPING CENTER.** A retail store or combination of stores, usually including a grocery store, which provide goods for sale to the general public.

**SHRUBS.** For the purpose of the Natural Resource Zone, a woody vegetation usually greater than three feet, but less than 20 feet tall, including multi-stemmed shrubs and small trees and saplings.

**SIGN.** An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, person, institution or business. Each display surface of a sign other than two surfaces parallel and back-to-back on the same structure shall be considered a SIGN.

**SIGN, ADVERTISING.** A sign which directs attention to or identifies a business, product, activity or service which is not necessarily conducted, sold or offered upon the premises where such sign is located.

**SIGN, BUSINESS.** A sign which directs attention to or identifies a business, product, activity or service which is conducted, sold or offered upon the premises where such sign is located.

**SIGNIFICANT NATURAL RESOURCE.** Significant wetlands and riparian corridors within the City of Sweet Home's Urban Growth Boundary and designated on the Significant Natural Resources Map.

**SIGNIFICANT WETLANDS.** A wetlands mapped on the City of Sweet Home Local Wetlands Inventory which meets the primary criteria of the Oregon Division of State Lands Administrative Rules for Identifying Significant Wetlands (July, 1996).

**SITE PLAN.** A plan prepared to scale, showing accurately and with complete dimensions, all of the uses proposed for a specific parcel of land.



**STATE AND FEDERAL NATURAL RESOURCE AGENCIES.** The Oregon Division of State Lands, Oregon Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Department of Agriculture Natural Resources Conservation Service, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency.

**STREAM.** A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding human-made irrigation and drainage channels.

**STREAMBANK EROSION.** The loss of land by stream action.

**STREET.** A public right-of-way for pedestrian and/or vehicular traffic.

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

**STRUCTURE.** Anything that 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.

**SUBSTANTIAL IMPROVEMENTS.**

1. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:
  - a. Before the improvement or repair is started; or
  - b. 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.
2. The term does not, however, include either:
  - a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
  - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**TREES.** For the purpose of the Natural Resource Zone, a woody plant five inches or greater in diameter at breast height and 20 feet or taller.

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**TOP OF BANK.** A distinct break in slope between the stream bottom and the surrounding terrain, which corresponds with the bankfull stage, which is the two-year high water mark, of the stream.

~~**TRAILER HOUSE.** A vehicle or similar portable device originally designed or presently constructed to permit temporary or permanent human occupancy for living and sleeping purposes, and including mobile homes and recreation vehicles having permanent kitchen and bath facilities.~~

~~**TRAVEL TRAILER.** See “recreational vehicle”. A portable vehicular unit mounted on wheels designed to be drawn by a motorized vehicle and designed and constructed primarily for temporary human occupancy for travel, recreational and vacation uses.~~

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

**VARIANCE.** A grant of relief from the quantitative requirements of this title, which permits activity in a manner that would otherwise be prohibited by this title.

**WALL.** A structure of brick, stone, etc., that surrounds an area or separates one area from another.

**WETLAND BOUNDARY.** The edges of a wetland as delineated by a qualified professional.

**WETLANDS.** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. For purposes of this title, **RIPARIAN AREAS** are identified on the Significant Natural Resource Overlay Zone Maps, as adopted in the Comprehensive Plan.

**YARD.** Open space on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except for encroachments provided for in this title.

**YARD, CORNER LOT.** The front yard is adjacent to the shortest lot line along a street. The rear yard is opposite the front yard. The street side yard is adjacent to the longest lot line along a street. The side yard is opposite the street side yard.

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

**YARD, FRONT - INSET.** A yard on a flag lot, or similarly configured lot, paralleling the street and at the rear of another lot.

**YARD, REAR.** A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

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**YARD, SIDE.** A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a main building.

**YARD, STREET SIDE.** A yard adjacent to a street between the front yard and rear lot line measured horizontally at right angles from the side lot line to the nearest point of a building.

**ZERO LOT LINE SUBDIVISION OR PARTITION.** A type of residential subdivision or partition utilizing zero lot lines between dwelling units and providing for individual ownership of each lot.

**CHAPTER 17.08: GENERAL PROVISIONS**

Section

17.08.010 Compliance with title provisions.

17.08.020 Interpretation.

17.08.030 General provisions regarding accessory uses.

17.08.033 Fences, hedges, and walls.

17.08.035 Burial of human remains on private property.

17.08.040 Clear-vision areas.

17.08.050 Exceptions to lot size requirements.

17.08.060 Exceptions to yard requirements.

17.08.070 Exception to building height limitations.

17.08.080 Projections from buildings.

17.08.090 Off-street parking requirements.

17.08.100 Accesses and driveways.

**§ 17.08.010 COMPLIANCE WITH TITLE PROVISIONS.**

- A. A lot may be used and a structure or part of a structure may be constructed, altered, occupied or used only as this title permits.
- B. No lot area, yard, off-street parking area or other open space existing on or after the effective date of the ordinance codified in this title shall be reduced below the minimum required for it by this title.
- C. Every lot shall abut a street, other than an alley, for a width of at least 25 feet.

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**§ 17.08.020 INTERPRETATION.**

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

**§ 17.08.030 GENERAL PROVISIONS REGARDING ACCESSORY USES.**

An accessory use shall comply with all requirements for a principal use, except where specifically modified by this section. Accessory uses shall not be used for human habitation except as specified elsewhere in this title. Accessory uses shall comply with the following limitations:

- A. [Reserved]
- B. No sales shall be made from a greenhouse or hothouse maintained accessory to a dwelling in a residential zone unless it has been approved as a home occupation under the home occupation provisions of this title.
- C. A guest house may be maintained accessory to a dwelling; provided, there are no cooking facilities in the guest house.
- D. An accessory structure shall be detached from all other buildings by at least six feet. Accessory structures shall have a maximum floor area of 864 square feet.
- E. An accessory structure shall meet minimum setbacks, except that a garage shall be located a minimum of 20 feet from the front and street side property lines in a residential zone and must be included in the lot coverage allowed.
- F. Accessory structures shall be maintained in a condition of reasonable repair and shall not be allowed to become or remain in condition of disrepair or neglect, including noticeable leaning and missing sections.
- G. Boats, trailers, pickup campers, motorized dwellings and similar recreation equipment may be stored, but not used for human habitation, on a lot as an accessory use to a dwelling; provided that:
  - 1. Parking or storage in a front or street side yard shall be permitted only on a driveway located at least three feet from any property line; and
  - 2. If the equipment is not kept on a front or street side driveway, parking or storage shall be at least three feet from an interior side or rear lot line or in an enclosed garage or accessory structure.

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- H. Accessory structures used for agricultural purposes shall be built no closer than 25 feet from the side or rear lot line.
- I. Mobile/manufactured homes, recreational vehicles, box cars or other equipment commonly used for transporting goods may not be used as an accessory structure.
- J. Recycling provisions for multi-family dwellings with five or more units. New multi-family dwelling units with five or more units must provide the following:
  - 1. A separate location for recycling containers, which is convenient for collections;
  - 2. Adequate containers for at least four principal recyclable materials; and
  - 3. At least every other week (EOW) collection service of the recyclable materials.
- K. Subject to applicable provisions in this Title, each residential lot may have an accessory dwelling. The size of the accessory dwelling shall not exceed 40% of the total square footage of the primary residence.

**§ 17.08.033 FENCES, HEDGES, AND WALLS.**

- A. *Purpose.* Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.
- B. *Front Yard Definition.* For purposes of this section, "front yard" means a yard extending across the full width of a lot or parcel of land and extending from the front lot line to the entire actual front building line or shall be the same as the respective front setbacks required by underlying zone, whichever is less. The following standards shall apply to all fences, hedges, and walls.
- C. *General Standards.* Construction of fences and walls shall conform to all of the following requirements:
  - 1. *Clear vision areas.* All fences, hedges, and walls adjacent to a roadway intersection shall comply with the requirements of § 17.08.040 (Clear-Vision Areas).
  - 2. *Land use approval.* The Planning Commission may require installation of walls and/or fences as a condition of development in a land use approval otherwise required for the

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development. When so conditioned by a land use action, no further land use review is required for the fence or wall.

3. *Measuring Fence Height.* Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm. Where the natural grade changes (i.e., hillside or swale) the fence, hedge, and wall height shall change with the grade.
4. *Temporary Fences.* A temporary fence may be constructed with wire, rolled plastic, wood or other suitable material ~~as determined by the City Manager or designee.~~ The ~~City Manager or designee shall establish the time duration for a temporary fence shall~~ not to exceed 12 months. ~~All temporary fences, prior to installation, must first have the approval of the City Manager or designee.~~
5. *Hedges.* Hedges located within five feet of a property line abutting a street shall not exceed a maximum height of three ~~and one-half~~ feet. (**NOTE: changes are consistent with clear vision area.**)
6. *Gates.* Gates shall not open or swing into public right-of-way.

D. *Materials.* Fences and walls shall comply with the materials standards set forth in this subsection.

1. *Fences.* Fences shall be constructed of materials specifically designed and manufactured for fencing purposes, including, but not limited to, wood, wrought iron, vinyl, aluminum, and chain link (with a top rail support). Materials not specifically designed as fencing material, include, but not limited to, corrugated cardboard, corrugated metal, plywood, wooden pallets, concrete rubble, and junked material, are prohibited.
2. *Walls.* Walls shall be constructed of materials specifically designed and manufactured for use as walls, including, but not limited to, masonry, rock, concrete, concrete block, or other similar materials.
3. *Hazardous Materials.* Fences and walls shall not be constructed of or contain any material that will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as follows:

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- a. Barbed wire is permitted on top of a six-foot tall fence in the industrial (M) zone. The total height of the fence and barbed wire is limited to seven feet. Barbed-wire-only fences are prohibited except as allowed in subsection 1) below.
  - 1) Livestock Containment. Where cattle, sheep, horses or other livestock are permitted or existed when the property was annexed to the city, barbed wire is permitted when used to contain or restrict livestock provided that the fences are posted at 15-foot intervals with clearly visible warnings of the hazard.
- b. Above ground electrically charged fences are only permitted when used to pasture or control livestock, for farming or other similar agricultural uses in zones where such uses are permitted and when the following standards can be met:
  - 1) On boundary fences, the electrically charged wires shall be located on the inside face of the fence posts;
  - 2) The electrically charged fence shall not exceed four feet in height;
  - 3) The electrically charged fence shall be a pulsed charge system, and not a continuous charge system; and
  - 4) Warning signs stating, "Warning, Electric Fence" shall be posted at intervals not less than 15 feet.

E. *Location and Height.* Fences and walls shall comply with the location and height standards set forth in this subsection.

- 1. *Residential Zoning Districts (R-1, R-2, R-3, R-4, & RMT).* The maximum height of a fence and wall within residential zoning districts shall be as follows: ~~and as illustrated by Figure 17.08.033 A (Fence Height Limits in the Residential Zoning Districts).~~

a. Fences and Walls

- 1) Front Yard Abutting Street. Fences and walls ~~within a front yard abutting a street less than ten feet from a street property line~~ shall not exceed a maximum height of three ~~and one-half feet when constructed with solid materials (e.g., wood fence) or four feet when constructed with open material (i.e. chain-link fence).~~
- 2) Side and Rear Yards Abutting Street.
  - a) Fences and walls located less than ~~three~~ ten feet from a street property line shall not exceed a maximum height of three ~~and one-half feet when~~

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~~constructed with solid materials (e.g., cedar fence) or four feet when constructed with open material (e.g., chain-link fence).~~

- b) Fence and walls located more than ~~three~~ ten feet from the street property line shall not exceed a maximum height of seven feet.

- 3) Interior Side and Rear Yards. Fences and walls located at a property line not abutting a street shall not exceed a maximum height of seven feet.

- 4) Through lots. Fences and walls shall be constructed in accordance with ~~the front setbacks required by underlying zone on both streets~~ provisions in 2) a), above.

- 5) Flag lots. On flag lots, the maximum height of a front yard fence or wall shall not exceed seven feet, provided the front yard of the flag lot is abutting interior side or rear yards on all sides.

- a) Fences and walls located in the portion of the pole ~~that abut a front or corner side yard (i.e. from the street property line to the front building line of the adjacent property, or respective front setbacks required by underlying zone, whichever is less)~~ within ten feet of a street shall not exceed a maximum height of three and one-half feet ~~when constructed with solid materials (e.g., cedar fence) or four feet when constructed with open material (e.g., chain-link fence).~~

- 2. *Nonresidential zoning districts.* The maximum height of a fence and wall within the commercial (C-1, C-2, C-3, & RC) and industrial zoning districts (M), shall be as follows.

- a. Fences and Walls

- 1) *Yards Abutting Street*

- a) Fences and walls located less than five feet from a street property line shall not exceed a maximum height of three and one-half feet ~~when constructed with solid materials (i.e. cedar fence) or four feet in when constructed with open material (i.e. chain-link fence).~~

- b) Fences and walls located more than five feet from the street property line shall not exceed a maximum height of seven feet.

- 2) *Interior Side and Rear Yards.* Fences and walls located at a property line not abutting a street shall not exceed a maximum height of seven feet.



**§ 17.08.035 BURIAL OF HUMAN REMAINS ON PRIVATE PROPERTY.**

The use of private property for the burial of human remains and family burial grounds is prohibited within the City of Sweet Home.

**§ 17.08.040 CLEAR-VISION AREAS.**

- A. *Purpose.* Clear vision areas are established to ensure that obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists, and other approaching potential conflict points at intersections.
- B. *Applicability.* In all zones, clear vision areas as described below and illustrated in Figure 17.08.033 A and Figure 17.08.040 B (Clear Vision Areas at Intersections) shall be established at the intersection of two streets, an alley and a street, a driveway and a street or a street and a railroad right-of-way in order to provide adequate vision of conflicting traffic movements as well as street signs. These standards are applicable to public and private streets, alleys, ~~mid-block lanes~~, and driveways.
- C. *Standards.* The clear vision areas extend across the corner of the private property from one street to another. The two legs of the clear vision triangle defining the private property portion of the triangle are each measured 20 feet back from the point of intersection of the two corner lot lines, special setback line or access easement line (where lot lines have rounded corners, the lot lines are extended in a straight line to a point of intersection). Additional clear vision area may be required at intersections, particularly those intersections with acute angles ~~as directed by the City Manager or designee~~, upon a finding as part of a land use application and decision that additional sight distance is required (e.g., due to roadway alignment, etc.). There shall be no ~~solid~~ fence, wall, vehicular parking, landscaping, building, structure, or any other obstruction to vision other than a street sign pole (e.g. power, signal, or luminaire pole) or tree trunk (clear of branches or foliage) within the clear vision area between the height of ~~two~~ three feet and eight feet above the grade, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except as follows.
- D. *Exceptions.*

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1. In all zones, at the intersection of an alley and a street or a driveway and a street, the minimum length of the two legs of the clear vision triangle defining the private property portion shall be ten feet.
2. In all commercial zones, except the C-I zone, at the intersection of an alley and a street or a driveway and a street the minimum length of each of the two legs shall be 15 feet.
3. In the C-I zone, the clear vision area does not apply.
4. ~~Open chain link fences which permit visibility shall be allowed in a clear vision area, but shall not exceed four feet in height.~~

*(NOTE: the fencing height and fence style were changed to be consistent and provide ease in understanding and enforcement. As a further note, current language does not address the potential of an owner planting a hedge next to a chain link fence.)*

**§ 17.08.050 EXCEPTIONS TO LOT SIZE REQUIREMENTS.**

This section shall apply in the event that a lot or the aggregate of contiguous lots held in a single ownership as recorded in the office of the Recorder of the county and located in the city as of January 1, 1971, or the date of annexation of the property to the city, whichever is later, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located. In this case, the holdings may be by a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the lot area per dwelling unit requirement of the zone. The existence of a non-conforming lot shall not prohibit the application of a variance to address issues such as setbacks or parking.

