

ORDINANCE NO. 3845

AN ORDINANCE CREATING THE CITY OF PENDLETON UNIFIED DEVELOPMENT CODE TO ESTABLISH STANDARDS FOR DEVELOPMENT WITHIN THE CITY OF PENDLETON AND ITS URBAN GROWTH BOUNDARY, AND TO IMPLEMENT THE PENDLETON COMPREHENSIVE PLAN. (AS AMENDED BY ORDINANCE NO. 3860)

- WHEREAS,** The City of Pendleton currently relies on a number of uncoordinated ordinances to regulate development within the City and its Urban Growth Boundary (UGB); and
- WHEREAS,** These various ordinances require City staff, elected and appointed officials, and the general public to rely on multiple sources of information to determine what development standards apply to a given proposal; and
- WHEREAS,** The existing development ordinances are not consistent with each other, and in some cases they are not even consistent with Statute; and
- WHEREAS,** In 2012, City staff began an effort to bring all of the associated ordinances into a single document designated as the Unified Development Code (UDC); and
- WHEREAS,** The UDC was brought before the Planning Commission for their initial review in December of 2013; and
- WHEREAS,** The Planning Commission and staff made special effort to ensure that no part of the UDC diminishes property or development rights; and
- WHEREAS,** The Planning Commission reviewed the UDC by individual Article in 13 public hearings that concluded with the Commission’s recommendation to send a final draft to the City Council for review on October 16, 2014; and
- WHEREAS,** The City has provided Notice to DLCD and the public as required;
- WHEREAS,** The City Council held public hearings on November 4 (first reading) and November 18 (second reading and consideration); and
- WHEREAS,** The City Council has reviewed all evidence and testimony submitted at the Planning Commission and City Council hearings on the matter;

NOW, THEREFORE, THE CITY OF PENDLETON ORDAINS AS FOLLOWS:

- A. **Findings:** The City of Pendleton finds that adoption of a new Unified Development Code, attached hereto as Exhibit A, is consistent with and helps to implement that City’s Comprehensive Plan.
- B. **Repeal.**
 Adoption of the UDC will repeal the following ordinances in their entirety:
 2354 – Annexation (1961)
 2917 – Annexation (1977)
 3250 – Zoning (1983)
 3251 – Subdivision (1983)
 3481 - Construction, addition, remodeling or change of occupancy of structures (1993)
 3491 – Development Permit process
 The City of Pendleton Annexation policies, adopted by Resolution on February 17, 1970

PASSED and approved December 2, 2014.

ORDINANCE NO. 3845 Exhibit A

CITY OF PENDLETON

UNIFIED DEVELOPMENT CODE

AN ORDINANCE CREATING THE CITY OF PENDLETON UNIFIED DEVELOPMENT CODE TO ESTABLISH STANDARDS FOR DEVELOPMENT WITHIN THE CITY OF PENDLETON AND ITS URBAN GROWTH BOUNDARY, AND TO IMPLEMENT THE PENDLETON COMPREHENSIVE PLAN.

This ordinance repeals the following ordinances in their entirety

2354 (Annexation of property served by a utility without a franchise agreement)

2917 (Annexation Procedures)

3250 (Zoning Ordinance)

3251 (Subdivision Ordinance)

3481 (Construction, Addition, Remodeling, or Change of Occupancy)

3491 (Development Permit Process)



Article I.	General to This Code.....	5
1.01	Short Title.....	5
1.02	Purpose.....	5
1.03	Authority.....	5
1.04	Applicability.....	6
1.05	Instructions.....	6
Article II.	Establishment of Zones.....	7
2.01	Classification of Zones.....	7
2.02	Subdistricts/Overlays.....	7
2.03	Zone Boundary Determinations.....	7
2.04	Zoning of Public Right-of-Way (ROW).....	7
Article III.	Residential Zones.....	8
3.01	Needed Housing.....	8
3.02	R-1 Low Density Residential.....	8
3.03	R-2 Medium Density Residential.....	9
3.04	R-3 High Density Residential.....	10
3.05	Manufactured Home Classes.....	10
3.06	Manufactured Home and Vacation Trailer Parks.....	12
3.07	Manufactured Home Installation/Design Standards.....	13
3.08	General Provisions for Residential Zones.....	14
Article IV.	Commercial Zones.....	19
4.01	C-MU Central Mixed Use.....	19
4.02	C-2 Tourist Commercial.....	20
4.03	C-3 Service Commercial.....	21
4.04	General Provisions for Commercial Zones.....	21
Article V.	Industrial Zones.....	24
5.01	M-1 Light Industrial.....	24
5.02	Airport Industrial Subdistrict (AI).....	25
5.03	Business Park Subdistrict (BP).....	25
5.04	Regional Distribution Center Subdistrict (RDC).....	26
5.05	Airport Activities Zone (A-A).....	26
5.06	Airport Hazard Subdistrict (AHZ).....	27
5.07	Heavy Industrial Zone (M-2).....	29
5.08	General Provisions for Industrial Zones.....	29
Article VI.	Areas inside UGB retaining EFU Zone.....	31
6.01	Description and Purpose.....	31
6.02	Permitted Uses.....	31
6.03	Conditional Uses.....	31
6.04	Limitations on Conditional Uses.....	31
6.05	Dimensional Standards.....	32
Article VII.	Overlay Zones.....	33
7.01	Opportunity Area Subdistrict (OA).....	33
7.02	Historic Preservation.....	35
7.03	Prison/Hospital Industrial Subdistrict (P/HIS).....	42
7.04	River Quarter.....	43
7.05	Special Flood Hazard Area.....	43
7.06	Umatilla River Subdistrict (U-R).....	43

Article VIII.	Standards Applicable in all Zones	44
8.01	Clear Vision Areas.....	44
8.02	Solar Access.....	44
8.03	Off-Street Auto and Bicycle Parking Requirements	45
8.04	Off-Street Loading.....	46
8.05	Pedestrian and Bicycle Access and Circulation.....	46
8.06	General provisions for off-street parking and loading.....	47
8.07	Electric Vehicle Charging Stations.....	49
8.08	Driveways. See Section 9.05, Access to Lots or Parcels.....	49
8.09	Above-Ground Fuel Storage.....	50
8.10	Storage Containers	50
8.11	Crime Prevention Through Environmental Design	51
Article IX.	Design Standards for Land Divisions.....	52
9.01	Blocks.....	52
9.02	Lot or Parcel Arrangement.....	52
9.03	Zero Lot Line Development.....	53
9.04	Flag Lots, Lots Accessed by Mid-Block Lanes	54
9.05	Access to Lots or Parcels.....	54
9.06	Public Parks, Recreation Facilities and Open Spaces	57
9.07	Noise Buffering	58
9.08	Pedestrian Walkways.....	58
9.09	Pedestrian and Bicycle Access Ways.....	59
9.10	Natural Features and Trees	59
9.11	Design of Streets	59
9.12	Street Improvements	62
9.13	Mail Boxes	63
9.14	Soil Grading, Drainage, and Retention.....	63
9.15	Drainage Improvements	63
9.16	Water System Improvements.....	64
9.17	Sewer System Improvements.....	64
9.18	Utilities	65
9.19	Dedication of Public Improvements.....	65
9.20	Maintenance of Public Improvements	66
9.21	Bonding and Assurances.....	66
Article X.	Land Divisions	68
10.01	Purpose	68
10.02	Approving Agency	68
10.03	Land Division Classifications.....	68
10.04	General Requirements.....	69
10.05	Subdivisions, Partitions and Replats	71
10.06	Following Tentative Plat Approval.....	73
10.07	Review of Final Plat.....	76
10.08	Planned Unit Developments (PUD).....	78
10.09	Condominiums	80
10.10	Dedication of Public Right-of-Way	80
10.11	Vacation of a Street or Plat.....	80
10.12	Boundary Line Adjustments.....	81
10.13	Expedited Land Divisions	82
Article XI.	Zoning and Related Decisions.....	83
11.01	Development Review	83
11.02	Home Occupations in Residential Zones.....	86
11.03	Caretaker Dwellings in Commercial and Industrial Zones.....	88
11.04	Variances.....	88
11.05	Minor Variances	89
11.06	Conditional Use Permits.....	89
11.07	Pre-Existing, Non-Conforming Uses and Developments.....	91
11.08	Temporary Uses	92
11.09	Interpretations of this Ordinance.....	93

Article XII.	Amendments to this Ordinance	94
12.01	Purpose	94
12.02	Authorization to Initiate Amendments	94
12.03	Compliance with Comprehensive Plan	94
12.04	Transportation Planning Rule Compliance	94
12.05	Procedure.....	94
12.06	Record of Amendments.....	94
12.07	Compliance with Statute and Rule	94
Article XIII.	Land Use Application Procedure	95
13.01	Application Submittal and Completeness Review.....	95
13.02	Type I Procedure (Ministerial).....	97
13.03	Type II Procedure (Administrative).....	98
13.04	Type III Procedure (Quasi-Judicial).....	100
13.05	Type IV Procedure (Legislative).....	104
13.06	Burden of Proof	107
Article XIV.	Annexation.....	108
14.01	Purpose	108
14.02	Initiation.....	108
14.03	Application Requirements	108
14.04	Notice.....	109
14.05	Public Hearing	109
14.06	Criteria.....	109
14.07	Application of Zoning Districts	109
14.08	Effective Date, Filing of Approved Annexation, and Notice.....	109
14.09	Withdrawal from Special Districts	110
14.10	Annexation of Territory Served by a Non-Franchised Utility	110
Article XV.	Administrative Provisions	111
15.01	Policy of Nondiscrimination.....	111
15.02	Duty of Enforcement.....	111
15.03	Compliance with Ordinance Provisions	111
15.04	Applicability of Zoning Regulations.....	111
15.05	Permit to Run with the Land	111
15.06	Limitations.....	111
15.07	Permit Expiration.....	112
15.08	Permit Extension.....	112
15.09	Vested Rights	112
15.10	Illegal Occupancy.....	112
15.11	Contract Purchasers Deemed Owners.....	112
15.12	Consent to Annexation Required.....	112
15.13	Resubmittal of Application Following Denial	112
15.14	Violation of Conditions	113
15.15	Agreements for Conditional Approvals	113
15.16	Interpretation	113
15.17	Severability.....	113
15.18	Conflict with Public and Private Provisions.....	113
15.19	Enforcement of Private Agreements.....	113
15.20	Unlawful Construction or Use a Nuisance.....	113
15.21	Remedies for Unlawful Structures	113
15.22	Violations and Penalties.....	113
15.23	Saving Clause	114
15.24	Fees.....	114
15.25	Enterprise Zone Exception.....	115
Article XVI.	Definitions.	116

ARTICLE I. GENERAL TO THIS CODE

1.01 Short Title

This Ordinance shall be known as the Pendleton Unified Development Code (the Code, or UDC) and the map herein referred to shall be known as the Pendleton "Zoning Map." Said map and all explanatory matter thereon are hereby adopted and made a part of this Ordinance.

1.02 Purpose

- A. The text of this Ordinance and zoning map constitute the zoning and development regulations for the area within the Urban Growth Boundary of the City of Pendleton and are adopted to:
- B. Promote, protect and provide for the public health, safety and general welfare of the City of Pendleton, its citizens, and visitors, both today and in the future.
- C. Assure equal and fair treatment of all individuals who own and/or are seeking to develop property within the Urban Growth Boundary of the City of Pendleton.
- D. Guide the future growth and development of the City, in accordance with the Comprehensive Plan;
- E. Fix definite goals for the future development of Pendleton, thereby providing a basis for wise decisions with respect to such development.
- F. Advance the position of the City of Pendleton as a regional center of commerce, industry, recreation and culture.
- G. Guide public and private policy, expenditures and actions in order to provide and maintain adequate and efficient transportation, water, sewage, schools, parks, and other public services and facilities;
- H. Provide the economic and social advantages which result from the orderly and planned use of land resources.
- I. Provide for desirable, appropriately located living areas in a variety of dwelling types and at a suitable range of prices and population densities, with usable open space.
- J. Protect residential, commercial, industrial and civic areas from the intrusions of incompatible uses, and provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services.
- K. Provide for adequate light, air and privacy; safety from fire, flood and other danger; and prevent overcrowding of the land.
- L. Protect and conserve the value of land and improvements throughout the City and minimize the conflicts among the uses of land and improvements.
- M. Provide a transportation system that meets the needs of all citizens regardless of age, physical ability or income; creates seamless connections to future development; and provide a mechanism for integrating all modes of travel into an efficient and safe transportation network.
- N. Establish reasonable standards of design and procedures for land divisions, in order to further the orderly layout and use of land.
- O. Ensure that public facilities are available, can be expanded/extended in an economical manner over a long term, and will have sufficient capacity to serve potential new development.
- P. Assure reasonable development standards are achieved while protecting the tax base and tax burden on residents in the community.
- Q. Discourage the pollution of air, water and land resources; to assure the adequacy of drainage facilities; to protect the water table; and to encourage the wise use and management of natural resources throughout the City.
- R. Provide for creation and conservation of open spaces and natural areas through the most efficient design and layout of the land.
- S. Authorize the conditioning of the right to build or change uses of property with requirements to construct necessary public improvements in a timely manner.

1.03 Authority

1.03.1 The action of the City of Pendleton, Oregon in the adoption of this Code is authorized under the Oregon Constitution, Article XI, Section 2; and the Pendleton City Charter, Article VII, Sections 35 - 37.

1.03.2 This Code was adopted as one of the instruments of implementation of the public purposes and objectives of the Pendleton Comprehensive Plan.

- 1.03.3 This Code consolidates all development-related ordinances into one document, in order to ensure that elected and appointed officials, City staff and members of the general public may rely on one source for issues related to land use within the City of Pendleton and its Urban Growth Boundary.
- 1.03.4 This Code was adopted and may be amended according to the applicable standards contained in Oregon Statute and Rule, the City of Pendleton Comprehensive Plan and implementing ordinances.
- 1.03.5 This Code relates only to those issues which may be regulated by the City of Pendleton. Standards and requirements which may be regulated by County, State or Federal agencies may preempt or apply in addition to this Code.

1.04 Applicability

- 1.04.1 The area regulated by this Code shall be that within the entire City of Pendleton Urban Growth Boundary pursuant to the Pendleton Planning Area Joint Management Agreement with Umatilla County, as amended.
- 1.04.2 Provisions of this Code are activated by “shall” when required; “should” when recommended; and “may” when optional. Language and tables using “encouraged” and “discouraged” is intended to be followed but is not mandatory.
- 1.04.3 The provisions of this Code, when in conflict, shall take precedence over those of other codes, ordinances, regulations and standards except applicable provisions set forth in Federal law, Oregon Administrative Rules, Oregon Revised Statutes, and the Oregon Specialty Codes.
- 1.04.4 In the case of conflicting or duplicitous local code, those of this Code shall take precedence.
- 1.04.5 Terms used throughout this Code may be defined in Article 16 Definitions. Article 16 contains regulatory language that is integral to this Code. Those terms not defined in Article 16 shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and those of other local ordinance, those of this Code shall take precedence.
- 1.04.6 Where in conflict, numerical metrics shall take precedence over graphic metrics.

1.05 Instructions

- 1.05.1 This Code governs the preparation of all development proposals within the City of Pendleton and its UGB, including amendments to this Code.
- 1.05.2 The City reserves the right to interpret this ordinance. If a particular structure or use is contemplated that may or may not be foreseen by this Code, it shall be interpreted according to the standards contained in Article 11.
- 1.05.3 From and after the effective date of this Ordinance, no building or development permit may be issued for any development within the City of Pendleton Urban Growth Boundary unless said development has met the terms of this Ordinance.
- 1.05.4 No final approval or Certificate of Occupancy shall be issued by the City until such time as the applicant has complied with all requirements of this Ordinance. Final approval or certificate of occupancy shall not be issued if there is any major variance from the site plan.
- 1.05.5 In their interpretation and application, the regulations set forth by this Ordinance shall be held to be the minimum requirements for the promotion and fulfillment of the purposes of this Ordinance.
- 1.05.6 The interpretation of words used in this Ordinance shall be as follows:
 - A. Tense. Words used in the present tense include the future tense;
 - B. Number. Words used in the singular include the plural and words used in the plural include the singular;
 - C. Gender. The masculine shall include the feminine and the neuter.

ARTICLE II. ESTABLISHMENT OF ZONES

2.01 Classification of Zones

For the purpose of this Ordinance the following zones are hereby established within the City of Pendleton and its Urban Growth Boundary:

Name of Zone	Abbreviated Designation
Low Density Residential	R-1
Medium Density Residential	R-2
High Density Residential	R-3
Central Mixed Use	C-MU
Tourist Commercial	C-2
General Commercial	C-3
Light Industrial	M-1
Heavy Industrial	M-2
Exclusive Farm Use	EFU

2.02 Subdistricts/Overlays

Subdistricts and their accompanying regulations shall apply in addition to the regulations of the basic zone. If a conflict in regulations or standards occurs between the land use zone and an overlay zoning subdistrict, the provisions of the subdistrict shall take precedence.

2.03 Zone Boundary Determinations

The exact location of a zone boundary shall be determined by the Planning Director where there is uncertainty, contradiction, or conflict as to the intended location of any zone boundary due to the scale, lack of detail, or illegibility of the Zoning Map. The determination shall be in accordance with the following guidelines:

- A. Street Lines. Where zone boundaries are shown as approximately following the centerline of a right-of-way, such centerlines shall be construed to be the zone boundaries.
- B. Lot Lines. Where zone boundaries are shown as approximately following lot lines, such lot lines shall be construed to be the zone boundaries.
- C. Water Courses. Where zone boundaries are shown as approximately following the centerline of water courses, such lines shall be construed to be the zone boundaries unless such boundaries are otherwise fixed by dimensions described elsewhere in this title.
- D. If a property owner disagrees with the Planning Director's initial determination, a formal determination request may be made pursuant to the procedure for Interpretations contained in Article 11.

2.04 Zoning of Public Right-of-Way (ROW)

The zones and any overlays applied to the public rights-of-way within the City boundaries as shown on the Zoning Map do not directly regulate the improvements or structures that are allowed in these rights-of-way. Improvements and structures in public rights-of-way are regulated by other rules, regulations, and ordinances maintained by the City and other road authorities, including but not limited to Public Works Standards and the Transportation System Plan.

ARTICLE III. RESIDENTIAL ZONES

This Article describes the purpose, land use and locational standards for the Low Density, Medium Density and High Density Residential zones. However, in designated Opportunity Areas, the residential purpose, land use and locational standards found in this Article may be modified by a Master Development Plan (MDP) approved by the Planning Commission pursuant to Section 7.01 Opportunity Areas.

3.01 Needed Housing

ORS [197.307\(6\)](#) applies to "needed housing" as that term is defined in ORS 197.303, and provides that "[a]ny approval standards, special conditions and the procedures for approval adopted by a local government shall be clear and objective and may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay." ORS 197.303, in turn, defines "needed housing" as follows:

As used in ORS 197.307, until the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

- Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
- Government assisted housing;
- Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; and
- Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions.