**§ 17.08.060 EXCEPTIONS TO YARD REQUIREMENTS.**

The following exceptions to the yard requirements are authorized for a lot in any zone.

- A. If there are buildings on both abutting lots which are within 100 feet of the intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yard of the abutting lots.

- B. If there is a building on one abutting lot which is within 100 feet of the lot, and this building has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the front yard of the abutting lot and the required front yard depth.
- C. Unless otherwise required, garage and carport setbacks shall be a minimum of ~~not be reduced~~ below 20 feet.

**§ 17.08.070 EXCEPTION TO BUILDING HEIGHT LIMITATIONS.**

Vertical projections such as chimneys, spires and flag poles, are not subject to the building height limitations of this title. Amateur radio, AM radio, police and fire antennas are not subject to the building height limitation of this title when approved by the Planning Commission.

**§ 17.08.080 PROJECTIONS FROM BUILDINGS.**

Architectural features such as cornices, eaves, canopies, sun shades, gutters, chimneys and flues shall not project more than 30 inches into a required yard.

**§ 17.08.090 OFF-STREET PARKING REQUIREMENTS.**

For each new structure or use, each structure or use increased in area and each change in the use of an existing structure there shall be provided and maintained off-street parking areas in conformance with the provisions of this section.

**A. Parking lots:**

*1. Design and improvement requirements.*

- a. All parking lots and driveway approaches shall be hard surfaced and permanently marked.
- b. All parking lots shall be designed or graded so as not to drain storm water over the sidewalk or onto any abutting public or private property.
- c. Parking lots shall be designed so that no backing movements or other maneuvering within a street other than an alley shall be required.
- d. Parking spaces along the outer boundaries of a parking lot shall be contained by a curb or bumper placed to prevent a motor vehicle from extending over adjacent property or a street right-of-way.

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- e. All parking lots must be designed in accordance with city standards for stalls and aisles as set forth in the following table:

<b><i>Parking Angle (Degree)</i></b>	<b><i>Stall Width</i></b>	<b><i>Stall to Curb</i></b>	<b><i>Aisle Width</i></b>	<b><i>Curb Length</i></b>
0	8'0"	8.0	12.0	22.0
45	9'6"	20.1	13.0	13.4
60	9'6"	21.2	18.0	11.0
90	9'6"	19.0	24.0	9.5

- f. For two-way circulation, the minimum aisle width shall be 20 feet. Adequate ingress, egress and turnaround space shall be provided.
- g. No portion of a parking lot shall be located in a required landscaped yard.
- h. Service drives to parking lots shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic ingress and egress and maximum safety of pedestrian and vehicular traffic in the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic.
- i. Where a parking lot or loading area abuts a public right-of-way, there shall be provided a minimum five-foot wide landscaped buffer located on the lot.

**2. Location standards.**

- a. Parking lots for dwellings shall be located on the same lot as the dwellings.
- b. Parking lots for all other uses shall be located not further than 500 feet from the building or use they are required to serve.
- c. ~~In~~ With the exception of a single-family home or duplex, parking in residential zones, parking lots shall not be located in a required front or street side yard.
- d. Parking lots with access to arterial or collector streets shall be designed as to connect with existing or future parking lots on adjacent sites thereby eliminating the necessity of utilizing the arterial or collector street for cross movements.

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- B. Required off-street parking spaces shall be available for the parking of operable motor vehicles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- C. The provision and maintenance of off-street parking spaces are continuing obligations of the property owner. No building, zoning or other permit shall be issued until plans are presented that show parking space. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this title.
- D. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking requirements, it is unlawful and a violation of this title to begin or maintain such altered use until the required increase in off-street parking is provided.
- E. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.
- F. Owners of two or more uses, structures or parcels of land may agree to use the same parking spaces jointly when the shared parking meets the required number of spaces for the combined uses. A joint use agreement pertaining to the cooperative use of the parking spaces must be submitted to the ~~City Manager~~ Planning Official for approval.
- G. A plan, drawn to scale, indicating how the off-street parking requirements are to be fulfilled, shall accompany a request for a building permit.
- H. Space requirements for off-street parking shall be as listed in this section. Fractional space requirements shall be counted as a whole space. When square feet are specified, the area measured shall be the gross floor area of the building, but shall exclude any space within a building used for off-street parking or loading.

<b><i>Use</i></b>	<b><i>Space Requirement</i></b>	<b><i><u>Bicycle Parking</u></i></b>
1. Single-, two- and multi-family dwelling	Two spaces per dwelling unit,	<u>None</u>

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2. Mobile home park	Two spaces per dwelling unit	<u>None</u>
3. Hotel or motel	Three spaces per two guest accommodations	<u>One space per 20 units,</u> <u>Minimum 2 spaces</u>
4. Welfare or correctional institution, convalescent hospital, nursing home, retirement home, home for the aged	One space per two beds for residents, patients or inmates	<u>One space per 20 beds,</u> <u>Minimum 4 spaces</u>
5. Hospital	Three spaces per two beds	<u>One space per 20 beds,</u> <u>Minimum 4 spaces</u>
6. Place of public assembly including church, auditorium, gymnasium, community center, theater, club, lodge hall or fraternal organization	One space per four seats or eight feet of bench length in the main auditorium, or if seating is not fixed to the floor, one space per 60 square feet of floor area	<u>One space per 40 spaces,</u> <u>Minimum 4 spaces</u>
7. Library, museum, art gallery	One space per 300 square feet of floor area	<u>One space per 20 spaces,</u> <u>Minimum 4 spaces</u>
8. Preschool nursery, day nursery, kindergarten	Two spaces per teacher	<u>One space per 20 spaces,</u> <u>Minimum 2 spaces</u>
9. Elementary, junior high school	Two spaces per classroom and special instruction area, or the requirement for a place of public assembly, whichever is the greater	<u>Two spaces per</u> <u>classroom</u>
10. Senior high school	Eight spaces per classroom and special instruction area or the requirement for a place of public assembly, whichever is greater	<u>Two spaces per</u> <u>classroom</u>
11. Bowling alley	Six spaces per alley	<u>One space per 20 spaces,</u> <u>Minimum 2 spaces</u>

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12. Dance hall, skating rink, pool hall or similar indoor commercial amusement enterprise	One space per 100 square feet of floor area	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>
13. Retail store, except as provided in subsection 14. of this section	One space per 200 square feet of floor area	<u>One space per 20 spaces.</u> <u>Minimum 4 spaces</u>
14. Retail store exclusively handling bulky merchandise such as automobiles and furniture	One space per 600 square feet of floor area	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>
15. Service or repair establishment	One space per 600 square feet of floor area	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>
16. Bank or office (except medical or dental)	One space per 300 square feet of floor area	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>
17. Medical or dental office, clinic	One space per 250 square feet of floor area	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>
18. Eating or drinking establishment	One space per 100 square feet of floor area	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>
19. Mortuary	One space per four seats or eight feet of bench length in chapels	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>
20. Manufacturing, fabricating, processing, assembling, packing, storage or wholesaling establishment; freight depot; truck terminal	One space per two employees working on the premises during the largest shift at peak season	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>
21. Unspecified uses	Any use not specifically listed in this section shall have a parking requirement determined by the City Manager, based on the parking space requirement for comparable uses listed in this	<u>One space per 20 spaces.</u> <u>Minimum 2 spaces</u>

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	section. The decision of the City Manager may be appealed to the Planning Commission, using procedures as spelled out in this title	
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- I. All areas located within the C-1 zone are exempt from the off-street parking requirements of this section, but where parking is provided, it shall meet all ~~other~~ dimension and driveway requirements of this section.
- J. With the exception of properties with single-family homes and duplexes, no site shall be permitted to provide more than 50% in excess of the minimum off-street vehicle parking required by this Chapter.
- K. Landscaping. Parking lots shall be provided with landscaping and other suitable devices in order to divide the parking lot into sub-units to provide for pedestrian safety, traffic control, and to improve the appearance of the parking lot. For parking lots containing more than 20 spaces, at least 5% of the parking area must be landscaped.

**§ 17.08.100 ACCESSES AND DRIVEWAYS.**

Accessways onto a public right-of-way shall be subject to issuance of a public works permit and review by the city planner. In addition, the following specific requirements shall apply to all accessways, approaches, curbcuts and driveways.

- A. *Approaches.* Additions to, or new construction of, a garage or accessory structure, or an addition to the main structure in excess of 120 square feet, shall provide the basis for requiring the following.
  - 1. An access approach to a city street, state highway, alley or other public right-of-way shall be hard surfaced and constructed in accordance with city design standards.
  - 2. An access approach shall extend ~~20 feet onto the property, measured~~ from the right-of-way or property line, whichever is closest to a structure on the property, to the entrance



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to the garage or carport. Additional vehicle pads and/or drives shall extend at least 20 feet onto the property as measured by this subsection.

3. In addition to the above, if the street is hard surfaced the approach will extend to the existing hard surface roadway edge or curb whichever applies.
4. An access approach to streets which are not yet improved or hard surfaced, requires that the property owner enter into an agreement with the city, prior to issuance of a public works permit, to hard surface the approach when the street is hard surfaced or improved.

B. *Construction specifications.* A driveway and sidewalk used as a part of an accessway shall be designed and constructed in accordance with plans and specifications on file in the office of the City Engineer. The designs, plans and specifications are by reference incorporated into and made a part of this code.

C. *Driveway width and placement.*

1. If only one driveway is desired, the ~~maximum~~ width of the driveway at the edge of the roadway or curbline shall be a minimum width of 10-feet and a maximum width is as follows:
  - a. Twenty feet for property with less than 50 feet of frontage;
  - b. Twenty-five feet for property with between 50 and 75 feet of frontage; and
  - c. Thirty feet for property with more than 75 feet of frontage.
2. If more than one driveway is desired for property with 50 to 100 feet of frontage, the maximum width for each driveway is 20 feet and no more than two driveways may be permitted.
3. There shall be a minimum separation of 22 feet between all driveways except for single-family and two-family dwellings.
4. For frontage in excess of 100 feet, each additional 100 feet or fraction thereof shall be considered as separate frontage.
5. One-way driveway approaches, except for those used in conjunction with a single-family dwelling, shall be clearly marked or signed as approved by the City Engineer and shall not be less than ten feet in width. Two-way driveways shall not be less than 20 feet in width.

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6. Paved driveways shall be required for all flag lots and extend from the edge of right-of-way to the garage entrance.

D. *Distance from intersection.*

1. All driveways shall be located the maximum distance which is practical from a street intersection and in no instance shall the distance from an intersection be closer than the following measured from the nearest curb return radius, which is the nearest beginning point of the arc of a curb:

Local street	20 feet
Collector street	30 feet
Arterial street	40 feet

2. Where streets of different functional classification intersect, the distance required shall be that of the higher classification.

- E. *Number of accesses permitted.* Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street.
- F. *Double frontage properties.* Properties which have frontage on more than one street may be restricted to access on the streets of a lower classification through site plan review or other review procedures.
- G. *Joint access encouraged.* Common accessways at a property line shall be encouraged and, in some instances, may be required, in order to reduce the number of access points to street. Construction of common accessways shall be preceded by recording of joint access and maintenance easements.
- H. *Maximum slope.* Access and approach grades shall not exceed 10% slope except as otherwise approved by the City Engineer.
- I. *Access to state highways.* Access to designated state highways shall be subject to the provisions of this chapter in addition to requirements of the Highway Division, Oregon Department of Transportation. Where regulations of the city and state may conflict, the more restrictive requirement shall apply.

**§ 17.08.110 LOADING FACILITIES.**

Commercial, Public Facilities, and Industrial development must demonstrate the adequacy of on-site loading and unloading facilities, including all maneuvering areas. Off-street loading space shall be provided as listed below:

- A. Commercial office buildings shall require a minimum loading space size of 12 feet wide, 20 feet long and 14 feet high in the following amounts:
  - 1. For buildings over 15,000 square feet of net floor area, 1 space.
  - 2. For each additional 40,000 square feet of net floor area, or any portion thereof, 1 space.
- B. All other commercial or industrial buildings shall require a minimum loading space of 12 feet wide, 30 feet long, and 14 feet high in the following amount:
  - 1. For buildings containing over 15,000 square feet of net floor area, 1 space.
  - 2. For each additional 40,000 square feet of net floor area, or any portion thereof, 1 space.

**§ 17.08.120 STANDARDS FOR BICYCLE PARKING.**

- A. Introduction
  - 1. Bicycle parking shall be located on site with safe, convenient access to the public right-of-way.
  - 2. Bicycle parking shall be located in a manner that is consistent with the requirements of both the adopted Building Code and Oregon Fire Code.
- B. Location
  - 1. Safe, well-lit and convenient pedestrian access shall connect the bicycle parking area to the main entrance of the principle use of the site.
  - 2. If the bicycle parking area is located within the vehicle parking area, the bicycle facilities shall be separated from vehicular maneuvering areas by curbing or other barrier to prevent damage to parked bicycles.
  - 3. Curb cuts shall be installed to provide safe, convenient access to bicycle parking areas.
  - 4. Bicycle parking facilities shall be placed within 50 feet of the main entrance of a building, or not farther than 50 feet from an entrance if several entrances exist.
  - 5. For security and convenience purposes, bicycle-parking facilities shall be located in

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well-lit areas visible to the adjacent sidewalks and/or vehicle parking areas within the site.

6. Bicycle parking facilities may also be located within a building, provided the other requirements of this Chapter are met.

#### C. Dimensions

1. Bicycle parking spaces shall be a minimum of 6 feet in length and 2 feet in width.
2. Overhead clearance in covered areas shall be at least 7 feet.
3. A minimum 5-foot wide aisle shall be provided beside or between each row of bicycle parking.

#### D. Rack/Enclosure Standards

1. Bicycle parking facilities shall consist of either a lockable enclosure (locker) in which the bicycle is stored or a stationary object (rack) to which the bicycle may be locked.
2. Lockers and racks shall be securely anchored to the pavement or a structure.
3. Racks requiring user-supplied locks shall accommodate both cable and U-shaped locks. Racks shall be designed and installed to permit the frame and both wheels to be secured.

#### E. Covering

1. All required bicycle parking must be covered, unless more than 4 spaces are required, in which case half of the total may be uncovered as long as a minimum of 4 spaces are covered.
2. Covering for bicycle parking facilities shall be permanent and shall provide protection from weather.
3. Covering may be provided by an independent outdoor structure, a parking garage, a wide roof overhang, or a wide awning, or other suitable protective covering.

## CHAPTER 17.12: ADMINISTRATION AND ENFORCEMENT

### Section

17.12.010 Authorization to initiate amendments.

17.12.020 Public hearings on amendments.

17.12.025 Review criteria for map amendments.

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- 17.12.030 Record of amendments.
- 17.12.040 Limitation.
- 17.12.050 Administration.
- 17.12.060 Fence permits.
- 17.12.070 [Reserved].
- 17.12.080 Authorization of similar uses.
- 17.12.090 Appeals.
- 17.12.100 Form of petitions, applications and appeals.
- 17.12.110 Filing fees.
- 17.12.120 Notice of public hearing.
- 17.12.130 Public hearing procedure.
- 17.12.140 General administrative provisions.
- 17.12.150 Enforcement.

**§ 17.12.010 AUTHORIZATION TO INITIATE AMENDMENTS.**

An amendment to the text of the ordinance codified in this title or a legislative zoning map amendment may be initiated by the City Manager, the City Planning Commission, the City Council or a property owner. A quasi-judicial zoning map amendment may be initiated by a property owner, a representative of the property owner, the City Manager, the Planning Commission or the City Council. A request for a quasi-judicial zone map amendment by a property owner shall be accomplished by filing an application with the City Planner at least 45 days prior to the Planning Commission meeting and using forms prescribed pursuant to § 17.12.100.