3.02 R-1 Low Density Residential

3.02.1 **Description and Purpose.** To provide for the transition of large, sparsely settled areas from rural or agricultural characteristics to urban one-family residential use and to provide areas where an agricultural atmosphere that does not conflict with other urban uses may be retained. Within a designated Opportunity Area, land within the R-1 zone is suitable for the range of urban land uses authorized by a Master Development Plan approved by the City pursuant to the Opportunity Area Subdistrict in Article 7.



3.02.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright:

- A. City Park;
- B. Dwelling, duplex; or two single family dwellings on a minimum lot size of 6,000 square feet (subject to the provisions of Table 3.1), provided the distance between principal buildings is a minimum of ten feet;
- C. Dwelling, single family (attached or detached);
- D. Manufactured Home, Class A, provided that it is located within a Class A or Class B Manufactured Housing Subdistrict, and Class B, provided that it is located within a Class B Manufactured Housing Subdistrict, both subject to the requirements of Sections 3.05-3.07 of this Ordinance.
- E. Residential Homes and Residential Facilities (see ORS [197.660-670](#));
- F. Townhouse.
- G. Within a designated Residential or Mixed Use Opportunity Area, conditional uses listed in Section 3.02.3 shall be permitted when authorized by an approved Master Development Plan.
- H. Within a designated Mixed Use Opportunity Area, other urban uses shall be permitted when authorized by an approved Master Development Plan.
- I. Keeping of livestock (except swine), fowl, rabbits and bees primarily for personal, noncommercial use, provided that:
 1. In the case of livestock, it shall be kept in an enclosure having a minimum area of 2,500 square feet for each animal kept therein.
 2. In the case of rabbits or other like animals or fowl, animals or fowl shall be kept in an enclosure having not less than fifteen (15) square feet for each animal or fowl.
 3. No structure, building, corral, or enclosure erected or maintained for purposes of keeping livestock, rabbits or fowl shall be located within one hundred (100') feet of a dwelling, school, church, hospital, public playground or public building.

- 3.02.3 **Conditional Uses.** The following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11 of this Ordinance:
- A. Agricultural Production and Services
 - B. Animal Clinic, Kennel, or Hospital
 - C. Bed and Breakfast
 - D. Cemetery
 - E. Church, lodge, private club or other assembly area
 - F. Day Nursery, Social Services
 - G. Dwelling, multi-family
 - H. Governmental structure or land use, public and semi-public use; or structures
 - I. Home occupation; as provided in Article 11 of this Ordinance
 - J. Hospital and Health Care Facility
 - K. Light Industrial Uses (Furniture manufacturing, printing and publishing, electrical and electronic equipment manufacturing, instruments and related products, miscellaneous manufacturing, bakeries, office and computing equipment)
 - L. Manufactured Home Park, Manufactured Home Subdivision, Vacation Trailer Parks (Individual Conditional Use permits not required for each unit within approved parks or subdivisions)
 - M. Neighborhood Commercial (see Section 3.08 for details)
 - N. Schools and Colleges
 - O. Transportation and Communication Facilities (Railroads, general warehouse/storage, air transportation, pipelines (except natural gas, packing and crating, communication facilities by wire or airwave, electric/gas/sanitary services)

3.03 R-2 Medium Density Residential



- 3.03.1 **Description and Purpose.** To provide for land areas to be used predominately for dwellings of varying types within a moderate density range, together with related uses. Within the Central Mixed Use Plan Designation, the R-2 zone also provides opportunities for adaptive re-use of historic structures and for expansion of existing commercial and light industrial uses. Within a designated Opportunity Area, land within the R-2 zone is suitable for the range of urban land uses authorized by a Master Development Plan approved by the City pursuant to the Opportunity Area Subdistrict in Article 7.
- 3.03.2 **Permitted Uses.** The following uses and their accessory uses are permitted:
- A. City Park
 - B. Dwelling, duplex; or two single family dwellings on a minimum lot size of 5,000 square feet (subject to the provisions of Table 3.1), provided the distance between principal buildings is a minimum of ten feet.
 - C. Dwelling, single family (attached or detached)
 - D. Manufactured Home, Class A provided that it is located within a Class A or Class B Manufactured Housing Subdistrict, and Class B, provided that it is located within a Class B Manufactured Housing Subdistrict, subject to the requirements of Section 3.07 of this Ordinance.
 - E. Residential Homes and Residential Facilities (see ORS [197.660-670](#))
 - F. Townhouse
 - G. Manufactured Home Park, Manufactured Home Subdivision, Vacation Trailer Park (Individual Conditional Use permits not required for each unit within approved parks or subdivisions)
 - H. Within the Central Mixed Use Plan Designation, adaptive commercial or industrial re-use of an historic structure if approved by the Historic Preservation Commission.
 - I. Within a designated Residential or Mixed Use Opportunity Area, conditional uses listed in Section 3.03.3 shall be permitted when authorized by an approved Master Development Plan.
 - J. Within a designated Mixed Use Opportunity Area, other urban uses shall be permitted when authorized by an approved Master Development Plan.
- 3.03.3 **Conditional Uses.** The following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11 of this Ordinance:
- A. Bed and Breakfast
 - B. Cemetery
 - C. Church, lodge, private club or other assembly area
 - D. Day Nursery, Social Services
 - E. Dwelling, Multi-family
 - F. Governmental Structure or land use, public and semi-public use or structures

- G. Home Occupation
- H. Health Services
- I. Neighborhood Commercial (see Section 3.08 for details)
- J. Schools and Colleges
- K. Transportation and Communication Facilities (Railroads, general warehouse/storage, air transportation, pipelines except natural gas, packing and crating, communication facilities by wire or airwave, electric/gas/sanitary services)
- L. Within the Central Mixed Use Plan Designation, expansion of existing, lawfully established commercial or light industrial uses on the same or adjacent property

3.04 R-3 High Density Residential



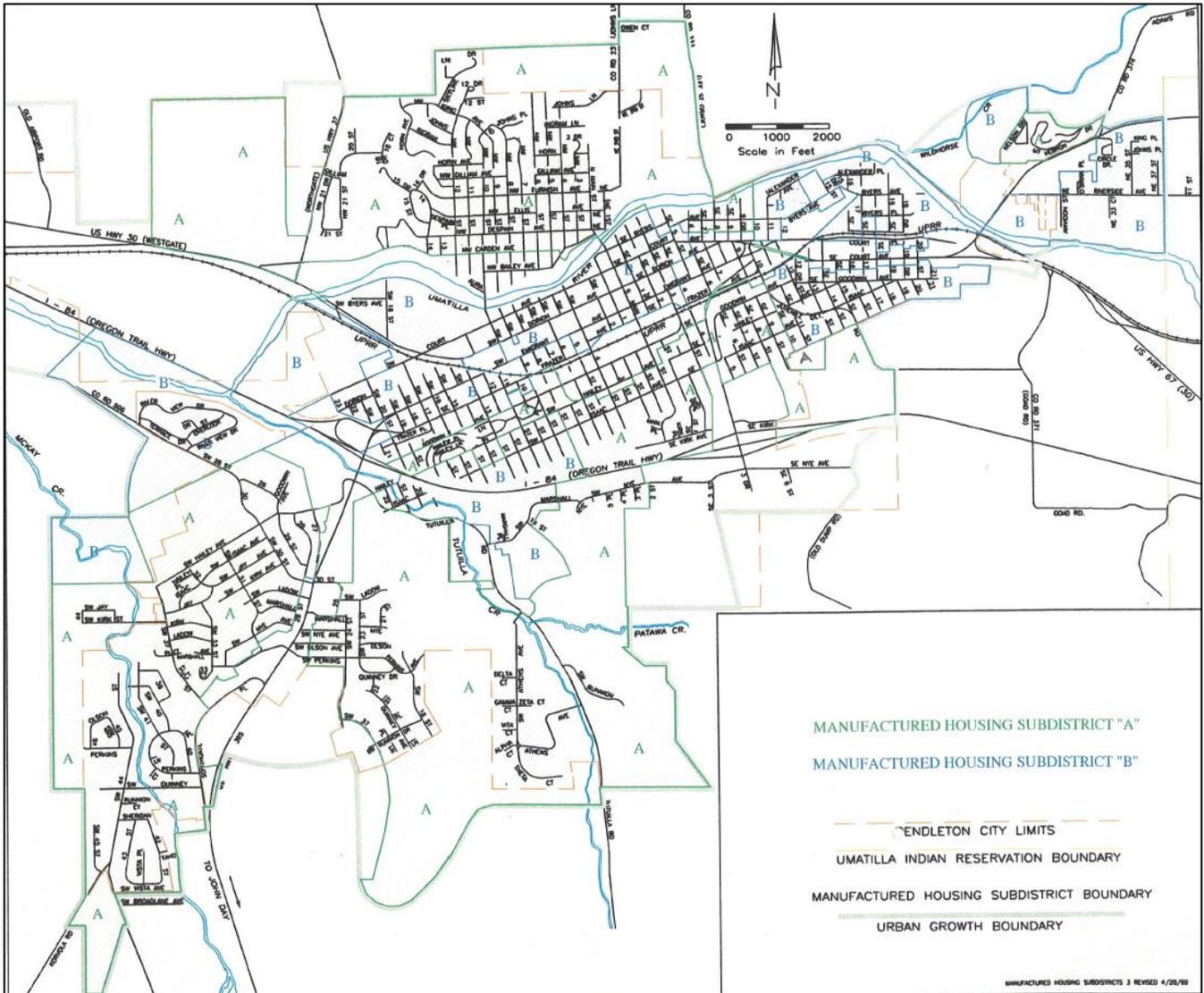
- 3.04.1 **Description and Purpose.** To provide for residential development, at increased densities, offering varying forms of urban living in close proximity to jobs, goods and services. Zoning of land for R-3 shall be based on applicable criteria in the Comprehensive Plan. Within the Central Mixed Use Plan Designation, the R-3 zone also provides opportunities for adaptive commercial or industrial re-use of historic structures when approved by the Historic Preservation Commission. Within designated Opportunity Areas, the R-3 zone is suitable for urban land uses authorized by a Master Development Plan approved by the City pursuant to the Opportunity Area Subdistrict in Article 7.
- 3.04.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright.
- A. Boarding and lodging house
 - B. City Park
 - C. Dwelling, duplex; or two single family dwellings on a minimum lot size of 5,000 square feet (subject to the provisions of Table 3.1), provided the distance between principal buildings is a minimum of ten feet
 - D. Dwelling, multi-family
 - E. Residential Homes and Residential Facilities
 - F. Townhouse
 - G. Within the Central Mixed Use Plan Designation, adaptive commercial or industrial re-use of historic structures if approved by the Historic Preservation Commission.
 - H. Within a designated Residential or Mixed Use Opportunity Area, conditional uses listed in Section 3.04.3 shall be permitted when authorized by an approved Master Development Plan.
 - I. Within a designated Mixed Use Opportunity Area, other urban uses shall be permitted when authorized by an approved Master Development Plan.
- 3.04.3 **Conditional Uses.** The following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11 of this Ordinance.
- A. Church, lodge, private club or other assembly area
 - B. Day Nursery, Social Services
 - C. Governmental Structure or Land Use, public and semi-public use or structures
 - D. Home Occupation (as provided in Article 11)
 - E. Health Services
 - F. Neighborhood Commercial (see Section 3.07 for details)
 - G. Schools and colleges
 - H. Transportation and Communication Facilities
 - I. Business and Professional services
 - J. Bed and Breakfast
 - K. Within the Central Mixed Use Plan Designation, expansion of existing, lawfully established commercial or light industrial uses on the same or adjacent property.

3.05 Manufactured Home Classes

For purposes of this ordinance, manufactured homes are divided into the following types.

- A. A Class A Manufactured Home shall:
 1. Be multi-sectional “double wide” or wider, and enclose a floor area of not less than 1,000 square feet;
 2. Be placed on an excavated and back-filled foundation, enclosed at the perimeter with no more than twelve (12") inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than twelve (12") inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the twelve (12") inch limitation will not apply;
 3. Have a pitched roof with a nominal pitch of three (3') feet in height for each twelve (12') feet in width;

4. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the State Building Code as defined in ORS [455.010](#). Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer’s certification shall not be required;
 5. Have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City;
 6. Not be sited adjacent to any structure or within any district designated by the Pendleton Comprehensive Plan as historic.
- B. A Class B Manufactured Home shall:
1. Have more than eight hundred forty (840) square feet of occupied space in a single, double, or multi-section unit;
 2. Be placed onto a permanent foundation with enclosed perimeter or support system with skirting as specified in Section 3.07 of this ordinance;
 3. Have wheels, axles, and hitch mechanisms removed;
 4. Be manufactured within the current or previous three calendar years (at the time of installation permit application) if a single wide and within the current or previous six calendar years if a double wide or wider, unless otherwise approved by the Planning Commission through a variance procedure;
 5. Have siding material of a type customarily used on site-constructed residences (see list of approved materials in Section 3.07 of this ordinance);
 6. Have a pitched roof with roofing material of a type customarily used on site-constructed residences (see list of approved materials in Section 3.07 of this ordinance);
 7. Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.
- C. A Class C Manufactured Home shall:
1. Have more than seven hundred and twenty (720) square feet of occupied space in a single, double, or multi-section unit (including those with add-a-room units);
 2. Be placed onto a permanent foundation with enclosed perimeter or support system in accordance with approved installation standards as specified in Section 3.07 of this ordinance;
 3. Be enclosed with foundation siding/skirting in accordance with installation standards as specified in Section 3.07 of this ordinance;
 4. Have utilities connected in accordance with manufacturer’s specifications and Oregon Department of Commerce requirements;
 5. Bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976.
 6. Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.
- D. A Class D Manufactured Home is any such unit built prior to June 15, 1976, and under ORS [Chapter 481](#) is not defined as a recreation vehicle. For purposes of determining appropriateness for placement, Class D Manufactured Homes shall:
1. Have more than three hundred and twenty (320) square feet of occupied space;
 2. Be placed onto a permanent foundation with enclosed perimeter or support system in accordance with approved installation standards as specified in Section 3.07 of this ordinance;
 3. Be enclosed with foundation siding/skirting in accordance with approved installation standards as specified in Section 3.07 of this ordinance;
 4. Have utilities connected in accordance with manufacturer’s specifications and Oregon Department of Commerce requirements.
 5. Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.



3.06 Manufactured Home and Vacation Trailer Parks

3.06.1 **Purpose.** It is the purpose of this Section to regulate manufactured home and vacation trailer parks in the interest of public health, safety, and general welfare; by establishing minimum standards governing the location, construction, and maintenance of facilities required within such parks.

3.06.2 Location - Permits.

- A. Manufactured home and vacation trailer parks are allowed in the Class A and Class B Manufactured Housing Subdistrict subject to the Conditional Use regulations of this Ordinance. Vacation trailer parks are also allowed in the C-2 zone as an outright use and in the C-3 and M-1 zones conditionally. (Manufactured home subdivisions are limited to the Class A and Class B Manufactured Housing Subdistrict.)
- B. In addition to zoning approval, such parks shall be subject to permits as required by the regulations or policies within the jurisdiction of the State Health Division and State Department of Commerce, Building Codes Division.

3.06.3 **Site Plan Contents.** To apply for a Conditional Use permit, in accordance with Article 11 of this Ordinance, the following items shall be indicated on the site development plan:

- A. Area and dimensions of the tract of land, with scale, date, north arrow, property owner and engineer or architect that prepared the plan;
- B. Dimensions and location of all numbered park spaces;
- C. Location, width, and design of all roadways, walkways, park areas, and sidewalks;
- D. Location, size, and design of service buildings, refuse stations, storage facilities, grouped mail box facilities, and recreation facilities, (if required);

- E. Location of proposed underground utility lines, (with point of connection to public lines), street lights, fire hydrants, and signage;
- F. Design of landscaped areas and open spaces (with irrigation plan);
- G. Design of typical space improvements, designation of spaces for either manufactured home or vacation trailer usage;
- H. Proposed park rules and regulations.

3.06.4 Recreational Vehicles may be placed and occupied in a park subject to the standards contained in ORS197.493.

3.06.5 Duration of use for Vacation Trailers, without compliance with applicable manufactured home regulations for siting, set-up, water, sewer, and electrical hook-ups, shall be limited to twelve months in any thirteen month period.

3.07 Manufactured Home Installation/Design Standards

3.07.1 **Permanent Foundation with Enclosed Perimeter.** A Class A manufactured home requiring a permanent foundation with perimeter enclosure must be set onto an excavated area, with foundations, footings and crawl space or basement walls constructed in accordance with Oregon Department of Commerce Standards. The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

3.07.2 **Support System with Skirting.** All Class B, C and D manufactured homes without a permanent foundation and perimeter enclosure shall have an approved support system with skirting enclosing the entire perimeter of the home. Skirting and back-up framing shall be weather-resistant, non-combustible or self-extinguishing materials, which blend with the exterior siding of the home. Below grade level and for a minimum distance of six (6") inches above finish grade, the materials shall be unaffected by decay or oxidation. The skirting shall be installed in accordance with manufacturer's recommendations or approved equal standards.

The skirting shall be ventilated by openings, which shall be a net area of not less than one and one-half (1 1/2) square feet for each twenty-five (25) linear feet of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not larger than one half (1/2) inch in any dimension. The underfloor area shall be provided with an eighteen (18") inch by twenty-four (24") inch minimum size access crawl hole, which shall not be blocked by pipes, ducts, or other construction interfering with the accessibility of the underfloor space, or other approved access mechanism.

3.07.3 **Siding for Class A and Class B Manufactured Homes.** The following siding materials are approved for usage on Class A and Class B manufactured homes:

- A. Residential horizontal aluminum lap siding,
- B. Residential horizontal vinyl lap siding,
- C. Cedar or other wood siding,
- D. Wood grain, weather resistant, press board siding,
- E. Stucco siding,
- F. Brick or stone siding
- G. Other approved siding materials which are aesthetically compatible.

3.07.4 **Roofing for Class A and Class B Manufactured Homes.** The following roofing materials are approved for usage on Class A and Class B manufactured homes:

- A. Asbestos shingles on a roof pitched according to the design specifications of the shingles,
- B. Fiberglass shingles on a roof pitched according to the design specifications of the shingles,
- C. Shake shingles on a roof pitched according to the design specifications of the shingles,
- D. Asphalt shingles on a roof pitched according to the design specifications of the shingles,
- E. Tile materials on a roof pitched according to the design specifications of the tiles,
- F. Other approved roofing materials which are aesthetically compatible.

3.07.5 **Summary of Placement Standards.**

- A. As defined in Section 3.05 of this ordinance, all manufactured homes shall be classified as Class A, B, C or D and shall be permitted as follows:
 1. Class A - Permitted outright in the Class A and Class B Manufactured Housing Subdistricts, conditionally as a caretaker dwelling, and allowed in manufactured home parks and subdivisions (which themselves require a conditional use permit).

2. Class B - Permitted outright in the Class B Manufactured Housing Subdistrict, conditionally as a caretaker dwelling and allowed in manufactured home parks and subdivisions (which themselves require a conditional use permit).
 3. Class C - Permitted conditionally as a caretaker dwelling, and allowed in manufactured home parks existing prior to 1983.
 4. Class D - permitted conditionally as a caretaker dwelling, and allowed in manufactured home parks existing prior to 1983.
- B. The Planning Commission shall consider a variance to replace a nonconforming manufactured home only if the replacement home is of an equal or higher classification. In reviewing such variances, the Planning Commission shall pay particular attention to the age, condition and assessed value of surrounding structures.
- C. No manufactured home shall be permitted in any National Register Historic District.
- D. No pieces of equipment, furniture, appliances (excepting lawn furniture and fuel storage units) be allowed on the property outside the manufactured home unless it is within an enclosed structure approved by the Commission; so long as the property is used as a manufactured home site.
- E. Proof of compliance with the Manufactured Housing Construction and Safety Standards Code of June 15, 1976, for manufactured homes built prior to that date, shall consist of a written verification of compliance from a State of Oregon certified manufactured housing inspector.

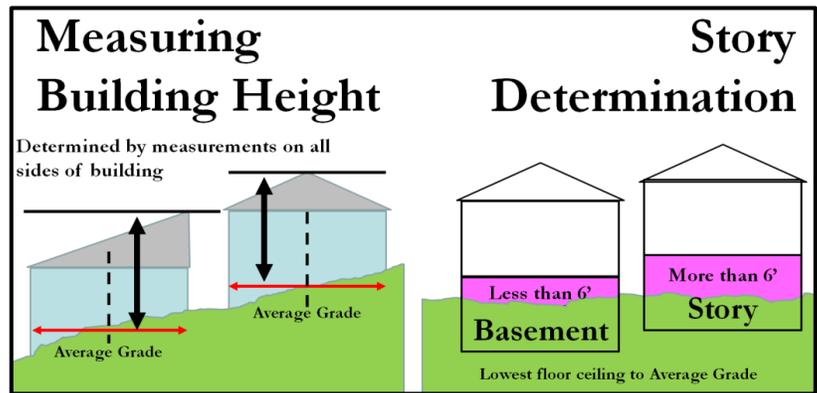


3.08 General Provisions for Residential Zones

This Section sets forth development standards that apply within Residential zones. However, in designated Opportunity Areas, the dimensional standards may be modified by an approved Master Development Plan (MDP) pursuant to the Opportunity Area Subdistrict in Article 7.

- 3.08.1 **Density.** In all of the residential zones, the minimum and maximum residential densities shall be as shown in Table 3.1.
- 3.08.2 **Lot Size.** In all of the residential zones, the minimum lot sizes shall be as shown in Table 3.1.
- 3.08.3 **Maximum Lot Size.** The maximum lot size that may be approved administratively shall not exceed twice the minimum lot size under the corresponding zone and slope. Mapped constraints may be removed from the maximum lot size calculation.

- 3.08.4 **Maximum Height.** In all of the residential zones, the maximum height shall be as shown in Table 3.1. Building height shall be determined by measuring all sides of a building relative to average grade. Building stories located more than six feet above average grade shall be counted as a full story; those less than six feet above average grade shall be counted as a basement.



- 3.08.5 **Exceptions to Height limits.** The height limits of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, aerials, solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device.

- 3.08.6 **Maximum Lot Coverage.** In all of the residential zones, the maximum lot coverage shall be as shown in the adjacent diagram and Table 3.1.



3.08.7 **Miscellaneous Lot Provisions.**

- A. Building Lots must abut a public right of way or other public access. No residential, commercial, or industrial building shall be erected on a lot which does not abut at least one street. Where there is a residence constructed, as of the date of this Ordinance, on an interior lot not abutting on a public street, such property shall continue unaffected except that in the case of reconstruction of such a structure, as provided in Section 11.07 of this Ordinance, nothing more than a single family dwelling and accessory buildings may be constructed upon such interior lot, and then only when easements for ingress and egress are recorded.
- B. The primary access shall be via a street that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission.
- C. Parking, Storage or Use of Recreational Equipment. No equipment shall be used for living, employment, sleeping or housekeeping purposes, nor connected to utilities, when parked or stored on a residential lot, or in any location not approved for such use. Recreational vehicles may be used for guest accommodation for a maximum of 14 days within a three month period.
- D. Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially used property other than in completely enclosed buildings.

3.08.8 **Yard (Setback) Regulations – Primary Structures**

- A. Front Yard: The minimum front setback shall be as shown in Table 3.1.
- B. Side Yard: The minimum side setback shall be as shown in Table 3.1, except on corner lots, where ten (10) feet are required on the side abutting the street, and in the case of attached single-family dwellings, where a zero lot line is allowable (with the provision of common “party” wall construction);
- C. Rear Yard: The minimum rear setback shall be as shown in Table 3.1, except in the case of attached single-family dwellings, where a zero rear lot line is allowable (with the provision of common “party” wall construction).
- D. Garage or carport face: 20 feet from any property line. The front wall of a garage, and any portion of a carport, shall not be permitted less than twenty (20) feet from a property line for primary and accessory structures.
- E. The required front yard depths may be reduced in any residential zone as follows:
 - 1. If there are dwellings on both abutting lots with front yards of depths 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 yards of the abutting lots;
 - 2. If there is a dwelling on one abutting lot with a front yard of less depth 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 abutting lot and the required front yard depth;
 - 3. In determining the depth of a front yard, the required depth shall be measured at right angles to the nearest street right-of-way, except as provided in subsection (F) below.
- F. No building shall be erected on a lot which fronts upon a street having only a portion of its required width dedicated (as set forth in the Comprehensive Plan), unless the yards provided and maintained in connection with such building have a width and/or depth needed to complete the street right-of-way width plus the width and/or depth of the yards required on the lot by this Ordinance.
- G. Only under adverse topographical circumstances will a variance be granted for a front yard setback less than ten (10') feet.
- H. Projecting Building Features: The following building features may project into the required front yard no more than five (5') feet, and into the required interior yards no more than two (2) feet, provided that such projections are no closer than three (3) feet to any interior lot line:
 - 1. Architectural features such as gutters, flues, eaves, cornices, belt courses, sills, awnings, buttresses, or similar features;
 - 2. Chimneys and fireplaces.

3.08.9 **Setbacks – Accessory Structures, Fences and Walls**

- A. The front wall of a garage or carport shall not be permitted less than twenty (20) feet from a property line fronting an existing street or a future street as shown in the Transportation System Plan. Garages and carports on alley frontages shall have a minimum setback of five (5) feet.
- B. In any zone, open work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls, may be located in required yards, provided such devices are not more than three and one-half feet (42”) in height. Only stairs and protective railings may be located within the first ten (10') feet of the required front yard.
- C. Accessory Structure: In the interior rear and/or side yards, an accessory structure may be located so that its walls and/or projecting features shall be no closer than three (3) feet to the property line.

- D. Solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device shall be exempt from the interior yard requirements.
- E. Satellite dish antennas shall not be located in the front yard (setback) of a dwelling.
- F. Porches, patios, decks and associated covers, and unattached solar energy systems shall be permitted with a minimum ten (10') foot front yard setback. Such structures shall not be enclosed to extend the living areas of the house.
- G. Stairs and other means of access to side and/or rear decks and patios may project into the minimum side and/or rear setback provided they are permitted in accordance with all applicable Structural, Fire or other codes.
- H. Fences and Walls. In any residential zone, a sight obscuring fence or wall, not exceeding six (6) feet in height, may be located or maintained within the required interior yards, except where the requirements of vision clearance apply. Such fences or walls may be placed in front or side yards abutting a street, provided such fences or walls do not exceed three and one-half (3.5') feet in height. Non-sight obscuring fences of six (6') feet or less in height may be erected within any required yard. This Section does not apply to retaining walls.
- I. Retaining walls. Retaining walls, steps, ramps and other associated elements associated with site grading are exempt from setback standards but must observe all other applicable permitting requirements.

3.08.10 **Portable Storage Containers (PSC).** Any box-like container which is transported by truck or trailer to a desired location for drop off and which is otherwise stored at an offsite location.



- A. The maximum allowable area of a PSC shall be 160 square feet with no dimension exceeding 20 feet.
- B. Not more than one PSC shall be placed on any lot at one time.
- C. PSCs shall not be placed or unloaded on any street within the City.
- D. PSCs shall be placed no closer than 10 feet to a front property line and shall comply with the side and rear lot setback requirements and Vision Clearance standards for structures in the applicable zone.
- E. PSCs shall only be placed on a hard surface and shall not be located in any required open space, landscaped area, on any sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation, and shall be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection.
- F. During a construction project under an active Building Permit, PSCs and trailers may be used to store tools and materials on site. All such storage facilities must be removed within 30 days of completion or cessation of construction.
- G. Notwithstanding (F) above, no PSCs shall be placed for a total of more than 180 days.

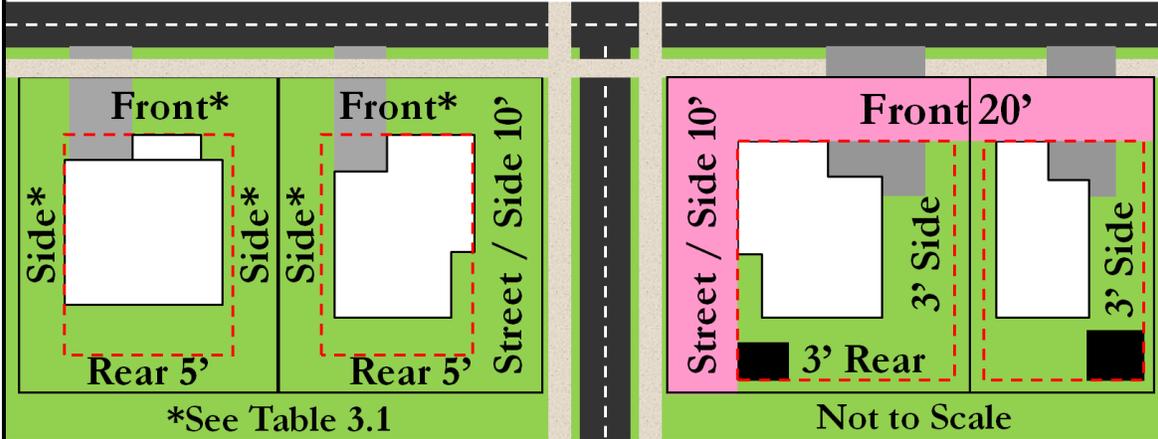
3.08.11 **Neighborhood Commercial Uses.** Neighborhood Commercial Uses are intended to provide for a concentration of a limited range of commercial uses needed to meet the daily convenience shopping and service needs of residents in the immediate area, rather than large stores of a supermarket nature, or uses designed to serve the entire City or larger market area. Such uses should be provided, whenever possible, in a business island, rather than on several sites scattered throughout the neighborhood, or in strip developments. Neighborhood Commercial uses shall comply with the following standards:

- A. Uses Allowed. The City Planner shall determine if a particular use is allowable as a Neighborhood Commercial use based on the statement of intent above. The City Planner's decision may be appealed to the Planning Commission as set forth in Article 13 of this Ordinance.
- B. Building Design. A Neighborhood Commercial use shall not exceed the building height, lot coverage or setback regulations of the zone in which it is located.
- C. Minimum Lot Size. A Neighborhood Commercial use shall occupy a site of not less than 10,000 square feet.
- D. Hours of Operation. Neighborhood Commercial uses shall operate no earlier than 7:00 a.m. or later than 8:00 p.m. unless otherwise approved by the Planning Commission.
- E. Signs. Ordinance No. 2775 (Sign Code) requires a Conditional Sign Permit for a principal Neighborhood Commercial sign.
- F. Parking. Neighborhood Commercial uses shall comply with the parking, landscaping and other provisions of Article 8 of this Ordinance.

Residential Zone Setbacks

Primary Structures

Accessory Structures



Garage Face Setbacks

Minimum 20' from any street frontage property line

Fences and Walls

Fences/walls more than 6 feet high require a building permit

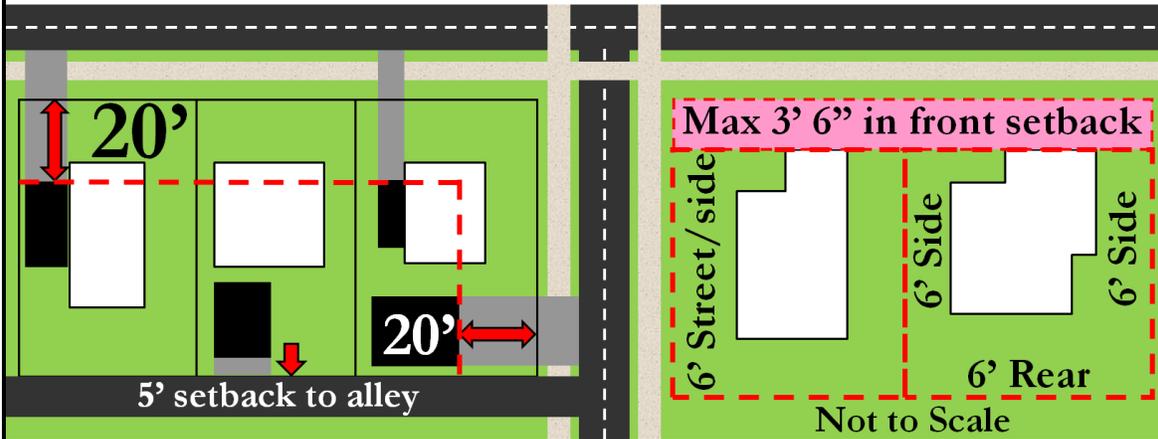


Table 3.1 Development Standards in Residential Zones

Lot size and Density	R-1	R-2	R-3
Minimum Density (DU/acre)	3.9	6	12
Maximum Density (DU/acre)	9	18	35
Minimum Lot Size (<10% slope)	6000sf	5000sf	5000sf
Single Family attached	3000sf	3000sf	3000sf
Minimum Lot Size (10-20% slope)	7000sf	7000sf	6000sf
Single Family attached	3500sf	3500sf	3500sf
Minimum Lot Size (>20% slope)	9000sf	8000sf	7000sf
Single Family attached	4000sf	4000sf	4000sf
Planning Commission approval required for any lot or parcel more than 2X the minimum - see Section 3.8			
Maximum height (feet / stories)	30 / 2	40 / 3	50 / 5
Maximum lot coverage (%)	35	40	45
Setbacks (feet)	R-1	R-2	R-3
Front	15	15	10
Front (unenclosed elements)	10	10	10
Side	5	4	3
Rear	5	5	5
Street/Side	10	10	10
Garage/Carport Face all sides	20	20	20
Front - accessory structure	20	20	20
Side - accessory structure	3	3	3
Rear - accessory structure	3	3	3
Street/Side - accessory structure	10	10	10
Permitted and Conditional Uses: Residential	R-1	R-2	R-3
Single Family Detached	P	P	X
Single Family Attached	P	P	P
Duplex or two SFD on one lot	P	P	P
Townhouse	P	P	P
Multi-Family Dwelling	CU	CU	P
Manufactured Home Park/Subdivision	CU	P	X
Vacation Trailer Park	CU	P	X
Home Occupation	CU	CU	CU
Residential Care Facility	P	P	P
Boarding and Lodging House	X	X	P
Permitted and Conditional Uses: Non-Residential	R-1	R-2	R-3
Animal Clinic, Kennel or Hospital	CU	X	X
Agricultural Production and Services	CU	X	X
Business and Professional Offices/Services	X	X	CU
Cemetery	CU	CU	X
Church, Lodge, Club, General Assembly	CU	CU	CU
City Park	P	P	P
Day Nursery, Social Services	CU	CU	P
Government Structure or Land Use	CU	CU	CU
Hospital, Nursing Care Facility	CU	X	X
Health Services, general	X	CU	CU
Light Industrial	CU	X	X
Neighborhood Commercial	CU	CU	CU
Schools, Colleges	CU	CU	CU
Transportation & Communication Facilities	CU	CU	CU

ARTICLE IV. COMMERCIAL ZONES

This Article describes the purpose, land use and locational standards for Commercial zones. However, in designated Opportunity Areas, the purpose, land use and dimensional standards found of this Article may be modified by a Master Development Plan (MDP) approved by the City pursuant to the Opportunity Area Subdistrict in Article 7.

4.01 C-MU Central Mixed Use

4.01.1 **Description and Purpose.** To provide for land areas and uses that preserve and enhance the City's core area and historic structures, within which will occur the greatest concentration of retail, business, government and residential activity.