**17.12.015 PUBLIC HEARINGS ON TEXT AMENDMENTS.**

- A. The Planning Commission shall conduct a public hearing on a proposed amendment to the comprehensive plan and/or zoning text.
- B. The Planning Commission shall recommend to the City Council approval, disapproval or modification of the proposed amendment.
- C. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment.
- D. All public hearing procedures shall be in accordance with §§ 17.12.120 and 17.12.130.

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- E. Within five days after a decision has been rendered with reference to an amendment, the City shall provide written notice of the final decision made by the City Council.

**§ 17.12.018 REVIEW CRITERIA FOR TEXT AMENDMENTS.**

An amendment to the official comprehensive plan and/or zoning text may be authorized provided that the proposal satisfied all relevant requirements of this title and also provided that the request demonstrates the following:

- A. The proposed amendment to the comprehensive plan map is consistent with Oregon's statewide planning goals.
- B. The proposed amendment is consistent with the goals and policies of the comprehensive plan;
- C. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment.

**§ 17.12.020 PUBLIC HEARINGS ON ZONE MAP AMENDMENTS.**

- A. The Planning Commission ~~may elect to~~ shall conduct a public hearing on a proposed zone map amendment.
- B. The Planning Commission shall recommend to the City Council approval, disapproval or modification of the proposed map amendment.
- C. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment.
- D. All public hearing procedures shall be in accordance with §§ 17.12.120 and 17.12.130.
- E. Within five days after a decision has been rendered with reference to an amendment, the City ~~Manager~~ shall provide the applicant, and eligible participants, with written notice of the decision. Written notice of a decision shall apply to the recommendations made by the Planning Commission ~~and to final action made by the City Council.~~

**§ 17.12.025 REVIEW CRITERIA FOR MAP AMENDMENTS.**

An amendment to the official zoning or comprehensive plan map may be authorized provided that the proposal satisfied all relevant requirements of this title and also provided that the applicant demonstrates the following:

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- A. The proposed amendment is consistent with the goals and policies of the comprehensive plan;
- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;
- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district; and
  - 1. ~~The proposed amendment to the comprehensive plan map is consistent with Oregon's statewide planning goals. The map amendment is necessary to help provide for a 20-year supply of buildable land within the Urban Growth Boundary as evidenced by professional analysis undertaken by the City and adopted as part of a Comprehensive Plan update process, or independently prepared on behalf of the applicant and concurred in by the City Council with appropriate findings as part of the approval of a map amendment.~~
  - 2. Subsequent to the amendment, the comprehensive plan designation and zoning are in conformance.

#### § 17.12.030 RECORD OF AMENDMENTS.

The City Recorder shall maintain records of amendments to the text and zoning map of the ordinance codified in this title.

#### § 17.12.040 LIMITATION.

No application of a property owner for an amendment to the text of this title or to the zoning map shall be considered by the Planning Commission within ~~the one-year~~ six-month period immediately following a previous denial of the request. ~~except the Planning Commission may permit a new application if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.~~

#### § 17.12.050 ADMINISTRATION.

The City Manager, or designee, shall have the power and duty to enforce the provisions of this title.

#### § 17.12.060 FENCE PERMITS.

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No person shall construct or reconstruct any fence or wall without first obtaining a the appropriate building and/or land use permit.

**§ 17.12.070 [RESERVED].**

**§ 17.12.080 AUTHORIZATION OF SIMILAR USES.**

The City may permit uses in a zone similar to uses permitted outright in that zone.

**§ 17.12.090 APPEALS.**

- A. An appeal of an administrative decision concerning this title will be made to the Planning Commission. Appeals of a Planning Commission decision will be made to the City Council.
- B. A fee set by resolution of Council will be paid upon filing of an appeal.
- C. At an appeal hearing, the ordinances and criteria must be stated and the applicant or appellant must address these criteria with sufficient specificity to allow decision makers an opportunity to respond to the issue.
- D. Upon appeal, the appellate authority must consider the record of the action of which resulted in appeal.
- E. When hearing an appeal of the Planning Commission, the City Council shall have the option of reviewing the appeal solely based on the record of the Commission decision; or, hearing the appeal *de novo* thereby allowing new evidence to be presented. This decision shall be made at the beginning of the Council hearing.
- F. An aggrieved party in a proceeding for a zone change or discretionary permit may appeal the City Council decision to LUBA.

**§ 17.12.100 FORM OF PETITIONS, APPLICATIONS AND APPEALS.**

~~A.~~ Petitions, applications and appeals provided for in this title shall be made on forms prescribed by the city.

~~B.~~ Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to



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~~be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this title.~~

**§ 17.12.110 FILING FEES.**

The City Council shall establish application fees and fee policies by separate resolution for the performance of the actions and reviews required by this title.

**§ 17.12.120 NOTICE OF PUBLIC HEARING.**

- A. Each notice of hearing authorized by this title shall be published in a newspaper of general circulation in the city at least ten days prior to the date of the hearing.
- B. In addition, the following notice requirements shall apply.
  - 1. A notice of hearing on a variance shall be mailed to the applicant and to all owners of record of property on the most recent property tax assessment role available to the city within 100 feet of the subject property.
  - 2. A notice of a hearing on a conditional use or an amendment to a zoning map shall be mailed to the applicant and to all owners of record of property on the most recent property tax assessment role available to the city within 300 feet of the subject property.
  - 3. ~~A notice of a hearing shall be mailed to the residents of a property located within the~~  
~~above notice areas.~~ (**NOTE:** *this is an extraordinary and costly amount of notice – you may wish to limit notice to the property owner.*)
- C. Notice shall also be provided to any neighborhood or community organization recognized by the city and whose boundaries include the site.
- D. Notice distances will be measured from the exterior boundaries of the subject property for which the application request has been made.
- E. The notice shall be mailed at least 20 days prior to the date of hearing.
- F. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.
- G. The notice provisions of this section shall not restrict the giving of notice by other means, including the posting of property or the use of radio.
- H. When a zone change is proposed for a mobile home park, the residents of the mobile home park shall be given 20 days' notice of the required public hearing.

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- I. Reserved.
- J. All notices of public hearings shall contain the following information:
  - 1. Explain the nature of the application and the proposed use or uses which could be approved;
  - 2. List of applicable criteria from this title and the comprehensive plan that apply to the application at issue;
  - 3. Set forth the street address or other easily understood geographic identifier;
  - 4. State the date, time and location of the hearing;
  - 5. State that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
  - 6. Include the name and telephone number of a local government representative to contact for more information;
  - 7. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost;
  - 8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost; and
  - 9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

**§ 17.12.130 PUBLIC HEARING PROCEDURE.**

- A. Order of public hearing procedure.
  - 1. At the outset of the hearing, the Mayor or Chair shall review the public hearing procedure.
  - 2. City staff shall briefly review the basic facts involved in the proposal.
  - 3. The Chair shall provide the opportunity for questions to be asked by the ~~Board~~ Planning Commission or City Council or from the floor regarding clarification of the matter to be heard.

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4. All those persons who support the proposed application shall first be permitted to present their case. The applicant or his or her representative shall proceed first to be followed by all others who support the application.
  5. All those who oppose the proposed application shall then present their case. Representatives of a group shall proceed first followed by others in opposition.
  6. All those who do not necessarily support or oppose the proposed application shall then have an opportunity to speak.
  7. City staff shall then make further presentation, if appropriate. City staff may also answer questions or clarify issues during other stages of the hearing whenever permitted by the Chair during the hearing.
  8. Following all presentation, ~~brief rebuttal~~ the applicant shall be permitted a brief rebuttal of the evidence presented by opponents. ~~by all parties in the same general order as initial presentations. The Chair shall have broad discretion to limit rebuttal to avoid repetition and redundancy.~~
- B. Members of the ~~Board~~ decision-making authority conducting the hearing may question anyone making a presentation at a hearing, but the questioning shall occur after, not during, the individual's presentation.
- C. Any questions from the floor shall be addressed to the Chairperson. The Chair shall then direct the question to the appropriate person.
- D. No person shall be disorderly, disruptive or abusive during the conduct of the hearing.
- E. No person shall testify without receiving recognition from the Chair and stating his or her full name and address.
- F. All presentations shall be as brief as possible and redundancy and repetition shall be avoided.
- G. The Chair shall have authority to:
1. Regulate the course and decorum of the hearing;
  2. Dispose of procedural matters;
  3. Rule on relevancy of testimony and request documentation at any time; and
  4. Impose reasonable limitations on the number of witnesses and time limits for presentation and rebuttal.
- H. At the close of all presentations and rebuttal, the Chair shall declare that the ~~hearing~~ public testimony is closed, and thereafter, no further evidence or argument shall be received. Once-a

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~~hearing-public testimony~~ has been closed, it shall be reopened only upon vote of the City Council or Planning Commission decision authority. If such testimony is reopened, it shall following the procedure outlined in Section 17.12.130.A. All subsequent deliberations shall be limited to the decision authority and staff.

- I. Any person making a presentation may present one or more written exhibits, visual aids, affidavits and similar material to be considered as a part of the evidence.
- J. At City Council hearings, all Planning Commission minutes and records shall be a part of the record before the City Council. A Planning Commission representative may testify as part of the city staff presentation at a City Council hearing.
- K. The Planning Commission or City Council may allow a continuance of the public hearing in order to obtain additional information or to serve further notice upon other persons it decides may be interested in the proposal being considered. If continued, the time and date when the hearing is to be resumed shall be announced.

**§ 17.12.140 GENERAL ADMINISTRATIVE PROVISIONS.**

- A. An applicant may apply at one time for all permits or zone changes needed for a development project.
- B. The city shall take final action on all land use actions, limited land use actions or zone change applications including all appeals, within 120 days of completion of the application. Applications or appeals which require consideration by agencies or entities outside the city jurisdiction are excepted from this deadline. The 120-day deadline may be extended for a reasonable amount of time at the request of the applicant.
- C. If the Planning Commission cannot rule on an application within 95-days from the day the application is deemed complete, the City Council shall have the authority to call-up the case and conduct a public hearing to ensure compliance with the 120-day rule. Responsibility to inform the City Council of the timeframe rests with the Planning Official.
- D. If an application is incomplete, the city shall notify the applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete, at least for the purpose of subsection B. of this section, on the thirty-first day after the city received the application. If the applicant agreed to supply the missing information, the application shall be

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deemed complete for the purpose of subsection B. of this section when the missing information is supplied.

- E. If the application was complete when first submitted, or if the applicant supplies requested additional information within 180 days of initial submittal, approval or denial of the application shall be based upon the standards and conditions which were in effect at the time of submittal.
- F. If an application is not acted upon within 120 days after completion:
  - 1. The city shall refund to the applicant either the unexpended portion of any application fees previously paid or 50% of the total amount of the fees, whichever is greater.
  - 2. The applicant may apply in the Circuit Court of Linn County for a writ of mandamus to compel the city to issue the approval.
- G. *Ex parte* contacts with a member of the decision-making body shall not invalidate a final decision or action of the decision-making body. The member receiving the information shall report the information for the record at the hearing. The Chair shall allow rebuttal of the content at the first hearing where action will be considered or taken.

**§ 17.12.150 ENFORCEMENT.**

- A. *Penalty.* Violation of this title constitutes a violation and may be prosecuted under the provisions of Sweet Home Municipal Code Chapter 9.36 as now enacted or hereafter amended. Each day's violation is a separate offense.
- B. *Alternative remedy.* In case a structure is located, constructed, maintained, repaired, altered or used, or land is used in violation of this title, the structure or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use. For abatement the city may follow the procedure set out in Sweet Home Municipal Code Article II of Chapter 8.04 as now enacted or hereafter amended, except no hearing need be held before abatement occurs if a hearing before the Planning Commission or City Council has already been held on the issue in dispute and the body has made a final decision thereon. The city can recover its expenses as set forth in the abatement procedure.

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**CHAPTER 17.16: OFFICIAL CITY COMPREHENSIVE PLAN**

Section

17.16.010 Adoption of Comprehensive Plan.

17.16.020 Official land use guide.

**§ 17.16.010 ADOPTION OF COMPREHENSIVE PLAN.**

- A. The purpose of this chapter is to promote the public health, safety and general welfare of the City of Sweet Home and to assist in implementing the adopted Statewide Planning Goals.
- B. The amendments to the Comprehensive Plan, as attached to the ordinance codified herein, are approved, based on the findings and facts as presented in Appendix G of the Transportation System Plan and testimony received by the Sweet Home City Council after holding a public hearing on June 14, 2005.
- C. The study attached to the ordinance codified herein is added as a specific technical resource documents to the Comprehensive Plan, replacing the Sweet Home Transportation System Plan by W&H Pacific done in 1998. This study is adopted and incorporated into the Comprehensive Plan by reference and serves as an official document of the specific topics: *Sweet Home Transportation System Plan*, Satre Associates, 2005.

**§ 17.16.020 OFFICIAL LAND USE GUIDE.**

The Comprehensive Plan as amended and approved by ordinance by the City council is the official guide for policy decisions related to land use, ~~and by this reference is made a part thereof~~ including all provisions of this Development Code. The Development Code is the primary implementing tool for the land use goals and policies of the Comprehensive Plan. Conformance with the standards and criteria of the Development Code is sufficient evidence of conformance with the Goals and Policies of the Comprehensive Plan.

**CHAPTER 17.20: ESTABLISHMENT OF ZONES**

Section

17.20.010 Classification of zones.

17.20.020 Location of zones.

17.20.030 Zoning maps.

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17.20.040 Zoning of annexed areas.

17.20.050 Zone boundaries.

**§ 17.20.010 CLASSIFICATION OF ZONES.**

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

*(NOTE: Will need to add corresponding Plan designation for each zone.)*

<b><i>Zone</i></b>	<b><i>Abbreviated Designation</i></b>	<b><i><u>Corresponding Plan Designation</u></i></b>
Residential Low-density	R-1	
Residential High-density	R-2	
Residential Medium-density	R-3	
Residential Mixed Use	R-4	
Commercial Central	C-1	
Commercial Highway	C-2	
Commercial Neighborhood	C-3	
Industrial	M	
Planned Development	PD	
Recreation Commercial	RC	
Residential Industrial	R/M (T)	
Transitional Natural Resources Overlay	NR	

**§ 17.20.020 LOCATION OF ZONES.**

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The boundaries for the zones listed in this title are indicated on the City Zoning Map of 2003 and all amendments made, which are adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference.

#### **§ 17.20.030 ZONING MAPS.**

A zoning map or zoning map amendment adopted by § 17.20.020 of this title or by an amendment thereto shall be prepared by authority of the City Council. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the City Clerk as long as this title remains in effect.

#### **§ 17.20.040 ZONING OF ANNEXED AREAS.**

All areas annexed to the city shall continue to be zoned under the existing county zoning, unless the area or a part of the area is specifically placed in a zone or zones by the City Council, after receiving and considering the recommendations of the City's Planning Commission.

#### **§ 17.20.050 ZONE BOUNDARIES.**

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, centerlines of street or railroad rights-of-way or such lines extended.