4.01.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright, provided the gross floor area of any proposed building is less than 25,000 square feet:

- A. Automobile and vehicle dealers, repairs, services, and service stations, except within the "Central Area Parking District;"
- B. General Business and Personal Services
- C. Commercial Amusement and Recreation
- D. Communication Facilities
- E. Residential uses and residential facilities subject to applicable City development standards. There is no maximum density, provided that: (1) one parking space per unit is provided within 250 feet of a public building entrance; and (2) for new construction, 10% of the site is reserved for accessible and usable open space.
- F. Eating and Drinking Establishments, Food Stores
- G. General Offices
- H. General Retail
- I. Governmental, public or semi-public use or structure
- J. Health, Educational and Social Services
- K. Hotels, Boarding and Rooming Houses, except Camp/Trailer Parks
- L. Membership Organizations (business, religious, professional, labor, civic, etc.)
- M. Parking Area and garage, public or private
- N. Printing and Publishing
- O. Transit Facilities (Bus, taxi, charter, etc.)
- P. Museums & Art Galleries
- Q. Leather work and fabrication of an artisanal nature, excluding tanning and finishing
- R. Breweries and wineries, with a production of less than 50,000 gallons per year, provided a restaurant or tasting room is open to the public on a regular basis
- S. Distilleries with a production volume of less than 12,000 gallons per year
- T. Animal Clinics, Kennels and Hospitals within fully enclosed facilities
- U. Light manufacturing and fabrication of goods that are marketed and sold on-site

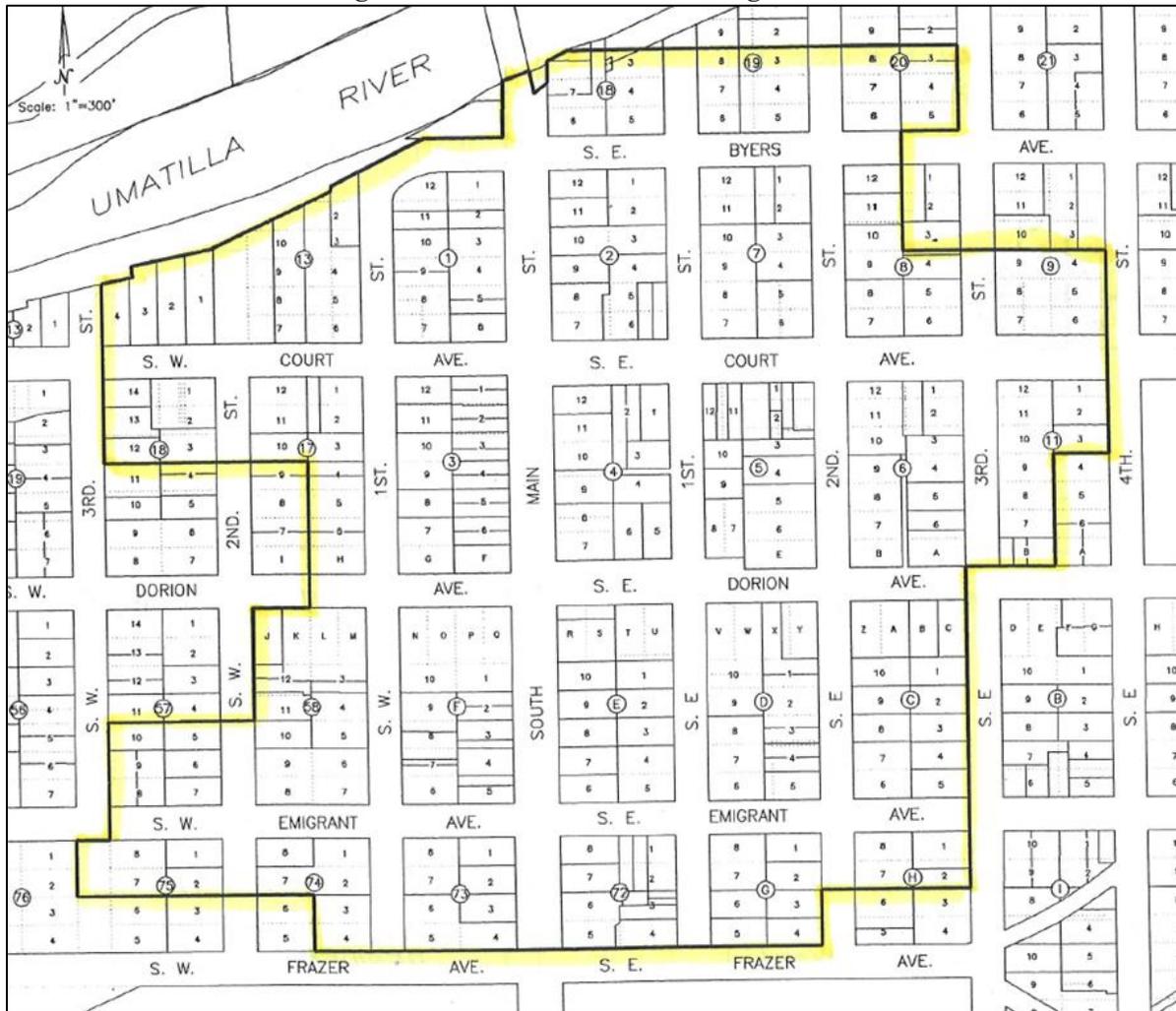
4.01.3 **Conditional Uses.** Any permitted use with a gross floor area of more than 25,000 square feet and the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11:

- A. Automobile and vehicle dealers, repairs, and services within the "Central Area Parking District;"
- B. Building Materials, retail
- C. City Park
- D. General building and special trade contractors
- E. Dwelling, caretaker or manager only
- F. Hospitals
- G. Zoos
- H. Animal clinics, kennels and hospitals utilizing outdoor areas for surgery, holding and/or boarding
- I. Transportation Services, warehousing and storage
- J. Breweries and wineries, with a production of more than 50,000 gallons per year, provided a restaurant or tasting room is open to the public on a regular basis
- K. Distilleries with a production volume of more than 12,000 gallons per year
- L. Within the Central Mixed Use Plan Designation, expansion of existing, lawfully established light industrial uses on the same or adjacent property



M. Medical Marijuana facilities (see Section 4.05)
 (Section 4.01.3 as amended by Ordinance No. 3860, passed April 21, 2015.)

Figure 4.1 Central Area Parking District



4.02 C-2 Tourist Commercial

4.02.1 **Description and Purpose.** To provide areas suitable for motels, restaurants, service stations, and other similar uses for the accommodation of tourists and travelers.

4.02.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright, provided the gross floor area of any proposed building is less than 25,000 square feet:

- A. Dwelling, for caretaker or manager only;
- B. Eating and Drinking Establishments
- C. Hotels, Motels, Camping and Trailer Parks, other lodging
- D. Service Station; Auto Repair, Services, and Garages
- E. Information Center.



4.02.3 **Conditional Uses.** Any permitted use with a gross floor area of more than 25,000 square feet and the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11:

- A. Transit Facilities
- B. Transportation & Utility Services
- C. Health Care Services

4.03 C-3 Service Commercial



- 4.03.1 **Description and Purpose.** To provide areas for retail and service uses, and housing opportunities which are accessible to the entire community.
- 4.03.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright, provided the gross floor area of any proposed building is less than 25,000 square feet:
- A. Auto Repair, Services, Garages and fueling
 - B. General Business and Personal Services
 - C. Commercial Amusement and Recreation
 - D. General building and trade contractors
 - E. Dwelling, multi-family, or residential facility, subject to City development standards. The maximum density shall be 80 dwelling units per net buildable acre provided that: (1) One parking space per unit is provided within 250 feet of a public building entrance; and (2) For new construction, 10% of the site is reserved for accessible and usable open space.
 - F. Eating and Drinking Establishments
 - G. General Offices
 - H. General Retail
 - I. Health Services
 - J. Transit Facilities
 - K. Communication Facilities
 - L. Dwelling, caretaker or manager only;
 - M. Educational Services
 - N. Governmental, public or semi-public use or structures
 - O. Hotels, Motels, Mobile Home Parks, other lodging
 - P. Membership Organizations
 - Q. Museums, Art Galleries, Zoos
 - R. Printing and publishing
 - S. Railroad Facilities
 - T. Social Service Organizations
 - U. Animal Clinics, Kennels and Hospitals within fully enclosed facilities
- 4.03.3 **Conditional Uses.** Any permitted use with a gross floor area of more than 25,000 square feet and the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11:
- A. Warehousing, motor freight;
 - B. Animal clinics, kennels and hospitals utilizing outdoor areas for surgery, holding and/or boarding;
 - C. Within the Central Mixed Use Plan Designation, expansion of existing, lawfully any established light industrial use on the same or adjacent property.
 - D. Medical Marijuana facilities (see Section 4.05)
- (Section 4.03.3 as amended by Ordinance No. 3860, passed April 21, 2015.)

4.04 General Provisions for Commercial Zones

- 4.04.1 **Lot Size.** There is no minimum lot size in Commercial zones.
- 4.04.2 **Yards.** No yards shall be required in commercial zones, with the following exceptions:
- A. When the property abuts or is less than sixty (60') feet from a residential zone, the same yards shall be required as those in the abutting zone.
 - B. New development on corner lots shall observe all standards for Vision Clearance.
 - C. The use of landscaped areas may be required by the Planning Commission to buffer commercial uses from residential uses.
- 4.04.3 **Lot Coverage.** There shall be no maximum lot coverage regulations for commercial zones; however, new residential buildings in commercial zones shall provide at least 10% of the building site as accessible open space and meet applicable parking standards. The 10% open space standard does not apply to redevelopment of existing or historic structures if on-site space is not available.
- 4.04.4 **Building Height.** The maximum allowable height of buildings in the commercial zones shall be as follows:
- A. C-MU: No limit;
 - B. C-2: 50 feet or 5 stories;

- C. C-3: 50 feet or 5 stories.
- D. The height limits of this Ordinance shall not apply to church spires, belfries, cupolas and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, aerials, solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device.

4.04.5 **Fences.** In a commercial zoning district, fences or walls not to exceed eight (8) feet in height may be located or maintained in any yard, except where the requirements of vision clearance apply. Any fence over six (6') feet in height requires a building permit.

Table 4.1 Quick Reference Development Standards in Commercial Zones				
	C-MU			
		CAPD		
			C-3	C-2
		Central Mixed Use		
Central Area Parking District overlay (inside CMU)				
Service Commercial				
Tourist Commercial				
Motor vehicle sales, services, and fueling	P	X	P	P
Auto-oriented uses (drive-through, gas station, etc)	P	C	P	P
Animal Clinic/Kennel (*see text)	P*	P*	P/C*	X
Breweries, Wineries & Distilleries by production volume (*see text)	P/C*	P/C*	P/C*	X
Building Materials, retail	C	X	P	P
Business and Personal Services	P	P	P	X
City Park	C	C	C	C
Commercial Amusement and Recreation	P	C	P	X
Communication Facilities	P	P	C	X
Building Materials and General Contractors	C	P	P	X
Eating and Drinking Establishments	P	P	P	P
General Retail	P	P	P	X
Governmental, public or semi-public use or structure	P	P	P	P
Hospitals, health services	C	C	P	C
Hotels, Bed and Breakfasts, Boarding and Rooming Houses	P	P	P	P
Leather work (except tanning)	P	P	P	X
Light Manufacturing associated with on-site retail	P	P	P	X
Membership Organizations	P	C	P	X
Museums, Art Galleries	P	P	P	X
Parking Area and/or garage, public or private	P	C	P	P
Printing and Publishing	P	P	C	X
Railroad Facilities	C	C	C	C
Social Service Organizations	C	C	C	X
Tourist Information Center	P	P	P	P
Transit Facilities	P	P	P	P
Trucking and warehousing; Electric/gas/sanitary services	C	C	C	C
Freight packing, crating, forwarding	C	C	C	X
Railroad, Trucking and warehousing, Packing and crating, Electric/gas/sanitary services	C	C	C	C
Vacation Trailer Park	X	X	C	P
Warehousing, motor freight	C	X	C	X
Zoos	C	C	C	X
ANY COMMERCIAL BUILDING MORE THAN 25,000 SQUARE FEET	C	C	C	C
RESIDENTIAL USES - see text for full details	P	P	P	X

4.05 Marijuana Facilities

4.05.1 Purpose. This Section establishes regulations for the siting of medical marijuana (MMJ) commercial facilities as authorized by State Law. The purpose of this Section is to minimize adverse impacts on adjacent properties,

schools and other places where children congregate, and other land uses potentially incompatible with such facilities.

4.05.2 General provisions.

- A. No MMJ facility may be located within the City unless the review authority finds that it satisfies all the requirements of this Code and State law.
- B. MMJ Facilities may be allowed, subject to a Conditional Use Permit pursuant to Article XI of this Code, in the Central Mixed Use (C-MU) Zone, and Service Commercial (C-3) Zone.
- C. MMJ facilities legally established pursuant to this Code shall not be found in conflict with the provision of this Code in the event that a conflicting land use locates in the vicinity of a MMJ facility subsequent to the MMJ facility obtaining land use approval from the City. When such conflict is found to exist, the MMJ facility shall be considered a legal nonconforming use and subject to provision set for in Article XI of this Code.

4.05.3 Definitions included by reference. For the purposes of this Section, the following definitions shall be used:

- Career School – any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training or preparing persons for any profession at a physical location attended primarily by minors.
- Minor – an individual under the age of 18.
- Elementary school - a learning institution containing one or any combination of grades kindergarten through 8th grade or age level equivalent.
- Secondary School – a learning institution containing one or any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

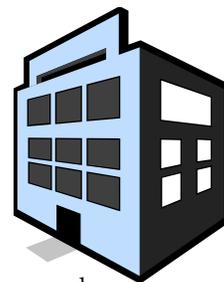
4.05.4 Limitations for MMJ Facilities.

- A. No MMJ facility shall be located:
 - 1. At the same address as a registered grow site.
 - 2. Within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors; or,
 - 3. Public park or community recreation facility attended primarily by minors; or,
 - 4. Within 1,000 feet of another MMJ facility.

(Section 4.05 as added by Ordinance No. 3860, passed April 21, 2015.)

ARTICLE V. INDUSTRIAL ZONES

This Article describes the purpose, land use and locational standards for the Industrial zones. However, in designated Opportunity Areas, the purpose, land use and dimensional standards of this Article related to the Light Industrial Zone may be modified by an approved Master Development Plan (MDP) pursuant to the Opportunity Area Subdistrict standards in Article 7.



5.01 M-1 Light Industrial

5.01.1 **Description and Purpose.** Except as modified within applicable subdistricts, to provide, enhance and protect areas to accommodate a wide range of manufacturing and allied uses that need generally flat topography and easy access to arterials and intermodal shipping facilities, and to reserve industrial sites near the airport for specific employment uses identified in the Pendleton Economic Opportunities Analysis (EOA).

Within the Central Mixed Use Plan Designation, the M-1 zone may also provide opportunities for adaptive re-use of historic structures and for expansion of existing, lawfully-established commercial and residential uses.

Within designated Mixed Use Opportunity Areas, M-1 land with an approved Master Development Plan is suitable for land uses allowed in other zones within that Opportunity Area, where consistent with applicable Comprehensive Plan performance standards.

5.01.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright:

- A. Air Transportation Facilities
- B. Automobile and vehicle dealers, repairs, services and service stations
- C. Building Materials, retail
- D. General Business Services
- E. Communication Facilities
- F. General building and trade contractors
- G. General Light Industrial
- H. General Repair Services
- I. Governmental, public, or semi-public uses or structures
- J. Transportation Facilities and Services
- K. Wholesaling, durable and nondurable goods
- L. Solid Waste Transfer Stations, if the solid waste transfer station:
 - 1. Is not within 1,000 feet of an existing residential structure or residential zone, or
 - 2. The location of the transfer station has been approved by a vote of the people.
- M. Within the Central Mixed Use Plan Designation, expansion of existing, lawfully established residential and commercial uses on the same or adjacent property.

5.01.3 **Conditional Uses.** Except as modified within applicable subdistricts, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11:

- A. Animal Clinic, Kennel, or Hospital
- B. Commercial Amusement and Recreation
- C. Eating and Drinking Establishments
- D. Fuel and Ice Dealers
- E. Hotels, motels, other lodging
- F. Junk yard, wrecking yard;
- G. Industrial and agricultural chemicals, paint
- H. Ordnance
- I. Petroleum pipeline facilities;
- J. Sanitary landfills, solid waste disposal or treatment facilities;
- K. Transportation Equipment (Air, land, water and space vehicles, equipment and accessories)
- L. Utilities
- M. Landscape and Horticultural Services
- N. Social Services
- O. Dwelling, Caretaker or Manager Only.
- P. Cultivation of marijuana for medical marijuana dispensary use.

(Section 5.01.03 as amended by Ordinance No. 3860, passed April 21, 2015.)

Table 5.1 –Airport Industrial Subdistricts

Site Name	Gross Acres	Suitable Acres	Site Need	Location / Comment
Site I-A	133	70	General Industrial	City owned lease-only land N of Barnhart Road Extension
Site I-OE (Pinkerton)	25	15	General Industrial	North of Barnhart Road Extension
Pinkerton 1-N	160	106	Large Site + General Industrial	West of Stage Gulch Road, North of Barnhart Road Extension
Miller 1-W	42	25	Large Site + General Industrial	Retain to meet general industrial needs; East of Stage Gulch Road, North of Daniel Road
Airport 1-W	100	45	Master Planned Business Park	Retain as master planned business park; East of Stage Gulch Road, North of Airport
Pinkerton 2-S	127	125	Regional Distribution Center	South of Barnhart Road Extension; Combine w/ Site 1-OE (Pinkerton) for 200-acre site
Site I-OE (Pinkerton)	75	75	Regional Distribution Center	South of Barnhart Road Extension

5.02 Airport Industrial Subdistrict (AI)

5.02.1 **Purpose.** The Airport Industrial Subdistrict (AI) is intended to reserve designated Light Industrial (M1) sites near the Pendleton Airport for targeted industrial users as called for in the Pendleton Comprehensive Plan (Industrial Plan Table A-AI) and the Pendleton Economic Opportunities Analysis (EOA).



5.02.2 **Application.** This subdistrict applies to the following sites shown on Table 5.1.

5.02.3 **Permitted Uses.** Permitted uses allowed in the base M1 Zone are allowed in the AI Subdistrict. Aviation-related industrial uses that may not be expressly permitted in the base M-1 zone may be permitted outright within the AI subdistrict.

5.02.4 **Conditional Uses.** Conditional uses listed in the base M1 zone may be allowed in the AI Subdistrict except:

- A. Junk yard, wrecking yard; mining; and animal clinic, kennel, or hospital;
- B. Cumulatively, no more than 10% of the gross land area within the AI Subdistrict may be devoted to Commercial Amusement and Recreation; Eating and Drinking Establishments; and Hotels, Motels and other Lodging.

5.02.5 **Development Parameters.** The industrial development standards listed in Section 5.08 apply in the AI Subdistrict, except that the following industrial sites listed in Industrial Plan Table A shall reserve at least one industrial development area of 50 acres to meet the needs of a major industrial user:

- A. Industrial Site 1-N (Pinkerton); and
- B. Industrial Site 1-W (Miller).

5.03 Business Park Subdistrict (BP)

5.03.1 **Purpose.** The Business Park Subdistrict (BP) is intended to provide for a mix of light industrial, heavy commercial, office and supporting commercial uses in a master planned setting.

5.03.2 **Application.** This subdistrict applies to Airport Site 1-W (owned by the City of Pendleton) identified in Industrial Plan Table A of the Pendleton Comprehensive Plan and shown in Table 5.1.

5.03.3 **Permitted Uses.** The following uses are permitted in the BP Subdistrict:

- A. Permitted uses allowed in the M1 Zone and listed in Section 5.01;
- B. Conditional uses allowed in the M1 Zone and listed in Section 5.01, except for junk and wrecking yards and mining (SIC Major Group 14);
- C. Business and Personal Service; general offices; health services; and parking areas and garages.

- 5.03.4 **Conditional Uses.** The following uses may be permitted through the conditional use process:
 - A. Educational Services
 - B. Hospitals
 - C. Museums, Art Galleries, Zoos
 - D. Social Service Organizations
- 5.03.5 **Development Parameters.** Industrial development standards listed in Section 5.08 also apply within the AIR Subdistrict. In addition, prior to development of land within the BP Subdistrict, the City shall prepare a master development plan. The plan shall be submitted to and approved by the Planning Commission (subject to the off-street parking and loading requirement of this Ordinance) and shall address the following:
 - A. Vehicular/truck street access and on-site circulation to serve the needs of a modern business park with multiple uses;
 - B. Provision of sanitary sewer and water service to the entire site;
 - C. Landscaping (a minimum of 10% of the developable area of the business park site shall be landscaped); and
 - D. Airport impacts, as required by the Airport Hazard Subdistrict.