*(NOTE: As a general comment, each of the following Chapters related to zones should end with a section that identifies other Chapters - or sections - that apply to property development. Examples would include references to parking, landscaping, public facilities, partitioning requirements, and so forth. This will assist both the customer and staff with development. This section can be readily inserted in at the end of each zone chapter as the organization and numbering are close to finalization. See below example:*

#### **17.24.XXX GENERAL DEVELOPMENT STANDARDS**

*The following Chapters and/or Sections shall apply for the development of property within the zone:*

*A. Parking – Chapter 17.XX*

*B. Accessory Buildings – Chapter 17.XX*



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*C. Fences – Chapter 17.XX*

*D. Conditional Use – Chapter 17.XX)*

**CHAPTER 17.24: R-1 RESIDENTIAL LOW-DENSITY ZONE**

Section

17.24.010 Purpose.

17.24.020 Uses permitted outright.

17.24.030 Conditional uses permitted.

17.24.040 Lot size and width.

17.24.050 Yard setbacks.

17.24.060 Lot coverage.

17.24.070 Building height.

17.24.080 Minimum building size.

17.24.090 Homes on individual lots.

17.24.100 Garage and off-street parking requirements.

**§ 17.24.010 PURPOSE.**

The purpose of the R-1 zone is to provide areas suitable and desirable for single-family homes, associated public service uses and duplexes on corner lots. The R-1 zone is most appropriate in areas which have developed or will develop with single-family homes at a density which warrants provision of public water and sewer facilities.

**§ 17.24.020 USES PERMITTED OUTRIGHT.**

In an R-1 zone, the following primary residential uses and their accessory uses are permitted outright:

- A. Single-family dwelling, including manufactured homes meeting standards of 17.52.
- B. Two-family dwelling on corner lots where each living unit has access from a separate street;
- C. Residential ~~facility~~ or home.
- D. Accessory structures and uses.
- E. Day care home and center
- F. Accessory dwelling

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G. Property line adjustments, partitions and subdivisions.

**§ 17.24.030 CONDITIONAL USES PERMITTED.**

In an R-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- A. Airport;
- B. Cemetery;
- C. Church, religious or philanthropic institution;
- D. Community center;
- E. Hospital;
- F. Private golf course, country club or recreational club;
- G. Public school and private school offering curricula similar to public school;
- H. Public utility facility;
- I. Boarding or rooming house;
- K. Bed and breakfast establishments;
- L. Home occupation;
- ~~K. Accessory dwelling;~~
- M. Secondary use on a lot without a primary use;
- N. Duplexes not meeting § 17.24.020(B);
- O. RV for government facility caretaker; and
- P. Amateur radio, police and fire antennas that exceed height limitation of R-1 zone.

**§ 17.24.040 LOT SIZE AND WIDTH.**

Except as provided in § 17.08.050, the minimum lot size and width in a R-1 zone shall be as follows:

- A. The minimum lot area shall be 8,000 square feet; and
- B. The minimum lot width at the front building line shall be 80 feet.

**§ 17.24.050 YARD SETBACKS.**

Except as provided in § 17.08.060, in a R-1 zone, yard setbacks shall be as follows.

- A. The front yard shall be a minimum of ~~20~~ 15 feet with a minimum of a 20-foot setback to a garage or carport entrance measured along the centerline of the driveway.

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- B. Each side yard shall be a minimum of five feet, and the total of both side yard setbacks shall be a minimum of 13 feet.
- C. The street side yard shall be a minimum of 15 feet.
- D. The rear yard shall be a minimum of ~~15~~ 20 feet.
- E. On a flag lot, or similarly configured lot, the inset front yard setback shall be a minimum of 15 feet.
- F. Regardless of the side and rear yard requirements of the zone, an accessory structure may be built to within five feet of side or rear lot line; provided, the structure is more than 70 feet from the street abutting the front yard and 20 feet from the street abutting the street side yard.

**§ 17.24.060 LOT COVERAGE.**

In an R-1 zone, buildings shall not occupy more than ~~35%~~ 40% of the lot area; two family dwellings no more than 50% of the lot area.

**§ 17.24.070 BUILDING HEIGHT.**

Except as provided in § 17.08.070, in a R-1 zone building heights shall be as follows.

- A. The height of a building for a dwelling shall not exceed a height of 30 feet.
- B. Accessory structures shall not exceed 20 feet in height at the apex of the roof.
- C. Maximum heights for structures allowed through the conditional use process shall be established as part of the approval process for each individual use.

**~~§ 17.24.080 MINIMUM BUILDING SIZE.~~**

~~Dwellings in the R-1 zone shall be a minimum size of 1,000 square feet.~~

**~~§ 17.24.090 MANUFACTURED HOMES ON INDIVIDUAL LOTS.~~**

~~A. A home shall be placed on a foundation enclosed at the perimeter with no more than 24 inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 24-inch limitation will not apply.~~

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~~–B. The base of a home must be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or combination thereof, or shall have continuous skirting which matches the exterior.~~

~~–C. A home shall have a nominal width of at least 28 feet be multisectional.~~

~~–D. A home shall have a roof with a minimum pitch of three feet in height for each 12 feet in width.~~

*(NOTE: Chapter 17.52 will be revised to include infill manufactured home requirements, consistent with provisions in state law. It was also suggested some possible requirements for “tiny-homes, if not in the R-1 zone, then other higher density zones. Note that the issue is not planning per se, but building code requirements. Tiny homes are therefore effectively allowed, provided they comply with building code requirements for a single family dwelling. Therefore, the proposed revisions eliminate all minimum size requirements except for manufactured homes – which is allowed by state law.)*

#### **§ 17.24.090 GARAGE AND OFF-STREET PARKING REQUIREMENTS.**

All dwellings in the R-1 zone shall have at least two hard surfaced off-street parking spaces exclusive of a garage or carport. ~~in addition to shall be provided will have at minimum the following:~~

~~–A. A garage or carport; and~~

~~–B. Two hard surfaced off-street parking spaces shall be provided.~~

#### **CHAPTER 17.28: R-2 RESIDENTIAL HIGH-DENSITY ZONE**

##### Section

17.28.010 Purpose.

17.28.020 Uses permitted outright.

17.28.030 Conditional uses permitted.

17.28.040 Lot size and width.

17.28.050 Yards.

17.28.060 Lot coverage.

17.28.070 Building height.

17.28.080 Minimum building size.

17.28.090 Homes on individual lots.

17.28.100 Garage and off street parking requirements.

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17.28.110 Standards for new and expanded manufactured home parks.

**§ 17.28.010 PURPOSE.**

The purpose of the R-2 zone is to provide areas suitable and desirable for high-density residential development, and particularly for apartments, but where other types of residential and related public service uses are appropriate. The R-2 zone is most appropriate in areas which have been developed for high-density residential use or which are suitable for such use due to proximity to downtown Sweet Home and to highway-related commercial areas inside the city.

**§ 17.28.020 USES PERMITTED OUTRIGHT.**

In a R-2 zone, the following primary residential uses and their accessory uses are permitted outright:

- ~~A. A use permitted outright in a R-1 zone;~~
- ~~B. Multi-family dwelling;~~
- ~~C. Two-family dwellings;~~
- ~~D. Manufactured home park; and~~
- ~~E. Single-family attached dwellings.~~
- A. Single-family dwelling, including manufactured homes meeting standards of Chapter 17.52.
- B. Single-family attached dwellings.
- C. Two-family dwellings;
- D. Multi-family dwelling;
- E. Manufactured home park;
- F. Day care center or home
- G. Residential home or facility.
- H. Accessory structures and uses.
- I. Accessory dwelling.
- J. Property line adjustments, partitions and subdivisions.

**§ 17.28.030 CONDITIONAL USES PERMITTED.**

In a R-2 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- ~~A. A use permitted as a conditional use in a R-1 zone;~~

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- ~~B. Professional office, except for veterinarian;~~
- ~~C. Club, lodge, fraternal organization; and~~
- ~~D. Amateur radio, police and fire antennas.~~
- A. Airport;
- B. Cemetery;
- C. Church, religious or philanthropic institution;
- D. Club, lodge, fraternal organization; and
- E. Community center;
- F. Hospital;
- G. Private golf course, country club or recreational club;
- H. Public school and private school offering curricula similar to public school;
- I. Day nursery
- J. Public utility facility
- K. Professional office, except for veterinarian;
- L. Boarding or rooming house;
- M. Bed and breakfast establishments;
- N. Home occupation;
- O. Secondary use on a lot without a primary use;
- P. RV for government facility caretaker; and
- Q. Amateur radio, police and fire antennas that exceed 40-feet in height.

**§ 17.28.040 LOT SIZE AND WIDTH.**

Except as provided in, Sweet Home Municipal Code § 17.08.050, the minimum lot size and width in a R-2 zone shall be as follows:

- A. The minimum lot area for a multi-family dwelling shall be 2,500 square feet per dwelling unit;
- B. The minimum lot area for a two-family dwelling shall be 6,000 square feet;
- C. The minimum lot area for a single-family dwelling and all other uses permitted in a R-2 zone shall be 5,000 square feet;
- D. Single family attached dwellings shall have a minimum lot area of 2,500 square feet per dwelling unit; except corner lots with attached dwellings shall require a minimum of 3,000 square feet per dwelling unit.

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- E. The minimum lot width at the front building line shall be as follows:
1. Seventy feet for a corner lot;
  2. Sixty feet for an interior lot; and
  3. Twenty five feet for a single-family attached dwelling lot.

**§ 17.28.050 YARDS.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in a R-2 zone, yard setbacks shall be as follows:

~~A. The front yard setback shall be a minimum of 20 feet;~~

~~B. Each side yard setback shall be a minimum of five feet;~~

~~C. The street yard setback shall be a minimum of 15 feet;~~

~~D. The rear yard setback shall be a minimum of ten feet;~~

A. Single family dwellings:

1. The front yard setback shall be a minimum of 15 feet with a minimum 20-foot setback to a garage or carport entrance measured along the centerline of the driveway;
2. Each side yard setback shall be a minimum of five feet;
3. The street yard setback shall be a minimum of 15 feet;
4. The rear yard setback shall be a minimum of 15 feet;

B. Single-family attached dwellings:

1. Front shall be a minimum of ~~20~~ 15 feet with a minimum 20-foot setback to a garage or carport entrance measured along the centerline of the driveway;
2. The sides between units shall be zero feet;
3. The sides on exterior boundaries shall be five feet;
4. Street side shall be a minimum of 15 feet; and
5. Rear shall be a minimum of ~~ten~~ 15 feet.

C. Multi-family dwellings:

1. The front yard setback shall be a minimum of 15 feet;
2. Each side yard setback shall be a minimum of 10 feet;
3. The street yard setback shall be a minimum of 15 feet;
4. The rear yard setback shall be a minimum of 20 feet;

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- D. On a flag lot or similarly configured lot, the inset front yard setback shall be a minimum of ten feet.

**§ 17.28.060 LOT COVERAGE.**

Building coverage shall meet the following standards: all buildings, except single-family attached dwellings, shall occupy not more than 60% of the lot area. Single-family attached dwellings shall not occupy more than 70% of the lot area.

**§ 17.28.070 BUILDING HEIGHT.**

Except as provided in Sweet Home Municipal Code § 17.08.060, in a R-2 zone building heights shall be as follows:

- A. Single-family dwellings shall not exceed a height of 30 feet;
- B. Two-family, single-family attached dwellings and multi-family dwellings shall not exceed a height of 40 feet; and
- C. Accessory structures shall not exceed 20 feet in height at the apex of the roof.
- D. Maximum heights for structures allowed through the conditional use process shall be established as part of the approval process for each individual use.

**~~§ 17.28.080 MINIMUM BUILDING SIZE.~~**

~~Dwellings in the R-2 zone shall have a minimum building size of 720 square feet.~~

**~~§ 17.28.090 HOMES ON INDIVIDUAL LOTS.~~**

~~A. A home shall be placed on a foundation enclosed at the perimeter with no more than 32 inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than 32 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 32 inch limitation will not apply.~~

~~B. The base of a home must be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone or combination thereof, or shall have continuous skirting which matches the exterior.~~

~~C. A home shall have a nominal width of at least 24 feet.~~

~~D. A home shall have a roof with a minimum pitch of three feet in height for each 12 feet in width.~~



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*(NOTE: Chapter 17.52 will be revised to address the infill requirements in the residential zone. This Chapter will be referenced in each zone.)*

**§ 17.28.100 GARAGE AND OFF STREET PARKING REQUIREMENTS.**

- A. ~~All single-family, two-family and single-family attached dwellings will have, at minimum, the following:~~
1. ~~A garage or carport; and~~
  2. ~~Two hard surfaced off-street parking spaces shall be provided.~~
- A. All single-family, two-family and single-family attached dwellings shall have at least two hard surfaced off-street parking spaces exclusive of a garage or carport.
- B. Multi-family dwellings will have a minimum of two parking spaces per unit.

**§ 17.28.110 STANDARDS FOR NEW AND EXPANDED MANUFACTURED HOME PARKS.**

<i><b>Description</b></i>	<i><b>City Standard</b></i>
1. Minimum size of park	1 acre (ORS)
2. Minimum size of dwelling space	4,000 square feet
3. Minimum width of dwelling space	40 feet
4. Minimum length of dwelling space	80 feet
5. Minimum distance between dwellings and the public right-of-way	20 feet
6. Minimum distance between dwellings and all other exterior property lines	15 feet
7. Exterior boundary fencing	6' on sides and rear

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8. Landscaping	10' at front entrance
9. Must meet the minimum standards set in the Manufactured Dwelling Parks Administrative Rules - Chapter 918 Division 600	

**CHAPTER 17.30: R-3 MEDIUM DENSITY RESIDENTIAL ZONE**

Section

- 17.30.010 Purpose.
- 17.30.020 Uses permitted outright.
- 17.30.030 Conditional uses permitted.
- 17.30.040 Lot size and width.
- 17.30.050 Yards.
- 17.30.060 Lot coverage.
- 17.30.070 Building height.
- 17.30.080 Minimum building size.
- 17.30.090 Standards for homes on individual lots.
- 17.30.100 Garage and off street parking requirements.

**§ 17.30.010 PURPOSE.**

The purpose of the R-3 zone is to provide areas suitable and desirable for single-family homes, duplexes on corner lots, condominiums, town houses and appropriate community facilities.

**§ 17.30.020 USES PERMITTED OUTRIGHT.**

The following primary residential uses and their accessory uses are permitted outright:

- ~~A. A use permitted outright in a R-1 zone;~~
- ~~B. Two-family dwellings; and~~
- ~~C. Single-family attached dwellings.~~
- A. Single-family dwelling, including manufactured homes meeting standards of Chapter 17.52.
- B. Single-family attached dwellings.

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- C. Two-family dwellings;
- D. Residential home.
- E. Day care center and home
- F. Accessory structures and uses.
- G. Accessory dwelling.
- H. Property line adjustments, partitions and subdivisions.

**§ 17.30.030 CONDITIONAL USES PERMITTED.**

The following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- ~~A. A use permitted as a conditional use in a R-1 zone;~~
- ~~B. Multi-family dwellings; and~~
- ~~C. Professional offices.~~

- A. Airport;
- B. Cemetery;
- C. Church, religious or philanthropic institution;
- D. Community center;
- E. Hospital;
- F. Private golf course, country club or recreational club;
- G. Public school and private school offering curricula similar to public school;
- H. Public utility facility;
- I. Boarding or rooming house;
- L. Bed and breakfast establishments;
- M. Home occupation;
- N. Day nursery
- O. Multi-family dwellings;
- P. Professional offices.
- N. Secondary use on a lot without a primary use;
- O. RV for government facility caretaker; and
- P. Amateur radio, police and fire antennas that do not exceed 40-feet in height.

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**§ 17.30.040 LOT SIZE AND WIDTH.**

The minimum lot size and width shall be as follows: the maximum net density shall not exceed nine dwelling units per acre:

- A. Single-family dwellings shall have a minimum lot area of 5,000 square feet;
- B. Two-family dwellings shall have a minimum lot area of 6,000 square feet;
- C. Each single-family attached dwelling shall have a minimum lot area of 3,000 square feet for an interior lot and 4,800 4,000 square feet for a corner lot. per dwelling unit;
- D. The minimum lot width at the front building line shall be as follows:
  - 1. Seventy feet for a corner lot; and
  - 2. Sixty feet for an interior lot.
  - 3. Single family attached dwelling: 30-feet for interior lot, 40-feet for a corner lot.