5.04 Regional Distribution Center Subdistrict (RDC)

- 5.04.1 **Purpose.** The Regional Distribution Center Subdistrict (RDC) is intended to provide a large site for a regional distribution center with direct access to the Barnhart Road Extension.
- 5.04.2 **Application.** This subdistrict applies to Airport Site 2-S (Pinkerton) and the southern portion of Airport Site I-OE (Pinkerton) identified in Industrial Plan Table A of the Pendleton Comprehensive Plan and shown in Table 5.1.
- 5.04.3 **Permitted Uses.** The RDC Subdistrict is specifically designated to accommodate a regional wholesale distribution center that requires a site of at least 50 acres.
- 5.04.4 **Conditional Uses.** None.
- 5.04.5 **Development Parameters.** Industrial development standards listed in Section 5.08 also apply in the RDC Subdistrict.
- 5.04.6 **Site Plan Review.** The site plan for proposed development within the RDC Subdistrict shall be reviewed by the Community Development Director prior to the issuance of a building permit for any building or parking area. The site plan shall be consistent with the approved master development plan. The site plan shall consider:
 - A. Vehicular/truck access and movement, including emergency vehicles
 - B. Employee/visitor/freight delivery parking
 - C. Landscaping and stormwater treatment
 - D. Fencing and/or buffering

5.05 Airport Activities Zone (A-A)

- 5.05.1 **Description and Purpose.** To protect the lands lying adjacent to the airport runway and terminal areas from incompatible development, while providing lands for airport-related and agricultural uses.
- 5.05.2 **Permitted Uses.** The following land uses shall be allowed outright in the Airport Activities (A-A) Zone:
 - A. Aviation Industries
 - B. Aviation Operational Services
 - C. Farming and Forestry Activities
 - D. Freight Services
 - E. Passenger Transportation Services
 - F. Public Services
- 5.05.3 **Conditional Uses.** The following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11:
 - A. Other uses similar to those listed as outright that, in the opinion of the Planning Commission, will have no greater detrimental effects on adjoining uses.

5.05.4 **Development Standards on City-owned property.** Certain lands within the Airport Activities Zone are owned by the City of Pendleton. Before construction begins, each use shall receive approval from the Airport Commission, which shall review the use for compliance with this Section, Airport Hazard Subdistrict regulations, FAA regulations, and the Airport Master Plan, and decide whether or not to recommend a lease agreement to the City Council.

5.06 Airport Hazard Subdistrict (AHZ)

5.06.1 **Purpose.** This Article is adopted pursuant to the authority conferred by Oregon law. It is hereby found that an airport hazard endangers the lives and property of users of the Eastern Oregon Regional Airport at Pendleton and property or occupants of land in its vicinity, that an obstruction may affect existing and future instrument approach minimums at the Eastern Oregon Regional Airport at Pendleton; and that an obstruction may reduce the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Eastern Oregon Regional Airport at Pendleton and the public investment therein. Accordingly, it is declared that:

- A. The creation or establishment of an airport hazard is an injury to the region served by the Eastern Oregon Regional Airport at Pendleton;
- B. It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and
- C. The prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City may raise and expend public funds and acquire land or interests in land.

5.06.2 **Airport Zones.** In order to carry out the provisions of this Article, there are hereby established and created certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to the Airport. Such zones are shown on the Approach and Clear Zone Plan adopted as part of the city's Airport Master Plan and made a part of this Ordinance by reference. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. **Visual Runway Approach Zone.** The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface, its centerline being the continuation of the centerline of the runway.
- B. **Runway Larger Than Utility with a Visibility Minimum Greater Than: Mile Nonprecision Instrument Approach Zone.** The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- C. **Precision Instrument Runway Approach Zone.** The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands uniformly outward to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- D. **Transitional Zones.** These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7') feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
- E. **Horizontal Zone.** The horizontal zone is hereby established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- F. **Conical Zone.** The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet. The conical zone does not include the visual approach zones and the transitional zones.

5.06.3 **Airport Zone Height Limitations.** No structure or vegetation shall be erected, altered, allowed to grow, or be maintained in any zone created by this Ordinance to a height in excess of the applicable height limitations herein established for such zone as follows:

- A. Visual Runway Approach Zone. Slopes upward twenty (20') feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- B. Runway Larger Than Utility with a Visibility Minimum Greater Than: Mile Nonprecision Instrument Approach Zone. Slopes thirty-four (34') feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 20,000 feet along the extended runway centerline.
- C. Precision Instrument Runway Approach Zone. Slopes fifty (50') feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40') feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- D. Transitional Zones. Slopes upward and outward seven (7') feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping upward seven (7') feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface.
- E. Horizontal Zone. One hundred and fifty (150') feet above the airport elevation.
- F. Conical Zone. Slopes upward and outward twenty (20') feet horizontally for each foot vertically beginning at the periphery of the horizontally zone and at one hundred fifty (150') feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

5.06.4 **Use Restrictions.** Notwithstanding any other provisions of this Article, no use shall be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the Airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the Airport, impair visibility in the vicinity of the Airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the Airport.

5.06.5 **Nonconforming Uses.**

- A. Regulations not retroactive. The regulations prescribed by this Article shall not be construed to require the removal, lowering, or other changes or alteration of any structure or vegetation not conforming to these regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which has begun prior to the effective date of this Ordinance, and is diligently pursued to completion.
- B. Marking and Lighting. Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or vegetative growth is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the City of Pendleton indicating to the operators of aircraft in the vicinity of the Airport, the presence of such hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the property owner.

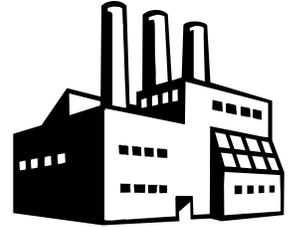
5.06.6 **Permits.**

- A. Future Uses. No material change shall be made in the use of land and no structure or vegetation shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted by the City Council, on recommendation of the Planning Commission.
 - 1. However, a permit for vegetation or structures of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 1,500 feet from each end of the runway except when such vegetation or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.
 - 2. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient evidence to determine whether the resulting use, structure, or vegetation would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit may be granted.
- B. Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or vegetation to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made.
- C. Nonconforming Uses Abandoned or Destroyed. Whenever the City Manager determines that a nonconforming structure or vegetation has been abandoned or more than eighty (80) percent torn down,

physically deteriorated, or decayed, no permit shall be granted that would allow such structure or vegetation to exceed the applicable height limit or otherwise deviate from the regulations herein.

- D. **Hazard Marking and Lighting.** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or vegetation in question, at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

5.07 Heavy Industrial Zone (M-2)



- 5.07.1 **Description and Purpose.** To provide, enhance, and protect areas to accommodate a wide range of manufacturing and allied establishments located away from residential and commercial uses to avoid inherent incompatibilities, but adjacent to or near major transportation facilities.

- 5.07.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright:

- A. General, Heavy Construction and General Trade Contractors
- B. Fuel and Ice Dealers
- C. Light Industrial (Food products, Textiles, Apparel, Lumber/Wood Products, Furniture, Printing and Publishing, Leather products, Electrical Equipment, Transportation Equipment, Instruments and related products, land/air/water/space vehicles and similar uses)
- D. Heavy Industrial (Paper and allied products, Fabricated metal products, machinery)
- E. Transportation Facilities and Services
- F. Wholesaling
- G. Solid Waste Transfer Stations, if the solid waste transfer station:
 1. Is not within 1,000 feet of an existing residential structure or residential zone, or
 2. The location of the transfer station has been approved by a vote of the people.

- 5.07.3 **Conditional Uses.** The following uses and their accessory uses are permitted when authorized in accordance with the Article 11:

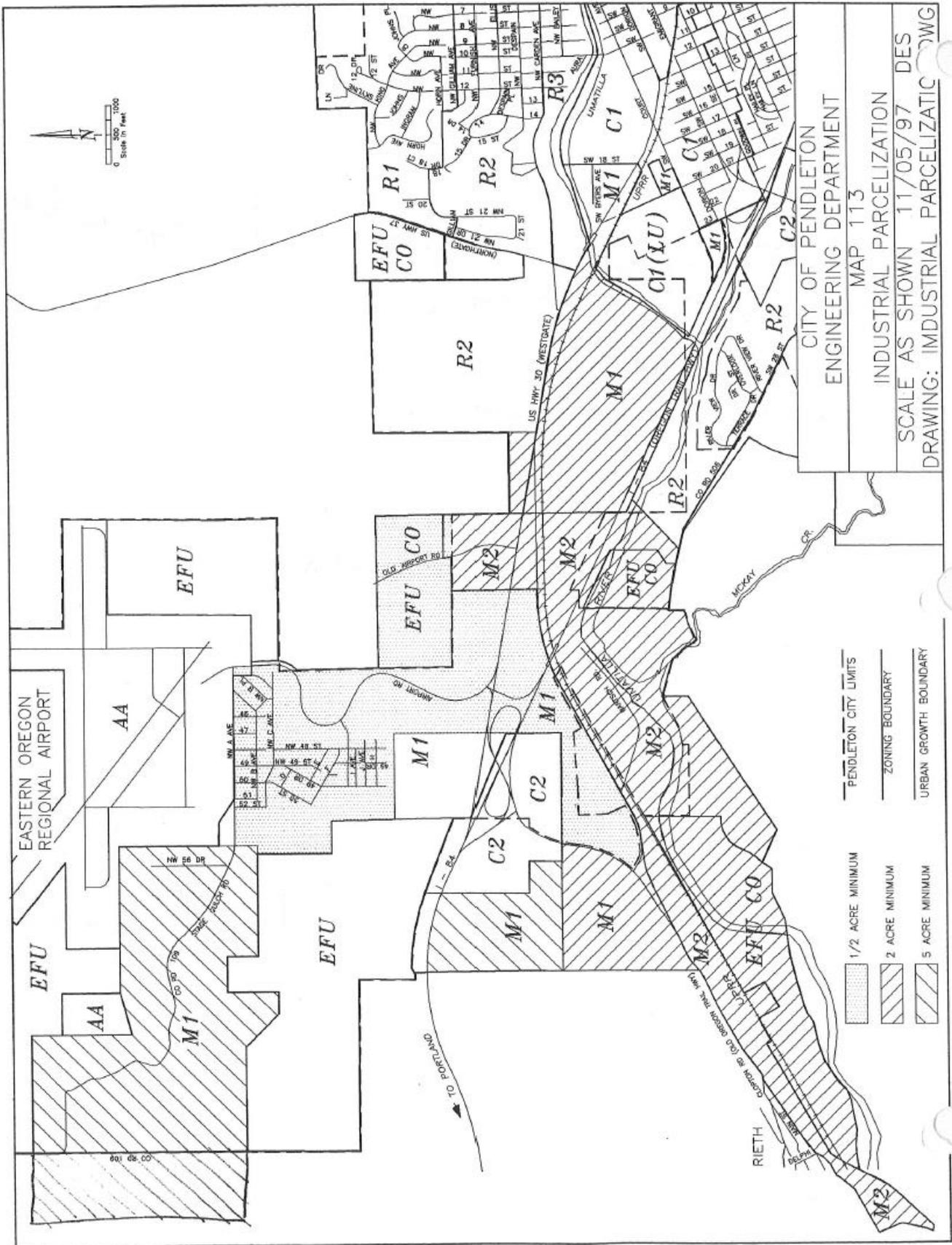
- A. Governmental, public, or semi-public use or structure
- B. Heavy Industrial (Chemicals and allied products, Petroleum and Coal products, Rubber and misc. plastic products, Stone/clay/glass products, Primary metal industries, Ordnance and accessories, and similar uses)
- C. Junk yard, wrecking yard
- D. Mining
- E. Utilities
- F. Social Services
- G. Dwelling, Caretaker or Manager Only.
- H. Animal Clinic, Kennel, or Hospital.

5.08 General Provisions for Industrial Zones

- 5.08.1 Except as modified by applicable subdistricts, the following development standards apply within industrial zones:

- A. **Lot size.** Minimum lot sizes shall be as set forth on Figure 5.8 of this Ordinance.
- B. **Yards.** No yards shall be required in industrial zones, except when the property abuts or is less than sixty (60') feet from a residential zone, in which case the same yards shall be required as those in the abutting zone. The provision of landscaped areas may be required by the Planning Commission to buffer industrial uses from residential and commercial uses unless topographical or other circumstances make such buffering impractical.
- C. **Lot Coverage.** There shall be no maximum lot coverage regulations for industrial zones.
- D. Point of access from a public street to properties in an Industrial Zone shall be located so as to minimize traffic congestion and avoid directing traffic onto residential streets;
- E. **Landscaping and Screening.** Landscape material or architectural screens shall be used to conceal from public view those areas used for parking, storage, and loading. The height of the material or screens shall be sufficient to obscure the line of vision between an automobile on the street and the parking, storage or loading areas.
- F. **Fuel Storage Tanks (Above Ground).** All above-ground fuel tanks shall comply with all requirements and standards contained in the Oregon State Fire Code and Oregon Structural Specialty Codes, including minimum setbacks from property lines and structures. Installation and dispensing permits shall be required from the Pendleton Fire Marshal and Oregon State Fire Marshal.

Figure 5.8. Minimum Lot Sizes in Industrial Zones



ARTICLE VI. AREAS INSIDE UGB RETAINING EFU ZONE

6.01 Description and Purpose

The purpose of the Exclusive Farm Use Zone is:

- A. To preserve and maintain agricultural lands for farm use, including range and grazing uses, consistent with existing and future needs for agricultural products, and open spaces;
- B. To conserve and protect scenic resources;
- C. To maintain and improve the quality of air, water, and land resources of the City;
- D. To establish criteria and standards for farm uses and related and supportive uses which are deemed appropriate, and
- E. To provide the automatic farm use valuation for farms which qualify under the provisions of Oregon law.



6.02 Permitted Uses

The following uses and their accessory uses are permitted:

- A. Production of crops and livestock, excepting feedlots and hog farms. For the purpose of this Section, farm use includes customary accessory uses such as but not limited to: corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage)
- B. Agricultural services
- C. The production of alcohol fuels from agricultural products for private use on farm premises
- D. Sale of agricultural produce grown on the farm premises
- E. Utility facilities necessary for public service except commercial facilities for the purpose of generating power for use by sale

6.03 Conditional Uses

The following uses and their accessory uses are permitted when authorized in accordance with the Article 11:

- A. Operations conducted for the exploration, mining and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources
- B. Farmstead divisions from original farm units when the following can be met:
- C. The person making the request has resided on and owned the property for at least the preceding ten (10) consecutive years;
- D. The remainder of the parcel shall not be partitioned for a similar purpose;
- E. The purpose of the homesite partition shall be for retirement thereon;
- F. The remainder of the property shall continue in farm use;
- G. The original parcel is a minimum of twenty (20) acres;
- H. The first right of refusal for repurchase of the farmstead parcel is given to the parent parcel;
- I. The farmstead parcel shall be a maximum of five (5) acres which includes the original farm dwelling and necessary accessory buildings to support the residential use only. The farmstead parcel shall be only as large as necessary to accommodate the residential use, and shall not include tillable land from the farmstead.
- J. Commercial utility facilities for the purpose of generating power for public use by sale
- K. Cattle feed lots, stockyards, hog farms
- L. Home occupations carried on by residents as an accessory use within their dwelling or other buildings customarily provided in conjunction with farm use (see Article 11 of this Ordinance for home occupation criteria)
- M. A dwelling (mobile home or single family dwelling) and other buildings customarily provided in conjunction with farm use, on lots that meet the size requirement of this Article, in accordance with Oregon Law. (This includes the principal farm dwelling for the owner or operator and farm employee dwellings, bunkhouses and their accessory uses [e.g. garages and storage sheds], but does not include barns, sheds, personal use grain elevators, silos, corrals, etc.).
- N. Other buildings and uses not listed in above that appear in Oregon Law as alternate uses permissible in an exclusive farm use zone.

6.04 Limitations on Conditional Uses

- A. Conditional uses permitted by Section 6.03 of this Ordinance may be established on lands subject to the criteria set forth in subsection (B) of this Section and upon a finding that each such use:
 1. Is compatible with farm uses as defined with the intent and purpose set forth in Oregon law, the comprehensive plan and this Ordinance;
 2. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm uses;
 3. Does not materially alter the stability of the overall land use pattern of the area;

4. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil conditions, drainage and flooding, vegetation, location and size of the tract.
- B. Criteria to evaluate conditional uses:
1. Immediate and future impact on public services, existing road systems and traffic demands;
 2. Soil type and its development limitations, including slides, erosion, flooding and drainage;
 3. Agricultural productivity including food productivity and the production of any usable agricultural product which requires open space and a non-urban environment;
 4. Development minimizes potential adverse effects on terrain, slope and ground cover;
 5. Development is compatible with the existing land use pattern and the character of the overall area;
 6. An adequate quantity and quality of water is available and either subsurface or other sanitary disposal system exists or can be provided and adequate provision for solid waste disposal exists;
 7. Conversion of agricultural lands to non-farm uses shall be based upon consideration of the following factors:
 - a. Environmental, energy, social and economic consequences;
 - b. Compatibility of the proposed use with related agricultural land;
 - c. The retention of Class I through VI soils in farm use.

6.05 Dimensional Standards

- A. Minimum lot area.
1. Farmlands. A minimum of forty (40) acres shall be required of new farm parcels.
- B. Conditional Uses. The minimum lot area for all non-farm uses permitted by this Section shall be:
1. As necessary for the protection of public health and the size needed to accommodate the use and its accessory uses;
 2. Considered in compliance with applicable comprehensive plan policies;
 3. Compatible with adjoining land uses;
 4. Considered in relation to the overall land use patterns of the area;
 5. Designed to retain the maximum possible agricultural land for farm use.