**§ 17.30.050 YARDS.**

Yard setbacks shall be as follows:

- A. Single-family and two-family dwelling units:
  - 1. The front shall be a minimum of ~~20~~ 15 feet with a minimum 20-foot setback to the garage or carport entrance measured along the centerline of the driveway;
  - 2. Each side shall be a minimum of five feet;
  - 3. The street side yard shall be a minimum of 15 feet;
  - 4. The rear shall be a minimum of ~~ten~~ 15 feet;
  - 5. On a flag lot, the inset front yard setback shall be a minimum of ten feet; and
  - 6. ~~No building shall be located closer than one-half the distance of the right-of-way projected for the abutting street, based on the street classification, plus the required front setback from a centerline of a street other than an alley.~~
- B. Single-family attached dwellings:
  - 1. Front shall be a minimum of ~~20~~ 15 feet with a minimum 20-foot setback to the garage or carport entrance measured along the centerline of the driveway;
  - 2. The sides between units shall be zero feet;
  - 3. The sides on exterior boundaries shall be five feet;
  - 4. Street side shall be a minimum of 15 feet; and

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5. Rear shall be a minimum of ~~ten~~ 15 feet.

**§ 17.30.060 LOT COVERAGE.**

Building coverage shall meet the following standards.

- A. A single-family dwelling shall not exceed ~~35%~~ 40% of the land area.
- B. Two-family dwellings and multi-family dwellings shall not exceed ~~50%~~ 60% of the land area.
- C. Single-family attached dwellings shall not exceed ~~60%~~ 70% of the land area.

**§ 17.30.070 BUILDING HEIGHT.**

Building heights shall be as follows.

- A. Single-family dwellings shall not exceed a height of 30 feet.
- B. Two-family, multi-family and single-family attached dwellings shall not exceed a height of 40 feet.
- C. Accessory structures shall not exceed 20 feet in height at the apex of the roof.
- D. Maximum heights for structures allowed through the conditional use process shall be established as part of the approval process for each individual use.

**~~§ 17.30.080 MINIMUM BUILDING SIZE.~~**

~~Primary use buildings shall have a minimum building size of 850 square feet.~~

**~~§ 17.30.090 STANDARDS FOR MANUFACTURED HOMES ON INDIVIDUAL LOTS.~~**

- ~~A. A home shall be placed on a foundation enclosed at the perimeter with no more than 32 inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than 32 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 32-inch limitation will not apply.~~
- ~~B. The base of a home must be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone or combination thereof, or shall have continuous skirting which matches the exterior.~~
- ~~C. A home shall have a nominal width of at least 24 feet.~~
- ~~D. A home shall have a roof with a minimum pitch of three feet in height for each 12 feet in width.~~

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*(NOTE: Chapter 17.52 will be revised to address the infill requirements in the residential zone. This Chapter will be referenced in each zone.)*

**§ 17.30.100 GARAGE AND OFF STREET PARKING REQUIREMENTS.**

~~All dwellings will have at minimum the following:~~

~~A. A garage or carport; and~~

~~B. One hard surfaced off-street parking spaces shall be provided.~~

A. All single-family, two-family and single-family attached dwellings shall have at least two hard surfaced off-street parking spaces exclusive of a garage or carport.

B. Multi-family dwellings will have a minimum of two parking spaces per unit.

**CHAPTER 17.31: R-4 RESIDENTIAL MIXED USE ZONE**

Section

17.31.010 Purpose.

17.31.020 Uses permitted outright.

17.31.030 Conditional uses permitted.

17.31.040 Development standards.

**§ 17.31.010 PURPOSE.**

The purpose of the R-4 Zone is to provide a zone for primarily medium to high density residential mixed-use developments, with limited commercial, institutional, office and service uses distributed on site in a manner sensitive to the street environment and adjacent residential uses.

**§ 17.31.020 USES PERMITTED OUTRIGHT.**

The following uses and their accessory uses shall be permitted outright: ~~residential uses: a use permitted outright in any residential zone.~~

A. Single-family dwelling, including manufactured homes meeting standards of Chapter 17.52.

B. Single-family attached dwellings.

C. Two-family dwellings;

D. Residential home or facility.

E. Accessory structures and uses.

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- F. Accessory dwelling.
- G. Day care center or home
- H. Property line adjustments, partitions and subdivisions.

**§ 17.31.030 CONDITIONAL USES PERMITTED.**

The following uses and their accessory uses may be permitted subject to the provisions of this section and Chapter 17.80.

- A. Church, non-profit religious or philanthropic institution;
- B. Community center;
- C. Governmental structure or use of land or public utility facility;
- D. Food store, retail, restaurant;
- E. Drug store;
- F. Barber or beauty shop;
- G. Laundromat, clothes cleaning establishment;
- H. Rooming or boarding house;
- I. Bed and breakfast establishment;
- L. Home occupation;
- J. Day nursery
- J. Professional office;
- K. Veterinary; and
- L. Amateur radio, police and fire antenna exceeding 45-feet in height.

**§ 17.31.040 DEVELOPMENT STANDARDS.**

- ~~—A. The following special standards shall apply.~~
- ~~—1. Residential uses shall be subject to a maximum density of 35 dwelling units per acre.~~
- ~~—2. Residential uses shall be subject to the lot size and width, yard, lot coverage and building height requirements of the R-2 zone.~~
- ~~—3. The residential uses are required to be developed prior to or concurrently with non-residential uses, with the exception of non-residential uses that are in existence as of the adoption of this R-4 Zone.~~
- ~~—4. Non-residential uses shall be subject to the following standards.~~

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- ~~— a. Off-street parking will be based on the city parking standards.~~
- ~~— b. Building height shall not exceed 45 feet.~~
- ~~— c. Yard setbacks:~~
  - ~~— (1) Front, from either a public or private street, shall be 20 feet;~~
  - ~~— (2) Sides, none, except if abutting residential zones, and then the side yard shall be at least ten feet. The required side yard shall be increased by one-half foot for each foot the building height exceeds 20 feet; and~~
  - ~~— (3) Rear, none, except if abutting residential zones, and then the rear yard shall be at least ten feet. The required rear yard shall be increased by one-half foot for each foot the building height exceeds 20 feet.~~
- ~~— d. A maximum of 10,000 square feet per acre of non-residential uses listed in § 17.31.030 shall be permitted; provided that a minimum of 20 dwelling units per acre are built prior to or in conjunction with these uses.~~
- ~~— 5. No establishment situated within a R-4 zone shall exceed a size of 10,000 square feet, including building, storage, sales and off-street parking and loading areas, unless allowed as a part of an approved planned development.~~
- ~~— 6. R-4 areas will be situated on either an arterial or collector street as indicated in the Transportation System Plan.~~
- ~~— 7. Areas zoned R-4 shall normally be located on only one side of a street or on one corner of an intersection.~~
- ~~— 8. Vehicular ingress and egress points shall be limited to one ingress point and one egress point. These points shall be a minimum of 50 feet from an intersection.~~
- ~~— 9. All parking areas and service drives shall be hard surfaced and clearly marked.~~
- ~~— 10. Off-street parking areas intended for five or more cars shall be provided with screening consisting of a fence, wall, hedge or similar sight-obscuring material.~~
- ~~— 11. No more than one sign, not to exceed 25 square feet in area, shall be permitted for each commercial use. The sign shall be placed flat against the side of the building.~~
- ~~— B. Therefore, this chapter shall be in full force and effect after the passage by the Council and approval by the Mayor.~~

The following special standards shall apply.

#### A. Minimum parcel size



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1. Single family detached: 5,000 square feet
  2. Single family attached 3,000 square feet
  3. Multifamily: 2,000 square feet per dwelling unit; minimum 9,000 square feet.
  4. Non-residential: no minimum
  5. Mixed residential/non-residential: no minimum, except must comply with density provisions for multifamily dwelling units.
- B. Yard setbacks**
1. Front: 15-feet front
  2. Street side: 15-feet
  3. Rear: 15-feet
  4. Interior side: 5-feet.
- C. Maximum building height: 45-feet except maximum heights for structures allowed through the conditional use process shall be established as part of the approval process for each individual use.**
- D. Off-street parking: two spaces per residential unit, and, compliance with City parking standards for non-residential uses.**

**CHAPTER 17.32: C-1 COMMERCIAL CENTRAL ZONE**

**Section**

- 17.32.010 Purpose.
- 17.32.020 Uses permitted outright.
- 17.32.030 Conditional uses permitted.
- 17.32.040 Yards.
- 17.32.050 Building height.
- 17.32.060 Open storage.
- 17.32.070 Use of residential structures in commercial zones.
- 17.32.090 Exterior lighting.

**§ 17.32.010 PURPOSE.**

The purpose of the C-1 zone is to provide an area suitable and desirable for retail and service enterprises, offices, financial institutions and public service uses which are appropriate in the

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intensively developed commercial center of the community in order to meet shopping and other business needs of area residents. The C-1 zone is appropriate only in the downtown area of the city.

**§ 17.32.020 USES PERMITTED OUTRIGHT.**

In a C-1 zone, the following uses and their accessory uses are permitted outright:

- A. Two-family dwellings, multi-family dwellings and residential facilities shall be subject to the requirements of the R-2 zone;
- B. Parking lot;
- C. Family day care center;
- D. Community center;
- E. Bus depot, taxicab stand;
- F. Club, lodge, fraternal organization;
- G. Newspaper office, print shop;
- H. Motel, hotel, rooming/boarding house, bed and breakfast establishment;
- I. A commercial enterprise which may be classified as belonging to one of the following use groups:
  - 1. Retail store or shop, such as food store, drug store, apparel store, hardware store or furniture store;
  - 2. Automobile, boat, truck or trailer sales establishment; provided any associated repair shall be incidental to the operation and that all sales, service, storage, repair and display shall occur within an enclosed building;
  - 3. Personal or business service establishment such as barber or beauty shop, drycleaning establishment, tailor shop or locksmith;
  - 4. Repair shop for the type of goods offered for sale in retail trade establishment permitted in a C-1 zone, such as shoe repair shop, small appliance repair shop, television repair shop or watch repair shop;
  - 5. Eating or drinking establishments such as restaurant, tavern or cocktail lounge;
  - 6. Office, business or professional;
  - 7. Financial institution, such as bank; and
  - 8. Indoor commercial amusement or recreation establishment such as bowling alley, theater or pool hall.

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- J. Antique shop or second-hand store; provided, all business, service, storage, sales, repair and display shall be conducted entirely within an enclosed building; and
- K. Residential dwelling units located above the ground floor.
- L. Property line adjustments, partitions and subdivisions.

*(NOTE: the following subsection related to replacement of non-conforming uses will be moved to a separate Chapter.)*

- ~~K. The following shall apply to single family dwellings and related accessory structures existing as of June 1996:~~
- ~~—1. Single family dwellings may be replaced within one year following fire or other catastrophic loss. Single family dwellings must meet the standards of the R-1 zone;~~
- ~~—2. Single family dwellings may be maintained, altered or enlarged, provided such work shall not cause the structure to deviate further from the standards of the R-1 zone.~~

**§ 17.32.030 CONDITIONAL USES PERMITTED.**

In a C-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- A. Church, nonprofit religious or philanthropic institution;
- B. Governmental structure or use of land;
- C. Public utility facility;
- D. Automobile service station; provided, that no major automobile repair, overhaul or reconstruction shall be permitted; and provided, further, that any incidental automobile repair shall be performed entirely within an enclosed building;
- E. Any use permitted in a C-1 zone with customer drive-in service facilities; *(NOTE: see Chapter 17.32.100.)*
- F. Veterinarian office, animal hospital; provided, all animals shall be kept at all times within an enclosed building;
- G. Amateur radio antennas; and
- H. Commercial radio stations and antennas.

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**§ 17.32.040 YARDS.**

Except as provided in Chapter 17.80, in a C-1 zone yards shall be as follows.

- A. A front yard abutting a residential zone, shall be a minimum of 20 feet.
- B. A street side yard abutting a residential zone shall be a minimum of 15 feet.
- C. A side or rear yard abutting a residential zone shall be a minimum of ten feet.
- D. Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.
- E. Setbacks for automobile service stations. Freestanding gasoline pumps and pump islands may occupy a required front or street side yard; provided, they are a minimum of 15 feet from the property line separating the yard from the street.

**§ 17.32.050 BUILDING HEIGHT.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in a C-1 zone no building shall exceed a height of 40 feet.

**§ 17.32.060 OPEN STORAGE.**

In a C-1 zone, there shall be no open storage.

**§ 17.32.070 USE OF RESIDENTIAL STRUCTURES IN COMMERCIAL ZONES.**

In a C-1 zone, preexisting residential structures may be occupied by uses permitted in the zone provided the structure meets minimum building and safety standards as outlined in the building codes.

**§ 17.32.090 EXTERIOR LIGHTING.**

Exterior lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a lot in a residential zone.

*(NOTE: suggested adding drive-through, walk-up language below.)*

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§ 17.32.100 Drive-Through Service and Walk-Up Windows

Where permitted by this Ordinance, the following standards shall apply for drive-through service and walk-up windows:

A. Drive-Through Service:

1. Circulation. The overall circulation plan for a site shall not cause traffic congestion on surrounding streets and shall minimize potential nuisances to nearby residential property caused by vehicles and use of the order board.
2. Access and Window Location. Wherever feasible, drive-through lanes shall be accessed from the rear of a site, and run along the interior side property line.
3. Vehicle Stacking. All drive through lanes shall provide a minimum of 80-feet of stacking as measured from the drive-up window to the entrance of the drive-through lane.
4. Setbacks. Where a drive-through lane will be located between a building and a roadway, a minimum 10-foot, landscaped setback shall be required from the roadway right-of-way to the drive-through lane.
5. Screening. The drive-through lane shall be screened by a combination of plantings, berms, and/or low retaining walls at least four-feet in height.
6. Operation. Specific design and operational conditions may be imposed with approval of the drive-through facility. These may include, but are not limited to, additional vehicle stacking, increase in screening height, regulating the hours of operation and other measures, to reduce potential impacts on surrounding properties.

B. Walk-Up Window:

1. Circulation. The service window shall be so located as not to interfere with pedestrian traffic along the adjacent sidewalk and vehicle traffic entering or exiting the site or adjacent properties.
2. Setback. There shall be a minimum 2-foot setback between a service window and an adjacent property boundary.
3. Surfacing. The area where patrons place orders and receive ordered items shall be surfaced in concrete, brick, stone or other suitable surface material.
4. Noise. The use of a loudspeaker shall be prohibited.
5. Operation. Specific design and operational conditions may be imposed with approval of the walk-up facility. These may include, but are not limited to, regulating the hours of

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operation, screening or buffering and other measures to reduce potential impacts on surrounding properties.

- C. Automated teller machines, kiosks, and similar apparatus are exempt from these regulations provided their location does not interfere with pedestrian and vehicle access.

**CHAPTER 17.36: C-2 COMMERCIAL HIGHWAY ZONE**

Section

17.36.010 Purpose.

17.36.020 Uses permitted outright.

17.36.030 Conditional uses permitted.

17.36.040 General standards.

17.36.050 Yards.

17.36.060 Lot coverage.

17.36.070 Building height.

17.36.080 Open storage.

17.36.090 Exterior lighting.

17.36.100 Use of residential structures in commercial zones.

**§ 17.36.010 PURPOSE.**

The purpose of the C-2 zone is to provide areas suitable and desirable for highway related commercial enterprises intended to meet the business needs of area residents and highway travelers. The C-2 zone is appropriate in areas along or near U.S. Highway 20 east and west of downtown Sweet Home which have developed with commercial activities or which have potential for such activity as long as sufficient vehicular access control is maintained.

**§ 17.36.020 USES PERMITTED OUTRIGHT.**

In a C-2 zone, the following uses and their accessory uses are permitted outright:

~~A. A use permitted outright in the C-1 zone provided that the limitations which apply to the conduct of activities in enclosed buildings in the C-1 zone shall not apply in the C-2 zone.~~

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*(NOTE: instead of the usual strike-out and underline, allowed uses in C-1 and C-2 zones were combined and organized in a logical manner.)*

- A. Two-family dwellings, multi-family dwellings and residential facilities shall be subject to the requirements of the R-2 zone;
- B. Residential dwelling units located above the ground floor.
- C. Rooming or boarding house; and
- D. Bed and breakfast establishment.
- E. Parking lot;
- F. Family day care center;
- G. Community center;
- H. Bus depot, taxicab stand;
- I. Club, lodge, fraternal organization;
- J. Newspaper office, print shop;
- K. Motel, hotel, rooming/boarding house, bed and breakfast establishment;
- L. A commercial enterprise which may be classified as belonging to one of the following use groups:
  - 1. Retail store or shop, such as food store, drug store, apparel store, hardware store or furniture store;
  - 2. Personal or business service establishment such as barber or beauty shop, drycleaning establishment, tailor shop or locksmith;
  - 3. Repair shop for the type of goods offered for sale in retail trade establishment, such as shoe repair shop, small appliance repair shop, television repair shop or watch repair shop;
  - 4. Eating or drinking establishments such as restaurant, tavern or cocktail lounge;
  - 5. Office, business or professional;
  - 6. Financial institution, such as bank; and
  - 7. Indoor commercial amusement or recreation establishment such as bowling alley, theater or pool hall.
- M. Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but excluding uses such as race track or automobile speedway;

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- N. Commercial enterprises with customer drive-in service facilities;
- O. Automobile service station;
- P. Automobile, boat, truck, trailer sales, service, rental, display, storage and repair;
- Q. Tire sales, repair shop;
- R. Heavy equipment, implement, machinery sales, service, rental, display, storage and repair;
- S. Cabinet or similar woodworking shop;
- T. Cold storage plant, ice processing plant;
- U. Feed, seed store;
- V. Lumber, building materials sales and storage;
- W. Plumbing, heating, electrical or paint contractors storage, sales or repair shop;
- X. Truck terminal, freight depot;
- Y. Warehouse, storage area;
- Z. Wholesale establishment.
- AA. Property line adjustments, partitions and subdivisions.

**§ 17.36.030 CONDITIONAL USES PERMITTED.**

In a C-2 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.36:

- A. Church, non-profit religious or philanthropic institution;
- B. Governmental structure or use of land;
- C. Public utility activity;
- D. Veterinarian office, animal hospital;
- ~~E. Single-family residences or manufactured homes meeting standards of § 17.24.090;~~
- F. Machine and welding shops, sheet metal, wood, fiberglass manufacturing and other similar uses;
- G. A single-family dwelling occupied by the owner, manager, night watchman or caretaker of the commercial establishment may be permitted accessory to the commercial use;
- H. Amateur radio antennas; and
- I. Commercial radio stations and antennas.

**§ 17.36.040 GENERAL STANDARDS.**



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~~In a C-2 zone, the following shall apply to all uses permitted outright except two-family and multi-family dwellings.~~

~~A. A development plan shall be submitted to the city as a part of a building permit or a change of use of the property.~~

~~B. The development plan shall show the locations of all existing and proposed buildings and structures, all parking areas and vehicular ingress and egress points, lighting, signs, screening, landscaping and such other data as may have a bearing on adjacent properties.~~

~~C. Vehicular ingress and egress, signs, lighting, and landscaping and screening must meet the standards of this title.~~

In a C-2 zone, all uses permitted outright shall submit a development plan. The plan shall contain sufficient information as required by Chapter 17.XX.

**§ 17.36.050 YARDS.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in a C-2 zone yards shall be as follows:

- A. The front yard shall be a minimum of ~~20~~ 10 feet;
- B. The street side yard shall be a minimum of ~~20~~ 10 feet;
- C. A side or rear yard abutting a residential zone shall be a minimum of ten feet;
- D. Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line;
- E. Setbacks for automobile service stations. Freestanding gasoline pumps and pump islands may occupy a required front or street side yard; provided, they are a minimum of 15 feet from the property line separating the yard from the street.

**§ 17.36.060 LOT COVERAGE.**

In a C-2 zone, buildings shall not occupy more than ~~50%~~ 70% of the lot area.

**§ 17.36.070 BUILDING HEIGHT.**

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Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, no building shall exceed a height of ~~35~~ 40 feet. (**NOTE:** *this zone allows more intensive uses than the C-1 zone, yet has a lower height limitation – at a minimum they should be equal.*)

#### **§ 17.36.080 OPEN STORAGE.**

~~There shall be no open storage in the C-1 zone at any business or upon other property excluding residences without first obtaining an annual open storage permit.~~ Outdoor storage shall be screened by a sight-obscuring fence, with a minimum height of 6-feet.

#### **§ 17.36.090 EXTERIOR LIGHTING.**

Exterior lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a lot in a residential zone.

#### **§ 17.36.100 USE OF RESIDENTIAL STRUCTURES IN COMMERCIAL ZONES.**

Preexisting residential structures may be occupied by uses permitted in the zone provided the structure meets minimum building and safety standards as outlined in the building codes.

### **CHAPTER 17.40: C-3 COMMERCIAL NEIGHBORHOOD ZONE**

#### Section

17.40.010 Purpose.

17.40.020 Uses permitted outright.

17.40.030 Conditional uses permitted.

17.40.040 Special standards.

#### **§ 17.40.010 PURPOSE.**

The purpose of the C-3 zone is to provide areas suitable and desirable for retail and service enterprises which are appropriate to meet the convenience shopping needs of people living within the immediate surrounding area. Areas designated for this purpose are intended to be extremely limited in size. They should be ~~spaced at intervals of at least one-half mile from each other in order to assure their compatibility with surrounding areas and that the areas will be developed and maintained at a~~ suitable neighborhood scale.

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**§ 17.40.020 USES PERMITTED OUTRIGHT.**

In a C-3 zone, the following uses and their accessory uses shall be permitted outright:

*(NOTE: instead of the usual strike-out and underline, allowed uses in R-3 and C-3 zones were combined and organized in a logical manner.)*

- A. Single-family dwelling, including manufactured homes meeting standards of 17.24.090.
- B. Single-family attached dwellings.
- C. Two-family dwellings;
- D. Dwelling units located above the ground floor of a commercial structure.
- E. Residential home.
- F. Rooming or boarding house;
- G. Bed and breakfast establishment.
- H. Accessory structures and uses.
- I. Accessory dwelling.
- J. Food store;
- K. Drug store;
- L. Variety store;
- M. Barber or beauty shop;
- N. Office, business or professional, but not including veterinarian.
- O. Laundromat, clothes cleaning establishment;
- P. Indoor snack bar, if accessory to, and an internal part of, a drug or variety store;
- Q. Property line adjustments, partitions and subdivisions.

**§ 17.40.030 CONDITIONAL USES PERMITTED.**

In a C-3 zone, the following uses and their accessory uses may be permitted subject to the provisions of this section and Chapter 17.80:

- A. Church, non-profit religious or philanthropic institution;
- B. Community center;

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- C. Governmental structure or use of land, or public utility facility. All equipment and material storage shall be within an enclosed building. No workshop areas shall be permitted; and
- D. ~~Office, business or professional, but not including Veterinarian.~~ (**NOTE:** *office and professional uses are in Section 7.40.020.*)

#### § 17.40.040 SPECIAL STANDARDS.

In a C-3 zone, the following special standards shall apply.

- A. Residential uses shall be subject to the requirements of the R-2 zone.
- B. Uses other than residential shall be subject to the requirements of the C-2 zone.
- C. ~~The maximum size of any C-3 zoned area shall be two acre.~~ No establishment situated within a C-3 zone shall exceed a size of ~~120,000~~ 20,000 square feet, including building, storage, sales and off-street parking and loading areas. (**NOTE:** *if you eliminate the maximum lot size, the maximum building size should be increased, preferably eliminated entirely.*)
- D. ~~Areas zoned C-3 shall be located no closer than one-half mile to each other.~~
- E. Areas zoned C-3 shall be situated on either an arterial or collector street as indicated on the city comprehensive plan.
- F. All parking areas and service drives shall be permanently surfaced and clearly and permanently marked.
- G. Off-street parking areas intended for five or more cars shall be provided with screening consisting of a fence, wall, hedge or similar sight-obscuring material installed within six months of completion of the parking area and shall be maintained in good condition.
- H. Combining residential and commercial uses on a lot or within a building shall be permitted.

#### CHAPTER 17.44: M INDUSTRIAL ZONE

##### Section

17.44.010 Purpose.

17.44.020 Uses permitted outright.

17.44.030 Conditional uses permitted.

17.44.040 Limitation on use.

17.44.050 Yards.

17.44.060 Lot coverage.

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17.44.070 Building height.

17.44.090 Exterior lighting.

**§ 17.44.010 PURPOSE.**

The purpose of the M zone is to provide areas suitable and desirable for all types of industrial activity; provided that, development controls are utilized to minimize possible harmful effects related to air and water pollution and to potential nuisance hazards such as fire, explosion or noise. The M zone is appropriate in those large areas already developed for industrial use and in those areas possessing site characteristics suitable for industry, such as good access to highway and rail facilities, readily available water and sewer systems, level and well drained sites, and little or no potential hazard to nearby residential or commercial areas.

**§ 17.44.020 USES PERMITTED OUTRIGHT.**

In an M zone, the following uses and their accessory uses are permitted outright:

- A. Truck terminal, freight depot;
- B. Wholesale establishment;
- C. A use involving manufacture, research, warehousing, assembly, processing or fabricating, except the following: ~~1. a use listed as a conditional use in the M zone; and~~  
~~2. A use which has been declared a nuisance by statute, ordinance or a court of competent jurisdiction.~~
- F. Heavy equipment repair;
- G. Feed, seed store;
- H. Plumbing, heating, electrical or paint contractor's storage, sales or repair shop;
- I. Amateur radio antennas; and
- J. Commercial radio stations and antennas.
- K. Property line adjustments, partitions and subdivisions.

**§ 17.44.030 CONDITIONAL USES PERMITTED.**

In an M zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- A. Manufacturing and related uses including:

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1. Cement, lime or similar products manufacture;
  2. Explosives storage or manufacture;
  3. Petroleum products manufacture or refining;
  4. Pulp mill;
  5. Rendering plant, tannery, slaughterhouse;
  6. Smelting, refining of metallic ore; and
  7. Other uses similar to the above which may possess characteristics injurious to public health and safety due to emission of smoke, noise, dust, odor, refuse, fumes, vibration or similar hazard.
- B. Airport;
- C. Automobile wrecking yard, junkyard;
- D. Public utility or safety facility;
- E. Retail sales or repair when secondary to the outright use;
- ~~F. Heavy equipment repair;~~
- ~~G. Feed, seed store;~~
- ~~H. Plumbing, heating, electrical or paint contractor's storage, sales or repair shop;~~
- F. Controlled recreation; and
- G. A single-family dwelling occupied by the owner, manager, night watchperson or caretaker of the industrial establishment may be permitted accessory to the industrial use.

**§ 17.44.040 LIMITATION ON USE.**

Uses permitted outright involving manufacture and all conditional uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, the Mid-Willamette Valley Air Pollution Authority and any other public agency having appropriate regulatory jurisdiction. Prior to approval of ~~conditional use permits or zoning permits~~, any land use permits evidence shall be submitted to the city indicating that the proposed activity has been – or can be – approved by all appropriate regulatory agencies.

**§ 17.44.050 YARDS.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in an M zone yards shall be as follows.

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- A. The front yard shall be a minimum of ~~20~~ 10 feet.
- B. The street side yard shall be a minimum of ~~20~~ 10 feet.
- C. A side or rear yard abutting a residential zone shall be a minimum of 20 feet.
- D. Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.

#### **§ 17.44.060 LOT COVERAGE.**

In an M zone, buildings shall not occupy more than ~~50%~~ 70% of the lot area.

#### **§ 17.44.070 BUILDING HEIGHT.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in an M zone building heights shall not be restricted. ~~However, all Developers are advised that buildings exceeding 35 feet in height to be constructed or substantially altered or extended shall meet all applicable~~ may be subject to state of Oregon and city standards related to public safety and fire protection.

#### **§ 17.44.090 EXTERIOR LIGHTING.**

Exterior lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a lot in a residential zone.

*(NOTE: the following chapter was revised to eliminate the need to process a zone change. As the chapter no longer establishes a zone, the language will need to be relocated to another part of the Ordinance. Further, it is recommended the planned development provisions be included with the land division provisions as they are all governed under ORS Chapter 92.)*

### **CHAPTER 17.48: PD PLANNED DEVELOPMENT ZONE**

#### Section

17.48.010 Purpose.

17.48.020 Establishment in combination with the underlying zone.

17.48.030 Standards and requirements.

17.48.040 Application.

17.48.050 Review criteria.

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17.48.060 Action and findings by the Planning Commission.

17.48.070 Changes to approved plans.

17.48.080 Effective date of development plan approval.

17.48.090 Noncompliance with the approved development plan.

**§ 17.48.010 PURPOSE.**

The purpose of Planned Development Zone is to make possible a greater variety and diversification in the relationships between buildings and open spaces in planned building groups, while insuring compliance with the purposes and objectives of the zoning regulations and the intent and purpose of this chapter.

**§ 17.48.020 ESTABLISHMENT IN COMBINATION WITH THE UNDERLYING ZONE.**

~~A PD zone is an overlay zone that can be applied in conjunction with any other zone designation. Although this overlay designation permits modifications to the site development standards of the underlying zone standards, it does not permit changes in uses specified by the underlying zone. The following subsections allow for Planning Commission review of a detailed development plan. When a planned development project is proposed without a Planned Development Zone designation, the Official Zoning Map shall be amended with a planned development overlay designation for the subject development site.~~

A Planned Development may be established in combination with any underlying base zone. In cases of conflict between standards of the base zone and the PD, the standards of the PD may apply, provided the Planning Commission finds that an exception from the standard of the underlying zone is warranted by the design and amenity provisions in the Planned Development, and there are no identified negative impacts to the surrounding neighborhood or the community as a whole.

**§ 17.48.030 STANDARDS AND REQUIREMENTS.**

Approval of a request for a planned development is dependent upon the submission of an acceptable plan and satisfactory assurance that it will be carried out. The following minimum standards and requirements shall apply.

A. A use permitted in an underlying zone may be permitted in a planned development.



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- B. A planned development must meet the applicable requirements of Oregon Revised Statutes for planned developments.
- C. Public and private streets shall be developed to city standards.
- D. Pedestrian walkways and bikeways shall be provided for adequate internal pedestrian and bicycle traffic and shall connect to any adjacent existing or planned sidewalks, bikeways, access corridors or public trails.
- E. All utility facilities shall be installed underground and in accordance with city standards.
- F. Open space areas and facilities include such things as landscaped areas, natural areas, golf courses and other recreational facilities, but does not include streets, sidewalks, bikeways, access corridors or trails.
- G. A facility providing services in support of uses within a planned development may be permitted in any zone within the planned development. Services in support may include such services as housekeeping, landscape maintenance, security, meeting rooms, clubhouses, swimming pools, tennis courts, catered food service facilities, parking, offices and related facilities for staff, administrators, owners associations and owners and their guests. Provisions shall be made to buffer these uses from incompatible uses on adjoining properties.
- H. Phases, if proposed, shall be:
  - 1. Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces and similar physical features; capable of substantial occupancy, operation and maintenance upon completion of construction and development;
  - 2. Arranged to avoid conflicts between higher and lower density development;
  - 3. Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and
  - 4. Provided with such temporary or permanent transitional features, buffers or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the planned development.
- I. Up to 5% of a site within a residential planned development may be dedicated to non-residential uses such as offices, restaurants and so forth. These uses shall be noted on the submitted plan application.