ARTICLE VII. OVERLAY ZONES

7.01 Opportunity Area Subdistrict (OA)

- 7.01.1 **Description and Purpose.** The Opportunity Area Subdistrict is intended to implement applicable Comprehensive Plan Opportunity Area performance standards by:
- A. Encouraging a range of housing types and densities ranging from work force to executive housing;
 - B. Providing greater flexibility in the development review process to respond to changing market conditions;
 - C. Providing incentives for better development design, provision of amenities, and creation of other public or private facilities or open spaces;
 - D. Encouraging a diversity of compatible land uses and densities;
 - E. Providing a mechanism for the creative master planning of larger parcels of land within Opportunity Areas rather than relying on traditional zoning to meet community objectives;
 - F. Encouraging the efficient and timely development of streets, utilities, open spaces and housing units; while protecting designated natural and historical resources.
- 7.01.2 **Applicability.** The Opportunity Areas Subdistrict may be applied to land within Opportunity Areas designated on the Pendleton Comprehensive Plan map at the request of the property owner(s).
- A. There are two Mixed Use Opportunity Areas (MOAs) and three Residential Opportunity Areas (ROAs) each of which has specific performance standards:
 1. East Side MOA (285 gross acres near Hwy 11 Interchange)
 2. Hospital MOA (94 gross acres near St. Anthony Hospital)
 3. McKay Creek ROA (115 gross acres south of SW 28th Drive)
 4. South Central ROA (251 gross acres south of Olney Cemetery)
 5. Patawa Creek ROA (191 gross acres south of I-84 / west of SE 3rd St)
 - B. Property owners within a designated Opportunity Area have the choice of (a) developing under existing zoning or (b) developing under the provisions of this Subdistrict.
 - C. Each Opportunity includes specific performance standards that must be addressed in proposed master development plan.
- 7.01.3 **Master Plan Required.** To take advantage of the flexibility offered by the OA Subdistrict, the applicant must submit a Master Development Plan (MDP) for review by the Planning Commission.
- A. Once an MDP is approved for a specific area, it replaces existing zoning for that area.
 - B. The applicant (the property owner or authorized agent) shall be responsible for submitting an MDP that meets the criteria and standards of this Section.
 1. The MDP must be prepared by a planning professional (an architect, landscape architect, civil engineer or land use planner) and shall:
 - a. Cover at least 20 gross acres;
 - b. Have the written consent of all property owners who will be subject to the MDP; and
 - c. Include all contiguous land under the ownership of the MDP applicant(s), within the OA Subdistrict.
 2. Where feasible, the MDP should cover the entire Opportunity Area. However, if some property owners within the Opportunity Area are unwilling to be co-applicants for the MDP, the applicant(s) must prepare a Facility Feasibility Plan (FFP) for the remainder of the Opportunity Area that is not part of the MDP application.
 3. The FFP must be prepared in consultation with the City Engineer and must show how:
 - a. Transportation, sewer, water and storm drainage facilities can feasibly be provided to the remainder of the Opportunity Area that is not under the applicant's control; and
 - b. Relevant Opportunity Area performance standards can reasonably be met in the future.
 4. The applicant(s) must document a good faith effort to meet with, consider and accommodate the comments of non-applicant property owners within the relevant Opportunity Area.
 - C. The Community Development Director may require special studies to ensure that identified slope, landslide, flash flood or flood hazards are satisfactorily addressed.
 - D. In order for the MDP application to be deemed complete for purposes of Planning Commission review, it must include the information required for Application Submittal and Completeness Review in Article 13 and be specific enough to demonstrate that the Performance Standards of Section 7.01.4 are or can be met.

7.01.4 **Performance Standards.** Land uses permitted outright or conditionally in any of the underlying zones within the applicable Opportunity Area may be authorized by an approved MDP provided the Planning Commission determines that all of the following performance standards are or can be met.

- A. The MDP has been prepared by a planning professional and:
 - 1. Covers at least 20 gross acres;
 - 2. Includes all contiguous land under the ownership of the MDP applicant(s) within the OA Subdistrict; and
 - 3. Is consistent with the recommendations of any natural hazard studies required by the Community Development Director.
- B. The location of transportation, sanitary sewer, storm water and water facilities are consistent with the Transportation System Plan and the Public Facilities Plan.
- C. All public improvements are designed to meet City standards as determined by the City Engineer, unless otherwise approved in the MDP by the Planning Commission.
- D. The average density of residential development within the MDP ranges from 6 – 35 dwelling units per net buildable acre. The minimum density standard does not apply to “constrained” lands as defined in Tech Memo 3.1 (Winterbrook, 2012), public rights-of-way, or historic landmark properties.
- E. The MDP and FFP must comply with all applicable subdistrict standards, including but not limited to the Riparian Corridor and Wetland Subdistrict, the Flood Hazard Subdistrict, and the Historic Preservation Subdistrict. Modification of subdistrict standards may only occur as prescribed in the applicable Subdistrict, and is not permissible through the MDP process.
- F. If required, the FFP has been prepared by a design professional in consultation with the City Engineer and demonstrates that:
 - 1. Transportation and public facilities can feasibly be provided to the remainder of the Opportunity Area that is not under the applicant’s control; and
 - 2. The performance standards of this Section can reasonably be met in the future for the remainder of the Opportunity Area.
- G. Where the requirements of this Ordinance or Oregon Transportation Planning Rule (OAR 660-012-0060) thresholds are met, a Transportation Impact Study (TIS) shall be prepared based on land uses authorized by the MDP.
- H. To exceed the 18 units per buildable acre (the maximum allowed in the MDR district), density transfer is permitted from inventoried natural features (wetlands, riparian corridors, flash flood zones, flood plains, steep slopes, and high bedrock areas) to buildable land, provided that the natural feature is shown as open space on the MDP.
- I. No minimum lot size or internal setback requirements apply (other than those required by the Building Code and public safety); however, the master plan must specify proposed lot size and other dimensional standards.
- J. Street standards may be modified if approved by the Community Development Director and if determined sufficient for safe access by the Fire Marshall.
- K. The MDP must provide for graduated density at the perimeter of the site to ensure compatibility with existing urban-level development; in particular, if urban-level single-family residential development abuts the site, the MDP must show single family development along the common property line.
- L. The MDP must arrange land uses and building heights to maintain views of surrounding hills from adjacent properties.
- M. The MDP must avoid garage-dominated homes by meeting the following standards:
 - 1. The width of the street-facing garage cannot be greater than the width of the home;
 - 2. Garages must be set back 20’ from property line to allow for parking; and
 - 3. Parking is not allowed in front or side yards.
- N. The MDP must provide for the long-term maintenance and funding of common open space.

7.01.5 **Procedure.** An application for MDP approval shall be reviewed by the Planning Commission under Type III procedure in accordance with Article 13.

- A. For the Planning Director to deem an MDP application complete for purposes of Planning Commission review, all of the information required by Section 7.01.3 must be provided by the applicant(s).
- B. The staff report to the Planning Commission must evaluate compliance with applicable review standards set forth in Section 7.01.4, and identify the specific dimensional standards (for example, lot size, building height, building setback, lot coverage, street width, housing density, etc.) that are proposed to be modified by the MDP.
- C. The Planning Commission shall approve, deny or approve with conditions the final decision approving the MDP. The Planning Commission’s decision shall identify specifically the dimensional standards that are modified in the MDP.

- D. An approved MDP within an Opportunity Area shall replace applicable zoning for that area. However, existing dimensional and development standards shall apply to any future development proposal covered by the approved MDP unless exceptions to these standards are specifically identified in the Planning Commission's decision.
- E. An approved MDP is valid for five (5) years from the date of approval *unless* a phased MDP is approved by the Planning Commission. The maximum duration of a phased MDP is fifteen (15) years.
- F. Future MDP applicants must consider, but are not bound by, the FFP prepared for any portion of an Opportunity Area that does not have an approved MDP.

7.02 Historic Preservation

7.02.1 Applicability.

- A. This Section applies to historic resources on the Local Landmarks Register (i.e., resources identified in by the State Historic Preservation Office (1976), the Pendleton Comprehensive Plan Inventory of Historic Sites, Structures and Districts (Lynch, 1985) and the South Main Street National Historic District (1986).
 - 1. This Section does not apply to demolished historic landmarks.
 - 2. This Section potentially applies to historic resources that may be added to the Local Landmarks Register in accordance with the provisions of this Section.
- B. Exemptions. No provision of this Section shall be construed to prevent the ordinary maintenance of a Landmark when such action does not involve a change in design, materials, or appearance. No provision in this Ordinance shall be construed to prevent the alteration, demolition, or relocation of a Landmark when the Building Official certifies that such action is required for public safety. At his or her discretion, the Building Official may find that under state law and Section 7.02.6.E. a Landmark does not meet current Building Code but is not dangerous.

7.02.2 **Definitions.** The following definitions apply to terms used in Section 7.02 only. Terms not defined have their commonly construed meaning:

Alteration: An addition, removal, or reconfiguration that changes the appearance of a Landmark. Painting and ordinary maintenance are excluded from this definition.

Certificate of Appropriateness (COA): A document issued by the Historic Preservation Officer indicating that the applicant has satisfactorily met the provisions of this Ordinance for the alteration, relocation, or demolition of a Landmark.

Demolition: The complete destruction or dismantling of sixty-five (65) percent of, or greater, of the entirety of a Landmark.

District: A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Eligible/Contributing: A building, structure, object, or site originally constructed within the applicable period of significance that retains and exhibits sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties strengthen the historic integrity of an existing or potential historic district.

Eligible/Significant: A building, structure, object, or site originally constructed within the applicable period of significance that retains and exhibits sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties strengthen the historic integrity of an existing or potential historic

district, and are likely individually eligible for listing in the Local Landmark Register.

Exceptional Significance: The quality of historic significance achieved outside the usual norms of age, association, or rarity.

Historic Integrity: The quality of wholeness of historic location, design, setting, materials, workmanship, feeling, and/or association of a historic resource, as opposed to its physical condition.

Historic Preservation Officer: The city official responsible for the administration of this Ordinance.

Historic Resource: A building, structure, object, site, or district that is at least fifty (50) years old or is of exceptional significance and potentially meets the age, integrity, and significance criteria for listing in the Local Landmark Register, but may not necessarily be recorded in the Historic Resource Survey.

Historic Resources of Statewide Significance: Buildings, structures, sites, objects, and districts that are listed in the National Register.

Historic Resource Survey: The record of buildings, structures, objects, and sites recorded by the City of Pendleton used to identify historic resources potentially eligible for listing in the Local Landmark Register.

Historic Significance: The physical association of a building, structure, site, object, or district with historic events, trends, persons, architecture, method of construction, or that have yielded or may yield information important in prehistory or history.

Landmark: A building, structure, site, object, or district listed in the City of Pendleton Local Landmark Register.

Local Landmark Register: The list of historic resources officially recognized by the City of Pendleton as important to its history and afforded the protection under this Ordinance.

National Register of Historic Places: The nation's official list of buildings, structures, sites, objects, and districts important in the nation's history and maintained by the National Park Service in Washington, D.C., and hereinafter referred to as the "[National Register](#)." Historic resources listed in the National Register are referred to as "Historic Resources of Statewide Significance" in Oregon Revised Statutes.

Non-Contributing: A building, structure, object, or site originally constructed within the applicable period of significance that does not retain or exhibit sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties do not strengthen the historic integrity of an existing or potential historic district in their current condition.

Not in Period: A building, structure, object, or site that was originally constructed outside the applicable period of significance.

Object: A construction that is largely artistic in nature or is relatively small in scale and simply constructed in comparison to buildings or structures, including a fountain, sculpture, monument, milepost, etc.

Ordinary Maintenance: Activities that do not remove materials or alter qualities that make a historic resource eligible for listing in the Local Landmark Register, including cleaning and limited replacement of siding, trim, and window components when such material is beyond repair and where the new piece is of the same

size, dimension, material, and finish as that of the original historic material. Excluded from this definition is the replacement of an entire window sash or more than twenty (20) percent of the siding or trim on any one side of a Landmark at any one time within one (1) calendar year.

Period of Significance: The time period, from one to several years or decades, during which a Landmark was associated with an important historic event(s), trend(s), person(s), architecture, or method(s) of construction.

Record of Designation: The official document created by the Historic Preservation Officer that describes how a Landmark meets the criteria for listing in the Local Landmark Register.

Rehabilitation: The process of returning a Landmark to a state of utility through repair or alteration, which makes possible an efficient use while preserving those portions and features of the Landmark and its site that convey its historic significance.

Relocation: The removal from or moving of a Landmark from its original location noted in the Record of Designation.

Site: The location of a significant event, prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of any existing building, structure, or object.

Streetscape: The physical parts and aesthetic qualities of a public right-of-way, including the roadway, gutter, tree lawn, sidewalk, retaining walls, landscaping and building setback

7.02.3 **Identification and Evaluation of Historic Resources.** The Historic Resource Survey (Woodruff Minor, Technical Memorandum 11.3, June 30, 2012) lists, describes, and determines the eligibility of historic resources for listing in the Local Landmark Register. Not all properties listed in the Historic Resource Survey are necessarily eligible for listing in the Landmarks Register. A property need not be first listed in the Historic Resource Survey before being nominated to the Local Landmark Register.

- A. The Historic Preservation Commission shall determine and periodically revise priorities for the identification and evaluation of historic resources based on the community's needs and interests.
- B. Before commencing inventory studies or updates, the Historic Preservation Commission shall provide public notice describing the inventory, its purposes, and invite public participation. Notification may include public notices, mailings, web postings, etc.
- C. Surveyed properties shall be identified as Eligible/Significant (ES), Eligible/Contributing (EC), Non-Contributing (NC), or Not in Period (NP). Evaluation and documentation of properties in the Historic Resource Survey shall meet the requirements of the document "Guidelines for Historic Resource Surveys in Oregon, 2010" or most recent guidance for such efforts published by the SHPO and be supplied to the agency within six (6) months of the completion of the study.
- D. The Historic Resource Survey shall be maintained as a public record with the exception of archaeological sites, which is prohibited by State law.
- E. Citizens shall have the opportunity to review and correct information included in the Historic Resource Survey. Any member of the public may place a property in the Historic Resource Survey; however, the Historic Preservation Commission retains the authority to determine the property's eligibility for listing in the Local Landmark Register.
- F. The Historic Preservation Commission may collect further information including, but not limited to, current photographs, architectural descriptions from on-site observations, or archival documentation for properties already listed in the Local Landmark Register or National Register for the purposes of administering this Ordinance pursuant to the provisions of this Section.

7.02.4 Local Landmark Register.

- A. The Historic Preservation Commission may nominate historic resources to the Local Landmark Register as a means of providing recognition of their significance and providing incentives and guidelines for their preservation. The Local Landmark Register shall be maintained by the Historic Preservation Officer and made available to the public.
- B. Historic resources within the City of Pendleton Urban Growth Boundary and listed in the National Register, including all National Register-listed historic districts in their entirety may be listed in the Local Landmark Register using the procedures outlined in Section D, but need not be documented as outlined in Section C. In such cases, the National Register nomination shall serve as the Record of Designation. As Historic Resources of Statewide Significance, all National Register-listed properties, including individual properties in recognized National Register-listed historic districts, are subject to the regulations in Section 7.02.5.E, pursuant to Oregon State Law.
- C. Criteria for Designating Historic Resources to the Local Landmark Register. Any building, structure, object, site, or district may be designated to the Local Landmark Register if it meets all the Criteria of Section 7.02.5.B or all of the criteria listed below:
 1. The property is located within the City of Pendleton Urban Growth Boundary.
 2. The property is more than fifty (50) years of age or of exceptional importance, or in the case of a district, the majority of the properties are more than fifty (50) years old or have exceptional significance.
 3. The property possesses sufficient historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that may destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original location to one that is dissimilar to the original, additions which significantly detract from or obscure the form and appearance of the historic resource when viewed from the public right-of-way.
 4. The property has historic significance as demonstrated by meeting at least one of the following criteria:
 - a. Association with events that have made a significant contribution to the broad patterns of our history; and/or
 - b. Association with the lives or persons significant in our past; and/or
 - c. Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; and/or
 - d. Have yielded, or may be likely to yield, information important in prehistory or history.
- D. Nomination Procedure. Any person, group, or government agency including the Historic Preservation Commission itself, may nominate a property for listing in the Local Landmark Register. The nomination procedures are as follows:
 1. There is no fee associated with nominating a historic resource to the Landmark Register.
 2. The nomination of a historic resource to the Local Landmark Register must include a description of the boundaries of the proposed nominated area and the structures, objects, and sites contained therein, and a statement explaining how the historic resource(s) meet(s) the criteria under B of this Section. Any structures or portions of the property not designated for protection shall be included in the description. The Historic Preservation Officer may establish additional standards for a complete application.
 3. Prior to setting the proposed nomination on the agenda for the next Historic Preservation Commission meeting, the Historic Preservation Officer shall inform property owners in writing of the nomination process pursuant to local and state law. To be listed in the Local Landmark Register, the property's legal owner(s) shall provide to the City a written statement acknowledging that the owner understands the nomination process and the results of such a designation, and wishes to have their property listed in the Local Landmark Register. Within locally-designated historic districts a boundary may be established, but only those that submit a statement as described above will be listed in the Local Landmark Register. In cases where multiple persons or entities own a single property, a simple majority of the property owners must submit a written statement. The City of Pendleton may not object to the listing of a historic resource in City ownership. This provision does not apply to individual historic resources and historic districts listed in the National Register.
 4. Upon acceptance of a complete application and receipt of written owner consent, the Historic Preservation Officer shall schedule a public hearing before the Historic Preservation Commission pursuant to applicable state and local laws.
 5. The Historic Preservation Commission shall review the documentation for completeness, accuracy, and compliance with the "Criteria for Designating Historic Resources to the Local Landmark Register" of this Section. The Historic Preservation Commission may make a recommendation to approve, deny, or table the application pending further testimony, or to allow for the petitioner to provide additional

information as requested by the Historic Preservation Commission. The Historic Preservation Commission shall develop written findings to support its decisions.

6. Decisions by the Historic Preservation Commission to designate a Historic Resource shall be final unless appealed to the City Council.
 7. Upon final approval, the Historic Preservation Officer shall prepare a Record of Designation that includes the original nomination materials, and any testimony or additional materials considered during the nomination process that establishes the eligibility of the historic resource for listing in the Local Landmark Register.
 8. Historic Resources designated as Landmarks shall be noted as such in the Local Landmark Register. The designation shall apply to the entirety of the recognized Landmark as described in the Record of Designation regardless of future property division or ownership.
 9. A Record of Designation may be amended through the same process used for nomination. The Historic Preservation Officer may administratively add additional materials gathered under the provisions of Section 7.02.3 to keep the record current or elaborate on established facts in the Record of Designation. Notice of such an action shall be provided to the Historic Preservation Commission at their next regular meeting.
- E. Results of listing in Local Landmark Register. Historic resources listed in the Local Landmark Register receive the following benefits:
1. All uses and restrictions established by the underlying zoning, existing conditional use permits, and other applicable design standards shall remain in effect unless changed through due process.
 2. Landmarks are protected under the provisions of this ordinance.
 3. Approval of variances and/or conditional use permits is encouraged in order to promote use and preservation of Landmarks.
 4. The local Building Official shall consider waiving certain code requirements in accordance with the state Existing Building Code.
 5. Property owners of Landmarks may seek assistance from the Historic Preservation Commission in applying for grants or tax incentives for rehabilitating their properties as resources and funds are available.
 6. Property owners of Landmarks are eligible to apply for City-funded grants and loans to assist with the preservation of their buildings as resources and funds become available.

7.02.5 **Historic Resources listed in the Local Landmark Register.** The Historic Preservation Commission shall use the provisions of this Section to preserve the exterior character-defining features of individual Landmarks; the exterior of individual buildings in Landmark historic districts; and exteriors and interior public spaces of city-owned Landmarks.