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**§ 17.48.040 APPLICATION.**

The person filing the application must be the owner or his or her agent. If the planned development is to include land in more than one ownership, the application must be submitted jointly by all of the owners of the separately owned properties to be included.

**A. *Application requirements.***

1. One copy of the narrative on eight and one-half inches by 11 inches sheets;
2. Four sets of scaled drawings of the conceptual development plan, with sheet size not to exceed 24 inches by 36 inches. Where necessary, an overall plan with additional detail sheets may be submitted;
3. One set of the development plan shall be reduced to fit on eight and one-half inches by 11 inches sheets of paper. Names and numbers must be legible on this sheet size; and
4. After the application is accepted as complete, any revisions may require a new application, additional filing fees and rescheduling of the public hearing.

**B. *Development plan required.*** All applications shall be accompanied by a development plan drawn to scale showing the following:

1. Use or uses;
2. Dimensions and locations of proposed structures and of areas to be reserved for vehicular and pedestrian circulation, parking, public uses, open spaces, including landscaping;
3. Drawings and sketches demonstrating the design and character of the proposed uses and the physical relationships of the uses; and
4. Such other pertinent information shall be included as may be considered necessary by the review authority to make a determination that the contemplated arrangement or use makes it necessary and desirable to apply regulations and requirements differing from those ordinarily applicable under this ordinance and Title 16 of this code of ordinances.

**C. *Narrative requirements.*** A written statement shall include the following information:

1. A description of the character of the proposed development;
2. Analysis of how the application meets the review criteria;
3. Intentions with regard to ownership in the planned development;
4. Quantitative data for the following where appropriate:
  - a. Total number and type of dwelling units;

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- b. Parcel sizes;
  - c. Proposed lot coverage of buildings and structures where known;
  - d. Gross densities per acre;
  - e. Total amount of open space; and
  - f. Total amount of nonresidential construction.
- 5. General statement of intentions concerning timing, responsibilities and assurances for all public and non-public improvements; and
  - 6. Statement describing project phasing, if proposed.

**§ 17.48.050 REVIEW CRITERIA.**

- A. Requests for approval of a planned development shall be reviewed to assure consistency with the purposes of this chapter, ~~policies and density requirements of the Comprehensive Plan,~~ and any other applicable policies and standards adopted by the city.
- B. The project will be compatible with adjacent developments, with consideration of the following factors, if applicable:
  - 1. Basic site design, including the organization of uses on a site;
  - 2. Visual elements (scale, structural design and form, materials and so forth);
  - 3. Noise reduction;
  - 4. Noxious odors;
  - 5. Lighting;
  - 6. Signage;
  - 7. Landscaping for buffering and screening;
  - 8. Traffic;
  - 9. Effects on off-site parking; and
  - 10. Effects on air and water quality.
- C. The applicant has, through investigation, planning and programming, demonstrated the soundness of the proposal and their ability to carry out the project as proposed.
- D. Construction can begin within ~~six months~~ two years of the conclusion of any necessary action by the city, or within such longer period of time as may be established by the Planning Commission.
- E. The proposal conforms with location and general development standards of the city.

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- F. The project will benefit the city and the general public in terms of need, convenience, service and appearance so as to justify any necessary variances to the regulations of Titles 16 and 17 of this code of ordinances.
- G. The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points and additional street right-of-way and improvements and any other traffic facilities required on or off site.
- H. The project will satisfactorily take care of sewer and water needs consistent with city policy and plans.
- I. A planned development in a residential zone will not result in a higher density than permitted by ~~the Comprehensive Plan~~ for the underlying zone.

**§ 17.48.060 ACTION AND FINDINGS BY PLANNING COMMISSION**

The Planning Commission shall conduct a public hearing in accordance with Chapter 17.12 of this code of ordinances. Following the close of the hearing, the Planning Commission shall either approve, conditionally approve or deny the development plan. The Commission's decision shall include findings that specify how the application has or has not complied with the above review criteria. A planned development as authorized shall be subject to all conditions imposed and shall be varied from other provisions of this chapter only to the extent specified in the approval.

**§ 17.48.070 CHANGES TO APPROVED PLANS.**

An applicant may petition for review of an approved development plan for the purpose of modifying that plan. The petition must include a statement of the reasons for any changes, as well as graphical and text representations of the proposed changes.

- A. *Major changes.* When determined by the Community Development Director that the proposed change is a major change from one or more of the review criteria listed above, a hearing with notice as required in Chapter 17.12 of this code of ordinances shall be scheduled before the Planning Commission. In reviewing the proposed modification, the Planning Commission shall follow the procedure required for submittal and review of a new plan. The Planning Commission may consider the redesign of the development plan in whole or in part.

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- B. *Minor changes.* When the Community Development Director determines that proposed modifications of a plan reduce negative effects or have no effect on the surrounding area, they may be reviewed and approved as an administrative action.

**§ 17.48.080 EFFECTIVE DATE OF DEVELOPMENT PLAN APPROVAL.**

- A. The following effective dates apply to a planned development approval. The Planning Commission may establish different time frames.
1. Construction must begin within ~~six months~~ two years of the conclusion of any necessary action by the city.
  2. Approval of a development plan shall be valid for a ~~three~~ five-year period from the date of approval without documented progress to complete implementation of an approved development plan.
  3. The Planning Commission may permit implementation of the development plan in phases.
- B. At its discretion and without a public hearing, the Commission may extend the approval one time for a period not to exceed two additional years.

**§ 17.48.090 NONCOMPLIANCE WITH THE APPROVED DEVELOPMENT PLAN.**

If the Community Development Director determines that the development substantially differs from the approved plans, the Community Development Director shall notify the developer, Code Enforcement Officer and the Building Official in writing. Enforcement of the approved development plans will proceed under the available processes.

**CHAPTER 17.52: MI MOBILE HOME INFILL OVERLAY ZONE**

Section

17.52.010 Purpose.

17.52.020 Establishment.

17.52.030 Uses permitted.

17.52.040 Designation on the zoning map.

**§ 17.52.010 PURPOSE.**

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The mobile home infill overlay is intended to meet the requirements of O.R.S. 197.295 through O.R.S. 197.313, by allowing the permanent placement of mobile homes on individual, residentially zoned lots. This overlay zone will complement the city's other procedures for reviewing mobile home placement applications by establishing an expedited procedure for the placement of better quality doublewide mobile homes in designated areas of the city.

#### **§ 17.52.020 ESTABLISHMENT.**

The M-I overlay is applied to three areas of the city.

- A. The first area consists of residentially zoned lots east of Clark Mill Road to the city limits and north of Highway 20 to the city limits (excluding lots directly abutting Highway 20).
- B. The second area consists of residentially zoned lots east of 35th Avenue to the city limits and south of Highway 20 to the city limits (excluding lots directly abutting Highway 20).
- C. The third area consists of residential lots west of 18th Avenue to the city limits and north of the railroad tracks to the city limits.

#### **§ 17.52.030 USES PERMITTED.**

In an area where a M-I zone is combined, in addition to the uses permitted in the underlying zone, a doublewide mobile home on an individual lot is permitted outright, subject to the placement standards of §17.80.080.J. All other uses permitted in the basic or underlying zone with which an M-I overlay is combined are subject to the provisions of the underlying zone.

#### **§ 17.52.040 DESIGNATION ON THE ZONING MAP.**

The mobile home infill area shall be designated by an M-I symbol on the zoning map and shall be in addition to the symbol for the underlying zone.

#### **§ 17.52.050 DEVELOPMENT STANDARDS.**

Where allowed, manufactured homes on individual lots shall be subject to the following design standards:

- A. Be multi-sectional (double-wide or wider) and enclose a floor area of not less than 1,000 square feet.

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- B. Unless located within a designated flood hazard area, have backfill style foundations or skirting of pressure treated wood, masonry or continuous concrete footing wall construction complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, such that the manufactured home is located not more than 12 inches above original overall lot grade.
- C. Have a roof with a nominal pitch of 3 feet in height for each 12 feet in width.
- D. Not have bare metal siding or roofing, the siding shall be painted, and roofing and siding shall be in good serviceable condition without portions missing, damaged, cracked or otherwise defective.
- E. Be certified by the manufacturer to have exterior thermal envelopes meeting the performance standards specified by state law for single family dwellings constructed under the state building code.
- F. Have a garage or carport with exterior materials matching the residential unit.
- G. Be subject to all other applicable Zoning Ordinance and Municipal Code requirements that apply to single-family dwellings in the applicable zones.

## CHAPTER 17.60: RC RECREATION COMMERCIAL ZONE

### Section

17.60.010 Purpose.

17.60.020 Uses permitted outright.

17.60.030 Conditional uses permitted.

17.60.040 Special standards.

17.60.050 Development Plan Review.

### § 17.60.010 PURPOSE.

The purpose of the RC zone is to provide and maintain areas which possess unique characteristics for recreation-related commercial and residential development, and which are suitable and desirable for recreation businesses for tourists and recreationists in the area. A high standard is essential in order to maintain and enhance the appearance of the area and its unique value to the community.

### § 17.60.020 USES PERMITTED OUTRIGHT.

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In an RC zone, the following uses and their accessory uses are permitted outright:

- A. Motel, hotel or resort;
- B. Recreational vehicle park;
- C. Recreational vehicle park with owner time share;
- D. Museum or art gallery;
- E. Community center, meeting facility, convention center or similar use;
- F. Residential uses related to or in conjunction with a recreational development;
- G. Eating and drinking establishment;
- H. Bed and breakfast establishment;
- I. Recreational retail;
- J. Arts and crafts workshops and retail sales;
- K. Amusement or recreation services;
- L. Recreational teaching facilities;
- M. Recreational oriented light industrial uses;
- ~~M. Single family dwellings on legal lots of record at the time of enactment of this chapter; and~~
- N. Residential facilities.
- O. Property line adjustments, partitions and subdivisions.

#### § 17.60.030 CONDITIONAL USES PERMITTED.

In an RC zone, the following uses and their accessory uses may be permitted as a part of a planned development (PD), or subject to the provisions of this section and Chapter 17.80:

- A. Aggregate extraction;
- B. Other light industrial uses;
- C. Recreation oriented uses or activities not listed above;
- ~~D. Residential uses not related to or in conjunction with a recreational development;~~ (**NOTE:** *if a residence is located in the zone it will certainly have a “recreational” attribute.*)
- E. Public storage facility;
- F. Non-recreational retail; and
- G. Governmental structure or use of land, or public utility facility. All equipment and material storage shall be within an enclosed building.



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**§ 17.60.040 SPECIAL STANDARDS.**

In an RC zone, the following special standards shall apply unless modified as a part of a planned development.

- A. Single-family dwellings and accessory uses shall meet the following minimum standards.
  - 1. Minimum lot size shall be ~~8,000~~ 5,000 square feet.
  - 2. Minimum lot width shall be ~~80~~ 50 feet.
  - 3. Minimum yard setbacks:
    - a. Front, from either a public or private street, shall be a minimum of 20 feet;
    - b. Side shall be a minimum five feet with a combined minimum of 13 feet;
    - c. Street side shall be minimum of 15 feet;
    - d. A garage shall have a minimum setback of 20 feet from the point of access to the vehicle doors; and
    - e. Rear shall be a minimum of 15 feet.
  - 4. Building height shall not exceed 30 feet.
  - 5. Building coverage shall not exceed 35% of the land area.
  - 6. A carport or garage is required.
  - 7. Off-street parking will be based on the city parking standards.
- B. Two-family dwellings and accessory uses shall meet the following standards.
  - 1. Minimum lot size shall be ~~5,000~~ 8,000 square feet.
  - 2. Minimum lot width shall be ~~60~~ 80 feet.
  - 3. Minimum yard setbacks:
    - a. Front, from either a public or private street, shall be a minimum of 20 feet;
    - b. Side shall be a minimum of five feet;
    - c. Street side shall be minimum of 15 feet;
    - d. A garage shall have a minimum setback of 20 feet from the point of access to the vehicle doors; and
    - e. Rear shall be a minimum of ten feet.
  - 4. Building height shall not exceed 40 feet.
  - 5. Building coverage shall not exceed 50% of the land area.
  - 6. A carport or garage for each unit is required.
  - 7. Off-street parking will be based on the city parking standards.

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- C. Multi-family dwellings and accessory uses shall meet the following standards.
1. Minimum lot size shall be 1,245 square feet per unit with a minimum lot area of 9,000 square feet.
  2. Minimum yard setbacks:
    - a. Front, from either a public or private street, shall be 20 feet;
    - b. Side shall be a minimum ten feet;
    - c. Street side shall be minimum of 15 feet;
    - d. A garage shall have a minimum setback of 20 feet from the point of access to the vehicle doors; and
    - e. Rear shall be a minimum of ten feet.
  3. Building height shall not exceed 40 feet.
  4. Building coverage shall not exceed 60% of the land area.
  5. Off-street parking will be based on the city parking standards.
- D. Single-family attached dwellings shall meet the following standards.
1. Minimum lot size shall be ~~1,245~~ 2,500 square feet per unit.
  2. Minimum yard setbacks:
    - a. Front, from either a public or private street, shall be 20 feet;
    - b. Sides between units shall be zero;
    - c. Sides on exterior boundaries shall be five feet;
    - d. Street side shall be a minimum of 15 feet;
    - e. A garage shall have a minimum setback of 20 feet from the point of access to the vehicle doors; and
    - f. Rear shall be a minimum of ten feet.
  3. Building height shall not exceed 40 feet.
  4. Building coverage shall not exceed 60% of the land area.
  5. Off-street parking will be based on the city parking standards.
- E. Commercial establishments shall meet the following standards.
1. Off-street parking will be based on the city parking standards.
  2. A minimum of 15% of the land area shall be designed as open space with appropriate landscaping. To the maximum extent feasible, natural features of the land shall be preserved.

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3. Building height shall not exceed 45 feet.
4. Yard setbacks:
  - a. Front, from either a public or private street, shall be 20 feet; and
  - b. Side Yard
    - 1) Sides, none, except if abutting residential zones, and then the side yard shall be at least ten feet.
    - 2) The required side yard shall be increased by one-half foot for each foot the building height that exceeds 20 feet.
  - c. Rear Yard
    - 1) Rear, none, except if abutting residential zones, and then the rear yard shall be at least ten feet.
    - 2) The required rear yard shall be increased by one-half foot for each foot that the building height exceeds 20 feet.

**§ 17.60.050 DEVELOPMENT PLAN REVIEW.**

In the RC Zone, submittal of a plan for development on a specific piece of property shall comply with the following.

- A. The site plan, with proposed land uses, shall include accurate measurements from property lines to and between all structures.
- B. Building types, with approximate dimensions should be submitted. The plans should indicate the general height, bulk and appearance of buildings.
- C. Vehicular and pedestrian access and circulation must be included on the plan.
- D. The configuration, including a count and size of all spaces and aisle widths, of all parking areas should be included.
- E. Existing natural features such as streams, riparian zone, wetlands and topography must be shown before construction and include proposed impacts to the natural resources.
- F. Proposals for landscaping, fencing or other barriers should be included on the plan.
- G. Proposals for the location, size, height and lighting of signs should be submitted.
- H. Proposals for the provision of water, fire suppression, sewage, storm drainage, exterior lighting and solid waste must be submitted.
- I. The plan shall be reviewed per requirements in Chapter 17.XX.

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*(NOTE: the original analysis suggested dropping the R/M(T) zone in its entirety, or, rezone land currently designated for Manufacturing uses to the M zone. There is no change in that assessment.)*

**CHAPTER 17.68: R/M(T) RESIDENTIAL INDUSTRIAL TRANSITIONAL**

Section

17.68.010 Purpose.

17.68.020 Establishment.

17.68.030 Uses permitted.

17.68.040 Conditional uses permitted.

17.68.050 Limitations.

**§ 17.68.010 PURPOSE.**

The R/M(T) zone is a transitional zone which provides a process that allows for the consideration of converting property in a residential area to industrial uses (e.g., sites for small industry, expansion to existing industry, etc.). It is not the intent of the zone to allow industrial development to occur at the cost of existing residential development. Industrial development should be allowed only when measures have been taken to protect remaining residential property from nuisances which may result from industrial activities (i.e., noise, smoke, odor, dust, fire or explosion hazard or pollution of air and water). In order to protect existing residential development from potential industrial nuisances and to facilitate an orderly and efficient conversion of land from residential to industrial uses, it is intended that all industrial uses in the zone shall be subject to conditional use process.

**§ 17.68.020 ESTABLISHMENT.**

An R/M(T) zone may be applied to any residential zoned neighborhood or area which is adjacent to industrial zoned land and has been designated industrial by the city's Comprehensive Plan.

**§ 17.68.030 USES PERMITTED.**

In an R/M(T) zone, the following uses and their accessory uses are permitted outright:

- A. Single-family dwelling;
- B. Residential facility; and

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- C. Manufactured homes meeting the standards of § 17.24.090.

**§ 17.68.040 CONDITIONAL USES PERMITTED.**

In the R/M(T) zone, all uses allowed in the industrial zone and accessory uses may be permitted subject to the provisions of this section and Chapter 17.80. In addition, rooming and boarding houses shall be permitted subject to the provisions of this chapter and Chapter 17.80.

**§ 17.68.050 LIMITATIONS.**

- A. Single-family dwellings and residential facilities shall be subject to the standards of the R-1 zone except building size for which R-2 standards shall apply.
- B. Uses permitted conditionally involving manufacture shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality and any other public agency having appropriate regulatory jurisdiction. Prior to approval of conditional use permits or zoning permits, evidence shall be submitted to the city indicating that the proposed activity has been approved by appropriate regulatory agencies.
- C. All industrial uses shall be subject to the yard lot coverage and building height standards of the M zone.

**CHAPTER 17.72: NR NATURAL RESOURCES**

Section

- 17.72.010 Purpose.
- 17.72.020 Establishment.
- 17.72.030 Applicability.
- 17.72.040 Activities subject to review.
- 17.72.050 Exceptions in the riparian zone.
- 17.72.060 Agency review.
- 17.72.070 General development standards.
- 17.72.080 Variances.
- 17.72.090 Mitigation standards.
- 17.72.100 Plan amendment option.

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**§ 17.72.010 PURPOSE.**

The NR zone is designed to protect identified significant natural resources in the City of Sweet Home. The intent of this zone is to ensure reasonable economic use of property while protecting valuable natural resources.

**§ 17.72.020 ESTABLISHMENT.**

An NR zone is an overlay zone that can be applied in conjunction with any other zone designation. The NR zone is applied to natural resource areas identified in this Chapter.

**§ 17.72.030 APPLICABILITY.**

The procedures and requirements of the NR Zone apply ~~to any parcel designated as having only to~~ that portion of a parcel containing one of the following identified natural resources:

- A. Significant wetlands, as mapped in the city's Local Wetlands Inventory (LWI); and
- B. Riparian corridors, as mapped in the city's Riparian Inventory.

**§ 17.72.040 ACTIVITIES SUBJECT TO REVIEW.**

In an NR zone, the following actions are subject to the review per requirements in Chapter 17.XX:

- A. New structural development;
- B. Exterior expansion of any building or structure;
- C. Increases in impervious surfaces or storage areas;
- D. Grading, excavation or fill; and
- E. Removal of native vegetation.

**§ 17.72.050 EXCEPTIONS IN THE RIPARIAN ZONE.**

The following activities may be excepted from the requirements of this chapter upon administrative review approval that they are designed to meet the standards listed in this chapter.

- A. Drainage facilities, utilities and irrigation pumps;
- B. Streets, roads, driveways or paths;
- C. Water-related and water-dependent uses;
- D. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area;

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- E. Removal of non-native vegetation and replacement with native plant species; and
- F. Alteration of the area by placement of structures or impervious surfaces within the Riparian Zone upon demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment or similar measures; providing that, the alterations not exceed 50% of the width of the riparian area, measured from the upland edge of the Zone.

**§ 17.72.060 AGENCY REVIEW.**

Decisions made by the City of Sweet Home under this chapter do not supercede the authority of the state or federal agencies which may regulate or have an interest in the activity in question.

- A. It is the responsibility of the landowner or applicant to ensure that any necessary state or federal permits or clearances are obtained.
- B. The city will notify the Division of State Lands for development permits and other land use decisions affecting inventoried wetlands.

**§ 17.72.070 GENERAL DEVELOPMENT STANDARDS.**

- A. The City of Sweet Home has adopted safe harbor setback methodology for the identification of significant riparian corridors and significant wetlands. These resources are identified on the Local Wetlands Inventory and Riparian Inventory Maps. Property owners are responsible to have a qualified professional identify the wetlands boundary on the affected property.

<b><i>Natural Area</i></b>	<b><i>Width of Vegetated Corridor, per side</i></b>
South Santiam River	75'
Ames Creek and Wiley Creek	50'

- B. Setbacks for structures within a riparian corridor are measured from the top of bank, which is the line of ordinary high water in a two-year event.
- C. For an exception to be allowed, the applicant shall comply with the following requirements:
  - 1. Demonstrate that no other practicable access to the buildable area exists;

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2. Design roads, driveways and paths to be the minimum width necessary while allowing for safe passage of vehicles and/or pedestrians;
3. Consider the need for future extensions of shared access, access easements or private streets in order to avoid subsequent encroachments into a significant natural resource;
4. During construction, no stockpiling of fill materials, parking or storage of equipment shall be allowed within a significant natural resource;
5. Erosion control measures, such as silt fences and biofilter bags, shall be used to reduce the likelihood of sediment and untreated stormwater entering a significant natural resource;
6. Utilities and drainage facilities: Public and private utilities or drainage facilities may be placed when it is shown that no other practicable alternative location exists. If a utility or drainage facility is allowed, the following standards shall apply:
  - a. Demonstrate that no other practicable access exists;
  - b. The corridor necessary to construct utilities shall be the minimum width practical so as to minimize intrusion into a significant natural resource;
  - c. Removal of trees and native vegetation shall be avoided unless absolutely necessary. Native vegetation shall be used to restore the vegetative character of the construction corridor;
  - d. The existing grade of the land shall be restored after construction; and
  - e. No stockpiling of fill materials, parking or storage of equipment shall be allowed within a significant natural resource.
7. Structures or other non-conforming alterations existing fully or partially within a significant Natural Resource may be expanded provided the expansion occurs outside of a significant natural resource. Substantial improvement of a non-conforming structure in a significant natural resource shall require compliance with the standards of this chapter.
8. Existing lawn within a significant natural resource may be maintained, but not expanded within the limits of a significant natural resource. Development activities shall not justify replacement of native vegetation, especially riparian vegetation, with lawn.

**D. Vegetation Removal**



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1. Removal of non-native vegetation and replacement with native plant species is allowed and shall comply with the following requirements.
  2. The replacement vegetation shall at a minimum:
    - a. Cover the area from which vegetation was removed;
    - b. Maintain or exceed the density of the removed vegetation; and
    - c. Maintain or improve the shade provided by the vegetation.
- E. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from the Community Development Director.
- F. The control or removal of nuisance plants should primarily be by non-chemical means (e.g. hand-pulling).
1. If non-chemical means fail to adequately control nuisance plant populations, a glyphosate based herbicide, or other environmentally safe herbicide, may be used.
  2. No pre-emergent herbicides or auxin herbicides that pose a risk of contaminating water should be used.
  3. Herbicide applications must be applied according to manufactured specifications.
- G. Easements, conforming to City Public Works Standards, shall be required for all public improvements that cross property within the NR overlay zone.

#### **§ 17.72.080 VARIANCES.**

A variance to the provisions of this chapter may be applied for to consider hardships, claims of map errors verified by DSL, and when necessary to allow reasonable economic use of the subject property. Permanent alteration of the significant natural resource by an action requiring a variance is subject to the mitigation procedures and criteria of this chapter.

#### **§ 17.72.090 MITIGATION STANDARDS.**

When impacts to any identified significant natural resource occur, mitigation ~~will~~ may be required.

The extent of the mitigation shall be determined and approved by the appropriate State and Federal agencies prior to development.

~~A. For impacts to wetlands, the following standards and criteria shall apply.~~

~~1. The applicant must obtain a fill and removal permit from the Oregon Division of State Lands and U.S. Army Corps of Engineers.~~

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- ~~—2. The applicant must provide an approved mitigation plan that complies with all Oregon Division of State Lands and U.S. Army Corps of Engineers wetland regulations.~~
- ~~—B. For impacts to riparian corridors, the following standards and criteria shall apply:~~
  - ~~—1. A mitigation plan prepared by a qualified professional shall be submitted to the city. The mitigation plan shall meet the following criteria:~~
    - ~~—a. Mitigation for impacts to a non-wetlands riparian area shall require a minimum mitigation area ratio of one to one;~~
    - ~~—b. The mitigation plan shall document:~~
      - ~~—(1) The location of the impact;~~
      - ~~—(2) The existing conditions of the resource prior to impact;~~
      - ~~—(3) The location of the proposed mitigation area;~~
      - ~~—(4) A detailed planting plan of the proposed mitigation area with species and density; and~~
      - ~~—(5) A narrative describing how the resource will be replaced.~~
  - ~~—2. Mitigation shall occur on-site and as close to the impact area as possible. If this is not feasible, mitigation shall occur within the same drainage basin as the impact.~~
  - ~~—3. All vegetation planted within the mitigation area shall be native to the region. Species to be planted in the mitigation area shall replace those impacted by the development activity.~~
  - ~~—4. Trees shall be planted at a density of not less than five per 1,000 square feet. Shrubs shall be planted at a density of not less than ten per 1,000 square feet.~~

**§ 17.72.100 PLAN AMENDMENT OPTION.**

- A. Any owner of property affected by the NR Zone may apply for a Zone amendment. The amendment must be based on a specific development proposal. The effect of the amendment would be to remove the NR Zone from all or a portion of the property.
- B. The applicant shall demonstrate that such an amendment is justified by completing the an Environmental, Social, Economic and Energy (ESEE) Consequences analysis prepared in accordance with applicable Oregon Administrative Rules.
- C. The plan amendment shall be processed per requirements in Chapter 17.XX. If the application is approved, then the ESEE analysis shall be incorporated by reference into the applicable Sweet Home Inventory and the Maps shall be amended.
- ~~B. The ESEE analysis shall adhere to the following requirements.~~

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- ~~—1. The ESEE analysis must demonstrate to the ultimate satisfaction of the Sweet Home City Council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource.~~
- ~~—2. The ESEE analysis must demonstrate why the use cannot be located on land outside of the natural resource area.~~
- ~~—3. The ESEE analysis shall be prepared by a qualified professional experienced in the preparation of Goal 5 ESEE analyses, with review by DLCD.~~

### III. SUMMARY COMMENTS

This completes the revisions to Chapters 17.04 to 17.72. One issue that needs to be addressed in the remaining revisions are site plans. While required in a number of cases, there is not a procedure in place to review these plans. Understand, any discretionary action by the City requires notice and opportunity to appeal. It is suggested, that at a minimum, the City consider a “ministerial” type of review. This is limited to a staff decision and notice is only provided to the applicant who retains the right to appeal the decision. One additional advantage of this approach is that it creates a written record of the request and decision.

# MEMORANDUM



TO: Planning Commission  
FROM: Katie Wilcox, Planning Assistant  
DATE: January 12, 2018  
SUBJECT: 2018 Quality Development Award Nominations

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## **Criteria**

1. Construction/renovation completed during the previous 12 months. (Calendar year Jan-Dec)
2. Beautification: a new, renovated, remodeled residence or commercial building, surrounding building or landscape improvements, that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
3. Sustainable building: A new, renovated, remodeled residence or commercial building that exhibits exemplary sustainability features in design and/or construction including landscape aesthetics and presentation of property.
4. Individual/group initiates, contributes to economic development in Sweet Home, when appropriate.
5. Has historical significance to Sweet Home when appropriate.
6. Project must be inside City Limits

## **Nominations**

### **Commissioner Hausner:**

#### **Herring's Auto Sales**

- 1) Construction/renovation completed during the previous 12 months. (Calendar year Jan-Dec)
- 2) Beautification: a new commercial building, and landscape improvements that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
- 4) Individual/group initiates, contributes to economic development in Sweet Home, when appropriate.
- 6) Project must be inside City Limits.

NOTE: It was confirmed that Herring Auto Sales have not completed any construction or improvements in 2017.

Commissioner Wilcox:

Dollar General

- 1) Construction/renovation completed during the previous 12 months. (Calendar year Jan-Dec)
- 2) Beautification: a new commercial building, and landscape improvements that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
- 4) Individual/group initiates, contributes to economic development in Sweet Home, when appropriate.
- 6) Project must be inside City Limits.

Hoys Hardware

- 1) Construction/renovation completed during the previous 12 months. (Calendar year Jan-Dec)
- 2) Beautification: a new commercial building, and landscape improvements that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
- 6) Project must be inside City Limits.

Commissioner Stephens:

Dollar General

- 1) Construction/renovation completed during the previous 12 months. (Calendar year Jan-Dec)
- 2) Beautification: a new commercial building, and landscape improvements that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
- 6) Project must be inside City Limits.

Hoys Hardware

- 1) Construction/renovation completed during the previous 12 months. (Calendar year Jan-Dec)
- 2) Beautification: a new commercial building, and landscape improvements that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
- 6) Project must be inside City Limits.

## Rio Theater

- 1) Construction/renovation completed during the previous 12 months. (Cal. year Jan-Dec)
- 2) Beautification: a new commercial building, and landscape improvements that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
- 3) Sustainable building: A new, renovated, remodeled residence or commercial building that exhibits exemplary sustainability features in design and/or construction including landscape aesthetics and presentation of property.
- 6) Project must be inside City Limits.

### **Staff Recommendation**

Molly Laycock, Connie DeBusschere, Susan Coleman and Key Bank –  
Clover Park Christmas Lighting

- 1) Construction/renovation completed during the previous 12 months. (Cal.r year Jan-Dec)
- 2) Beautification: new landscape improvements that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
- 4) Individual/group initiates, contributes to economic development in Sweet Home, when appropriate.
- 6) Project must be inside City Limits.

## High School - Auditorium & Seismic Improvement

- 1) Construction/renovation completed during the previous 12 months. (Calendar year Jan-Dec)
- 5) Has historical significance to Sweet Home when appropriate.
- 6) Project must be inside City Limits.

## Alice Grovum – Beautification of the City

- 2) Beautification: new landscape improvements that enhances or improves aesthetics and presentation of the property or adds to neighborhood appearance.
- 4) Individual/group initiates, contributes to economic development in Sweet Home, when appropriate.
- 5) Has historical significance to Sweet Home when appropriate.
- 6) Project must be inside City Limits