- A. Activities not subject to the provisions of this Section.
1. Alterations to building interiors, excepting those owned by The City of Pendleton.
 2. Application of exterior paint color.
 3. Alterations to landscape features not specifically identified as historically significant in Record of Designation.
- B. No Landmark or exterior landscape or archaeological element noted as significant in the Record of Designation shall be altered, relocated, or demolished, or a new building or structure constructed within the area defined in the Record of Designation without a Certificate of Appropriateness signed and issued by the Historic Preservation Officer. Certificates must be presented to the Building Official before a building or demolition permit is issued.
1. An application for a Certificate of Appropriateness must include a description of the proposed activity, accompanying maps, photographs, drawings, and other documentation. The Historic Preservation Officer may establish additional standards for a complete application, including defining different criteria for a complete application under provisions C, D, and E of this Section.
 2. Upon acceptance of a complete application, the Historic Preservation Officer shall decide within five working days if the proposed work is subject to provisions C, D, or E of this Section.
 3. The Historic Preservation Officer shall prepare a staff report that summarizes the proposed project, notes the criteria specified in this Ordinance under which the application shall be considered, and make a recommendation to the Historic Preservation Commission to approve, approve with conditions, or deny the application for a Certificate of Appropriateness. Materials that may be used in the preparation of the staff report include, but are not limited to:
 - a. The original Record of Designation;
 - b. National Register nomination;
 - c. Archival photos and maps;
 - d. On-site observations;

- e. Inspections from the public-right-of way to document historic appearance or alteration over time;
 - f. Any other documentary evidence specific to the subject property;
 - g. Documents and publications of the National Park Service or SHPO.
 - h. Documents that are not available from the City at the time of application for a Certificate of Appropriateness shall be made available to the applicant at least ten (10) calendar days before a public hearing is held or administrative decision is made.
4. The Historic Preservation Commission shall review and act upon applications for the alteration, relocation, and demolition of a Landmark. Applications for the alteration of a Landmark may be approved, approved with conditions, or denied. Applications for the relocation or demolition of a Landmark may be approved, approved with conditions, or the action delayed for up to one year. The Historic Preservation Commission shall develop written findings to support its decisions. The Historic Preservation Officer shall include any conditions imposed by the Historic Preservation Commission in the Certificate of Appropriateness pursuant to this Section.
 5. A Certificate of Appropriateness issued for the alteration of a Landmark shall be effective for a period of two (2) years from the date of its issuance. A Certificate of Appropriateness issued for the relocation or demolition of a historic resource shall be effective for a period of one (1) year.
 6. A Landmark may be altered, relocated, or demolished without a Certificate of Appropriateness if the Building Official attests in writing that the condition of a Landmark poses a clear and immediate hazard to public safety. The comments of the Building Official with sufficient evidence to support his or her conclusions shall be provided to the Historic Preservation Officer within fifteen (15) days of making his or her decision. The Historic Preservation Officer will make these materials available to the Historic Preservation Commission at their next regular meeting. The property owner(s) must submit an application for a Certificate of Appropriateness as required under this Ordinance within thirty (30) days of the Building Official submitting his or her written statement to the Historic Preservation Officer.
- C. The Historic Preservation Officer may issue a Certificate of Appropriateness for the alteration of a Landmark without a public hearing when the proposed alteration will not significantly change the qualities that merited the listing of the Landmark in the Local Landmark Register. A completed Certificate of Appropriateness must be presented to the Building Official before a permit is issued. The Historic Preservation Officer shall make a list of certificates issued in this manner available to the Historic Preservation Commission at each regular meeting.
- D. A public hearing before the Historic Preservation Commission and a signed Certificate of Appropriateness shall be required for all activities not exempted in this Section.
1. Prior to submitting an application for a permit pursuant to this Section, proponents are encouraged to request a pre-application conference to review concepts and proposals. The Historic Preservation Commission may also form ad-hoc committees for this purpose. Historic Preservation Commission members participating in pre-application conferences shall disclose all ex-parte contact at the time of a public hearing on the proposal.
 2. Upon acceptance of a complete application the Historic Preservation Officer shall schedule a public hearing pursuant to applicable local and state laws.
 3. In order to approve an application for the alteration of a Landmark, the Historic Preservation Commission must find that the proposal meets the following guidelines as applicable:
 - a. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships;
 - b. The historic integrity of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided;
 - c. A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken;
 - d. Changes to a property that have acquired historic significance in their own right shall be retained and preserved;
 - e. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved;
 - f. Deteriorated historic features shall be repaired rather than replaced. The severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence;
 - g. Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used;

- h. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken;
 - i. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment;
 - j. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
4. In addition to meeting the applicable guidelines in 3(a) through 3(j) of this Section, in order to approve an application for the alteration of a Landmark the Historic Preservation Commission must find that the proposal meets the following design standards as applicable:
- a. Vacant buildings shall be weather- and vandal-proofed in order to minimize further deterioration and the threat to public safety;
 - b. Rehabilitation work, especially on the exterior and the principal facades shall preserve the existing historic features or replace them if absolutely necessary with features and materials known to have existed on the building through verifiable evidence such as photographs. Alterations to Landmarks shall not be based on speculation, but instead on documentary evidence;
 - c. New additions shall be subordinate to the original building, meaning lower in height, attached to the rear or set back along the side, smaller in scale, and have less architectural detail;
 - d. Height, width, setback, roof shape, and the overall scale and massing of new buildings within historic districts and on lots with existing Landmarks, or additions to Landmarks shall be compatible with the existing historic building(s) and, in the case of historic districts, the overall streetscape;
 - e. In historic districts and on lots with existing Landmarks, materials on at least the primary façade(s) of new buildings shall be similar in size, shape, color, and texture to the original materials on the facades of surrounding historic buildings;
 - f. Architectural details on new construction (including wood or metal trim, porches, cornices, arches, and window and door features, etc.) shall be complementary to the original structure(s);
 - g. Window and door opening should be similar in size and orientation (vertical to horizontal) to openings on historic buildings and shall take up about the same percentage of the overall façade as those on surrounding historic buildings;
 - h. In historic districts and on lots with existing Landmarks, the relationship of the width to the height of the principal elevations for new buildings and additions to existing Landmarks shall be in scale with the surrounding structures and streetscape. Wider new building can be divided into segments that more closely resemble the façade widths of historic buildings;
 - i. In historic districts and on lots with existing Landmarks, the roof shape of new buildings and additions to existing Landmarks shall be visually compatible with the surrounding structures and streetscape. Unusual roof shapes, materials, and pitches are discouraged;
 - j. Moving Landmarks shall be avoided, especially to create artificial groupings;
 - k. The demolition of Landmarks shall be avoided whenever possible;
 - l. Any applicable design guidelines adopted by the Historic Preservation Commission pursuant to Section 7.02.3.
- E. A public hearing before the Historic Preservation Commission and a signed Certificate of Appropriateness shall be required to relocate or demolish a Landmark or any property listed in the National Register of Historic Places individually or as part of a historic district.
- 1. In order to approve an application for the relocation of a Landmark, the Historic Preservation Commission shall find that:
 - a. The applicant has completed a replacement plan for the site, including drawings approved by the Building Official. Plans must be submitted for review by the Historic Preservation Commission pursuant to standards for new construction; and
 - b. The Building Official determines and states in writing that the building may be safely removed from the site; and
 - c. The value to the community of the proposed use of the property outweighs the value of retaining the Landmark at the original location. Public testimony shall be considered when making this determination.
 - 2. In order to approve an application for the demolition of a Landmark, the Historic Preservation Commission must find the conditions in Section 7.02.6 have been met as applicable; and the property owner can demonstrate an Economic Hardship.

3. In approving an application for the relocation or demolition of a Landmark, the Historic Preservation Commission may impose the following conditions:
 - a. Applicant/property owner shall provide photo, video, and/or other documentation of the Landmark in its original location;
 - b. Relocated structures shall be sited to match the previous setbacks and orientation to the extent possible;
 - c. Applicant/property owner shall attempt to obtain permission from the National Park Service to relocate structures listed in the National Historic Register in order to retain the property's listing and/or assume all responsibility and cost of removing the structure(s) if permission cannot be obtained;
 - d. Other reasonable mitigation measures.
4. At the hearing of an application to relocate or demolish a Landmark the Historic Preservation Commission may, in the interest of exploring reasonable alternatives, delay issuance of a Certificate of Appropriateness for up to one hundred eighty (180) calendar days from the date of the hearing. Not more than sixty (60) and not less than thirty (30) calendar days prior to the expiration of the delay period, the Historic Preservation Officer shall schedule a public hearing pursuant to local and state laws to allow the Historic Preservation Commission to consider if there are still reasonable alternatives to explore, and if the group will request in writing that the City Council continue the delay for an additional period of up to one hundred eighty (180) calendar days.
5. The Historic Preservation Commission may not delay the relocation or demolition of a Landmark for more than three-hundred sixty (360) calendar days subject to the provisions of this Section. At the end of the waiting period, the Historic Preservation Officer shall issue a Certificate of Appropriateness for the relocation or demolition of the Landmark.
6. Upon issuing a Certificate of Appropriateness for the demolition of a Landmark, the Historic Preservation Officer shall post a legal notice on the property and in a local newspaper of general circulation announcing the demolition, and invite the public to provide alternatives to the demolition for consideration by the Historic Preservation Commission within 12 days of posting.
7. Relocated Landmarks shall remain listed in the Local Landmark Register unless removed under Section 7.02.6.
8. Demolished Landmarks shall be removed from the Local Landmark Register using the procedures described in Section 7.02.6.

7.02.6 **Removal of Landmarks from the Local Landmark Register.** A public hearing before the Historic Preservation Commission and a signed Certificate of Appropriateness shall be required to remove a Landmark from the Local Landmark Register.

- A. Landmarks concurrently listed in the Local Landmark Register and National Register will be considered for removal from the Local Landmark Register only after the Landmark is removed from the National Register and the SHPO has provided written evidence of the removal to the Historic Preservation Officer.
- B. Any individual or group, including the Historic Preservation Commission acting on its own initiative, may initiate the removal of a Landmark or individual property within a historic district from the Local Landmark Register by submitting a complete application to the Historic Preservation Officer.
- C. The Historic Preservation Officer shall establish standards for a complete application for the removal of a Landmark from the Local Landmark Register. Upon acceptance of a complete application, the Historic Preservation Officer shall schedule a public hearing pursuant to applicable local and state laws.
- D. In order to approve an application for the removal of a Landmark from the Local Landmark Register the Historic Preservation Commission must find the following:
 1. The Landmark has ceased to meet the criteria for listing in the Local Landmark Register because the qualities which caused it to be originally listed have been lost or destroyed; or
 2. The applicant requesting removal from the Historic Preservation Inventory presented written or documented oral testimony in opposition to the property's being listed in the Local Register during the public hearing at which the property was so listed.
- E. Landmarks accidentally destroyed by natural or accidental act or demolished under the provisions of Section 7.02.5 and meeting the definition of "demolished" as defined in this Ordinance may be removed administratively from the Local Landmark Register by the Historic Preservation Officer. Notice of this action and written evidence documenting the demolition of the Landmark shall be provided to the Historic Preservation Commission at their next regular meeting. This same documentation shall be provided to the SHPO. If a Landmark is also listed in the National Register, the Historic Preservation Commission shall request that the SHPO remove the property from the National Register if not requiring the owner to do so under Section 7.02.5.E.4.

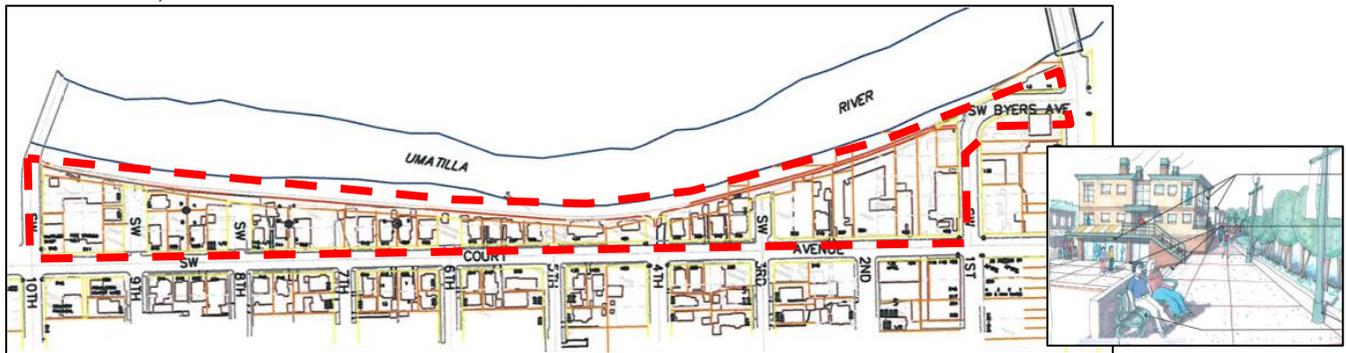
- 7.02.7 **Economic Hardship.** The Historic Preservation Commission may grant a Certificate of Appropriateness for a relocation, demolition, or, at the Historic Preservation Commission's discretion, modify or exempt a property from the requirements of Section 7.02.5 if the applicant can demonstrate that complying with the provisions of this Ordinance creates an economic hardship that prevents the profitable use of the subject property.
- A. Separate standards for demonstrating an economic hardship are established for investment or income-producing and non-income-producing properties:
 1. Economic hardship for an income-producing property shall be found when the property owner demonstrates that a reasonable rate of return cannot be obtained from the Landmark if it retains its historic features, buildings, or structures in either its present condition or if it is rehabilitated.
 2. Economic hardship for a non-income-producing property shall be found when the property owner demonstrates that the Landmark has no beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.
 - B. Property owners seeking a Certificate of Appropriateness for economic hardship must provide sufficient information, as determined by the Historic Preservation Officer, to support the application for the Certificate. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:
 1. Willful or negligent acts by the owner; and/or
 2. Purchase of the property for substantially more than market value; and/or
 3. Failure to perform normal maintenance and repairs; and/or
 4. Failure to diligently solicit and retain tenants; and/or
 5. Failure to provide normal tenant improvements.
- 7.02.8 **Application Procedure.** Any application submitted or processed pursuant to this Article shall follow the procedures listed below.
- A. Type II (Staff consideration and approval)
 1. Alterations of landmarks that will not "significantly change the qualities that merited the listing"
 - B. Type III (Historic Preservation Commission consideration and approval)
 1. Nomination of landmarks to the register.
 2. Alteration of landmarks that will "significantly change the qualities that merited the listing."
 3. Demolition of landmarks.
 4. Re-location of landmarks.
 5. Removal of landmarks from the register.
 6. Appeals of Type II decisions to the HP Commission.
- 7.02.9 **Appeals.** Decisions of the Historic Preservation Commission are appealable to the City Council pursuant to the standards for appeal of a Type III decision. Decisions of City Council are appealable to the Oregon State Land Use Board of Appeals.
- 7.02.10 **Re-submittal of an Application Previously Denied.** An application for a Certificate of Appropriateness which has been denied or an application which was denied and which on appeal has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be resubmitted for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least 365 days from the date the final city action is made denying the application unless there is a substantial change in the facts or a change in city policy which would change the outcome.

7.03 **Prison/Hospital Industrial Subdistrict (P/HIS)**

- 7.03.1 **Description and Purpose.** The Prison/Hospital Industrial Subdistrict is intended to insure the appropriate harmonious development of the prime industrial lands that are located in proximity to the Eastern Oregon Correctional Institution and Mental Health facilities. By restricting the types and design of development on this property, prison/mental health operations will be protected, while light industrial development is encouraged.
- 7.03.2 **Development Standards.** Uses allowed in the Subdistrict shall be limited to the following, as identified by Standard Industrial Classification Code: 20 (except 2077), 22, 23, 2431, 2434, 245, 25, 26 (except 261), 27, 282, 283, 284, 307, 31 (except 3111), 36, 38, 39, 41, 42, 47, 48. Other buildings and uses similar to the list above which have no greater detrimental effects upon the adjoining uses may be allowed provided that such uses are approved by the Planning Commission.

7.04 River Quarter

Standards and criteria for development within the River Quarter Enhancement Area overlay (bounded by South Main Street at the east, SW 10th Street at the west, the Umatilla River to the north and SW Court Street to the south) are contained in Ordinance No. 3801, as amended.



7.05 Special Flood Hazard Area

Standards and criteria for development within the Special Flood Hazard Area are contained in Ordinance No. 3791, as amended.



7.06 Umatilla River Subdistrict (U-R)

7.06.1 **Description and Purpose.** The Umatilla River Subdistrict is intended to encourage the appropriate development of tracts of land lying adjacent to and within 75 feet of the 100 year floodway of the Umatilla River, and adjacent to and within 50 feet of the 100 year floodway of its tributaries; thereby promoting land uses compatible with the existing and potential open-space and recreational utilization of the river system, and to further the development of the Umatilla River Parkway.

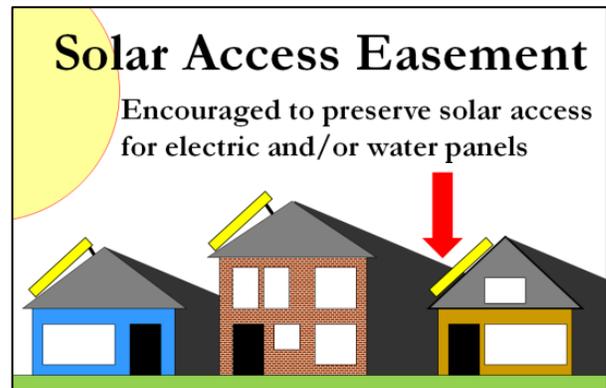
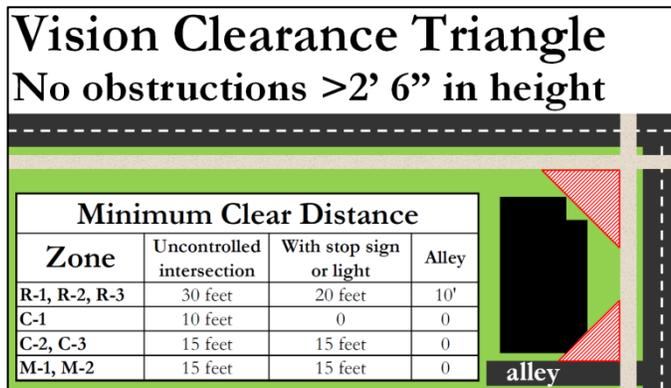
7.06.2 Development Standards.

- A. Land uses within the Umatilla River Subdistrict shall comply with the provisions of the underlying zone. However, new development within the subdistrict that requires the obtaining of a permit under the provisions of the Structural or other Specialty Code, or that requires excavation or fill within the boundaries of the U-R subdistrict shall be reviewed by the Planning Director for referral to the Planning Commission as set forth in B below.
- B. If in the opinion of the Director of Planning and Building the proposed structure or use falls within three or more of the criteria below, it shall require a Conditional Use permit; if less than three, a discretionary approval of the Commission is required:
 1. The construction is valued at \$5,000 or more;
 2. The construction is two hundred fifty (250) square feet in area or over;
 3. The construction exceeds a height of fifteen (15') feet;
 4. The construction has potential visual, audible, or odoriferous impacts.
 5. The construction involves excavation, fill or other alteration of the landscape included within the Umatilla River Subdistrict.
 6. The construction has a potential negative impact on fish or wildlife, or an archeological resource.
- C. In evaluating a proposed development within the U-R subdistrict, whether during a public hearing or public meeting, the Commission shall base its decision to approve, conditionally approve, or deny, on all the following criteria:
 1. Consistency with the policies of the Comprehensive Plan;
 2. Consistency with the purpose statement of Section 7.06.1;
 3. Recommendations received from agencies with expertise in addressing potential impacts;
 4. An evaluation of the economic, social, environmental and energy consequences of the permit request as defined by OAR 660-16-000.
- D. Developers should be made aware in the permit process of the potential for discovering archaeologically significant areas along the river system corridor. If an archeological find is made, the construction shall cease for a maximum of ninety (90) days to allow a qualified archeologist to determine the importance of the find and develop a plan to preserve the site's value. If a plan acceptable to the Planning Commission is developed, construction may be halted for a maximum period of one (1) year to allow for preservation of the resource.

ARTICLE VIII. STANDARDS APPLICABLE IN ALL ZONES

8.01 Clear Vision Areas

- 8.01.1 A clear-vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2 ½ ') feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8') feet above the grade of a sidewalk, and eleven (11) feet above the grade of a roadway.
- 8.01.2 Property owners shall not permit the limbs or other portion of a tree, bush, flower, plant or shrub on private property or on public property abutting private property to project into or extend over a street so that the vegetation interferes with the use of the sidewalk or roadway, obstructs a driver's view of an intersection, street sign or of traffic upon streets approaching an intersection, or otherwise creates a hazard to the public. Where topography dictates a requirement for retaining walls to provide practical usable yard area, clear-vision area limits shall not apply to such retaining walls construction.
- 8.01.3 Measurement of Clear-Vision Areas. A clear-vision area shall consist of a triangular area two sides of which are lot lines measured from corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two sides. Where the lot lines have rounded corners, the lot lines extending a straight line to a point of intersection with the third side. The following measurements shall establish clear-vision areas: (see illustration)
- A. In a residential zone:
 1. Where the intersection is not equipped with a stop sign or a stop light, the minimum distance shall be thirty (30') feet, or at intersections including an alley, ten (10') feet;
 2. Where the intersection is equipped with a stop sign or a stop light, the minimum distance shall be twenty (20') feet, or at intersections including an alley, ten (10') feet.
 - B. In the C-MU Zone, a clear-vision area shall be required at all intersections not controlled by traffic signals, for a minimum of ten (10') feet.
 - C. In all other zones the minimum distance shall be fifteen (15') feet, or at intersections including an alley, ten (10') feet; except that when angle of intersection between streets is less than 30 degrees, the distance shall be twenty-five (25') feet.



8.02 Solar Access

The use of solar energy collectors for the purpose of providing domestic energy is a permitted accessory use within all zones, whether as a part of a structure or incidental to a group of structures in the vicinity. Use of solar energy collectors is subject to the restraints imposed by the diversity of topography within the Pendleton City Limits, plus existing structures and vegetation. No guarantee is hereby given that all property within the City limits of Pendleton is entitled to the use of solar collectors. However; as a general policy, reasonable care shall be taken to protect the opportunity for the utilization of solar collectors at all of the locations available.

The use of solar skyspace easements is encouraged as a means for property owners to legally record the location of solar energy systems, and ensure its access to sunlight. A copy of such easement and mapping of the energy system location shall be filed with the City Building Department; which in turn, will not issue a Building Permit

to any development that would infringe upon the solar skyspace as set forth in the easement agreement. A solar skyspace easement shall include:

- A. A legal description of both the southern neighbor's lot and the solar owner's lot.
- B. A detailed description of the easement by bulk plane or sun chart stating precisely the locations of and restrictions on trees and/or structures on the southern neighbor's lot, with times of allowed shadows, etc.
- C. General requirements which apply to any legal deed or easement.
- D. Terms and conditions by which the solar easement is granted and may be modified or terminated.
- E. Provisions that the easement is to run with the land and apply to subsequent purchasers of the affected lots.
- F. A maintenance section, setting forth duties and costs involved in tree trimming.
- G. A section specifying procedures to follow if the southern neighbor fails to abide by the limitations on trees, vegetation, or structures.

8.03 Off-Street Auto and Bicycle Parking Requirements

8.03.1 At the time of erection of a new structure, or at the time of enlargement or change in use of an existing structure within any zone in the City, except within the Central Area Parking District, off-street automobile and bicycle parking spaces shall be provided in accordance with the requirements of this Section. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if elimination would result in less than is required by this Section. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of property but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be rounded to a whole space, fractional bicycle spaces shall be rounded up. Standards established for the Central Area Parking District, River Quarter, or other adopted overlay shall supersede these standards.



8.03.2 **Provision of Off-Street Parking.** The following off-street automobile and bicycle parking MINIMUMS are hereby established. PARKING MAXIMUMS ARE SET AT 125 PERCENT OF THE MINIMUMS

A. Residential:

- 1. Single family (attached or detached): one (1) space per unit;
- 2. Duplex - three (3) spaces per duplex;
- 3. Multi-family dwellings: one and one-half (1.5) spaces per unit in residential zones, one (1) space per unit in commercial zones; plus one bicycle space per seven (7) units in all multi-family dwellings;
- 4. Residential hotel, rooming or boarding houses: Spaces equal to eighty (80%) percent of the number of guest accommodations plus one (1) additional space for the owner or manager.

B. Commercial Residential:

- 1. Hotel: One space per guest room or suite, one (1) additional space for the owner or manager, plus one (1) space for every ten (10) units;
- 2. Motel: One (1) space per guest room or suite, one (1) additional space for the owner or manager, plus one (1) space for every ten (10) units;
- 3. Club or Lodge: Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.

C. Institutional:

- 1. Welfare or correctional institution: One (1) space per five (5) beds for patients or inmates, plus one (1) space per two (2) employees;
- 2. Convalescent hospital, nursing home, sanitarium, rest home, group care home: One (1) space per two (2) beds for patients or residents, plus one (1) space per two (2) employees;
- 3. Hospital: Spaces equal to one and one-half (1.5) times the number of beds.
- 4. Place of public assembly:
- 5. Church: One (1) space per four (4) seats or eight (8') feet of bench length in the main auditorium;
- 6. Library or reading room: One (1) space per four hundred (400) square feet of floor area plus one (1) space per two (2) employees; plus ten (10) bicycle spaces;
- 7. Pre-school nursery or kindergarten: One (1) space per teacher; plus bicycle spaces equal to one tenth of the student capacity;
- 8. Elementary or junior high schools: One (1) space per classroom, plus one (1) space per employee or one (1) space for each four (4) seats or eight (8') feet of bench length in the auditorium or assembly room, whichever is greater; plus bicycle spaces equal to one tenth of the student capacity;

9. High school: One (1) space per classroom, plus one (1) space per employee, plus one (1) space for each six (6) students or one (1) space for each four (4) seats or eight (8') feet of bench length in the main auditorium, whichever is greater;
10. College or commercial school for adults: One (1) space per five (5) seats in classrooms, plus one (1) space per employee;
11. Other auditorium or meeting room: One (1) space per four (4) seats or eight (8') feet of bench length; plus bicycle parking spaces equal to one per ten (10) auto spaces.
12. Commercial amusement:
13. Stadium, arena or theatre: One (1) space per four (4) seats or eight (8') feet of bench length; plus ten (10) bicycle spaces;
14. Bowling alley: Three (3) spaces per alley plus one (1) space per two (2) employees; plus ten (10) bicycle spaces;
15. Dance hall or skating rink: One (1) space per two hundred (200) square feet of floor area, plus one (1) space per two (2) employees; plus ten (10) bicycle spaces.

D. Commercial:

1. Retail store except as provided in subsection (2) of this subsection: One (1) space per two hundred fifty (250) square feet of floor area; plus one (1) bicycle space per 4000 sq. ft. of floor area;
2. Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles and furniture: One (1) space per six hundred (600) square feet of floor area; plus one (1) bicycle space per 4000 sq. ft. of floor area;
3. Bank or office (except medical and dental): One (1) space per six hundred (600) square feet of floor area, plus one (1) space per two (2) employees;
4. Medical and dental clinic: One (1) space per three hundred (300) square feet of floor area, plus one (1) space per two (2) employees; plus one (1) bicycle space per 4000 sq. ft. of floor area;
5. Eating or drinking establishment: One (1) space per two hundred fifty (250) square feet of floor area; plus one (1) bicycle space per 4000 sq. ft. of floor area;
6. Mortuary: One (1) space per four (4) seats or eight (8') feet of bench length in chapels.
7. Industrial:
8. Storage warehouse, manufacturing establishment, rail or trucking freight terminal: One (1) space per employee; plus one (1) bicycle space per 50 employees;
9. Wholesale establishment: One (1) space per seven hundred (700) square feet of patron serving area, plus one (1) space per employee, plus one (1) bicycle space per 50 employees.

8.04 Off-Street Loading



8.04.1 Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students;

8.04.2 Merchandise, materials or supplies. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.



8.05 Pedestrian and Bicycle Access and Circulation

8.05.1 A sidewalk or walkway connection shall be provided between the primary entrance of each commercial building and the adjacent or frontage street. In addition, a sidewalk or walkway providing reasonably direct connections between primary building entrances of abutting developments shall be incorporated into the design. Sidewalks or walkways at 50 feet or more in length through a parking lot area shall include raised pavement, striping, special pavers, or other similar identifying devices. Parking blocks or curbs should be used for each, non-parallel, parking stall. Bollards should be used to identify and protect these walkways. Sidewalks or walkways should not be located behind parked vehicles requiring vehicles to back out across the walkway. Rather, the sidewalk should be in the front of the stalls (see drawings). When possible the walkway should be separated from parking stalls by a landscape buffer.

8.06 General provisions for off-street parking and loading

8.06.1 The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading 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 and loading space required by this Ordinance. Use of property in violation hereof shall be a violation of this Ordinance. 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 loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided.

8.06.2 Requirements for types of buildings and uses not specifically listed herein shall be determined by staff, based upon the requirements of comparable uses listed.

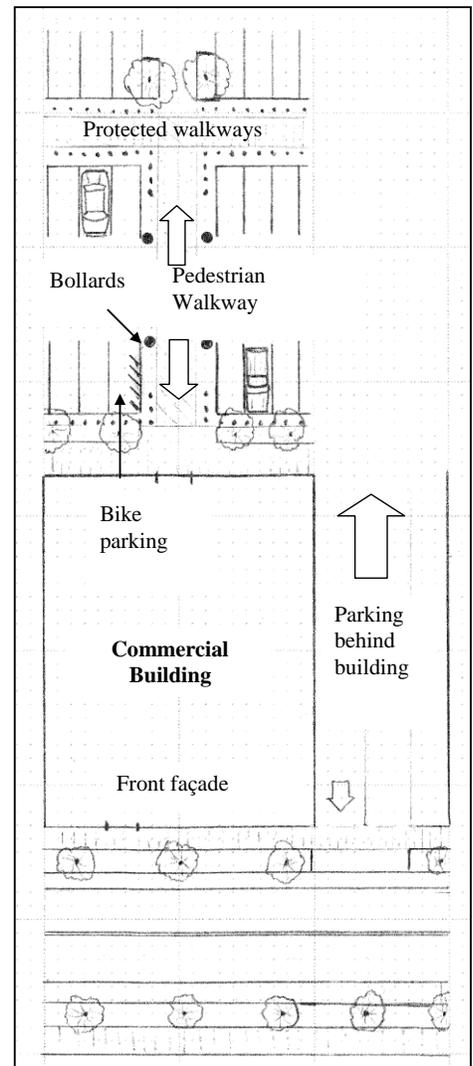
8.06.3 In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

8.06.4 Provided, however, that the requirements of this Section of this Ordinance may be met by a property owner or owners by:

- A. Creation of an improvement district, under any bonding act now existing or which may hereafter be enacted;
- B. Creation, subject to approval of the Council, of a jointly owned and maintained parking area; and further provided that said property owner or owners so acting may be granted a period of time to be set by the Council within which time said property owner or owners may acquire parking area, provided said owner or owners shall have made contributions to a fund within the control of the City Council, and in such amounts as directed by the City Council for the purpose of so acquiring and maintaining said parking area; and provided that said contributions shall be paid as directed, and that payment thereof shall not be abandoned by said person or persons or any one of them prior to the acquisition of said area.

8.06.5 Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases, easements or contracts to establish the joint use.

8.06.6 Off-street parking spaces for single family and duplex dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not further than five hundred (500) feet from the building or use they are required to serve, measured along the shortest pedestrian route from the building.



8.06.7 Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks in conducting the business or use.

8.06.8 **Design requirements for parking lots.**

- A. All parking areas for four or more vehicles shall be surfaced with asphalt, concrete or similar pavement so as to provide a surface that is durable and dust-free and shall be so graded and drained to avoid the flow of water across public sidewalks. Such parking areas are required to obtain a parking lot permit from the City Engineer. Permits are required for new parking lots, paving of gravel parking lots and overlays of existing parking lots. Parking lot permits shall be acquired by the licensed contractor performing the work.
- B. Except for parking to serve residential uses, public or private parking and loading areas adjacent to an existing residential dwelling or in a residential zone, shall be designed to include the erection of a sight obscuring fence or hedge of not less than six (6) feet in height except where vision clearance is required. A sight obscuring fence or hedge should be on any side not fronting the street.
- C. Parking spaces within a parking lot shall be designed and constructed so that no portion of a parked vehicle, including an opened door, will extend beyond the property line;
- D. Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling.
- E. Access aisles shall be of sufficient width for all vehicle turning and maneuvering.
- F. Groups of four or more parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street other than an alley will be required.
- G. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service the traffic to be anticipated. Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.
- H. Service drives shall have a minimum clear-vision area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points twenty (20') feet from their intersection.
- I. All parking areas, except those required in conjunction with a single-family or two-family dwelling, shall provide a substantial curb which will prevent cars from encroachment on abutting private or public property.
- J. All parking areas shall be adequately landscaped at the rate of at least forty (40) square feet per required off-street parking space, unless otherwise approved by the Planning Commission.
- K. Except in the Central Area Parking District, all parking areas adjacent to public sidewalks shall be buffered from the sidewalk (except at gateways and openings) with a minimum of four feet of landscape area with vegetation consistent with the requirements of Section 8.01.
- L. Off-street parking areas shall, at a minimum, comply with the design standards shown in the Parking Design Table and illustrated in Engineering STD DWG 216 A and B.

Parking Design Table						
Parking Angle	Stall Width	19' Stall to curb	Aisle width	Curb length per car	C to C Width (curb to curb)	Double Row with aisle*
0	9	9	12	23	30	--
20	9	15	11	26.3	41	32.5
30	9	17.3	11	18	45.6	37.8
45	9	19.8	13	12.7	52.5	46.5
60	9	21	18	10.4	60	55.5
70	9	21	19	9.6	61	57.9
80	9	20.3	24	9.1	64.3	62.7
90	9	19	24	9	62	--

*aisle between stall centers. See Engineering Std Drawings No. 216A and 216B for graphics.

- M. Compact car spaces may be allowed to serve non-residential uses on approval of the Community Development Director. Such spaces shall not exceed 30 percent of the required number of spaces and shall not be more than four (4) feet shorter in length than standard spaces.
- N. In Commercial zones, parking areas should be, whenever possible, located behind the plane established by the front façade of the building for which the parking is being provided. The parking should be located to the rear of the building to the maximum extent possible. Locating the parking lot in front of the building

(between the fronting, public right-of-way and the building) should be avoided. The required parking minimums in Section 8.03 may be reduced by 25% for developments with the parking located behind the building. For parking areas located beside a building, and behind the plane established by the front façade may have a 10% reduction in their required parking.

- O. Bicycle parking facilities shall be provided in accordance with the provisions below:
1. Bicycle parking facilities should either be a lockable enclosure in which the bicycle is stored, or a secure stationary rack which supports the frame so the bicycle cannot easily be pushed or fall to one side. Racks that require a user-supplied lock should accommodate locking the frame and both wheels using either a cable or U-shaped lock.
 2. Bicycle parking spaces should be at least six (6) feet long and two-and-one-half (2 1/2) feet wide, and overhead clearance in covered spaces should be a minimum of seven (7) feet.
 3. A five (5) foot aisle for bicycle maneuvering should be provided and maintained beside or between each row/ rack of bicycle parking.
 4. Bicycle racks or lockers should be securely anchored.
 5. Required bicycle parking should be well lighted and secure.
 6. Bicycle parking should not obstruct walkways. A minimum five (5) foot wide aisle shall remain clear.
 7. If ten (10) or more bicycle spaces are provided for commercial development, then at least fifty percent (50%) of the bicycle spaces should be covered. A lockable enclosure shall be considered as a covered parking space.
 8. All of the required bicycle parking for residential uses should be covered. This may include space provided in a carport or garage.
 9. Bicycle parking should be located on the site within fifty (50) feet of main building entrances and not farther from the entrance than the closest standard or compact motor vehicle parking space. Bicycle parking should have direct access to both the public right-of-way and to the main entrance of the principal use.
 10. For buildings or developments with multiple entrances, bicycle parking should be distributed proportionally at the various public entrances; employee bicycle parking should be located at the employee entrance, if appropriate.
 11. Bicycle parking may be located in the public right-of-way with the approval of the Public Works Director.
 12. Bicycle parking may be provided within a building easily accessible for bicyclists.

8.07 Electric Vehicle Charging Stations

- 8.07.1 The following criteria shall be applied to the location and design of all electric vehicle charging facilities.
- A. Parking spaces for electric vehicles must not be located in the most convenient spots because this will encourage use by non-electric vehicles.
 - B. Design should be appropriate to the location and use. Facilities should be readily identified by electric vehicle users but blend into the surrounding landscape/architecture for compatibility with the character and use of the site.
 - C. Where provided, spaces should be designed in a way that will discourage non-electric vehicles from using them.
 - D. Number: No minimum number of electric vehicle charging spaces is required.
 - E. Minimum Parking Requirements: An electric vehicle charging space may count as a standard space in the calculation for minimum parking spaces.
 - F. Signage: Each charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations shall be included if time limits or tow away provisions are to be enforced by the owner. Information identifying voltage and amperage levels or safety information must be posted.
 - G. Accessibility: Where Charging Station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, the charging equipment must be located so as to not interfere with accessibility requirements.
 - H. Maintenance: Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning or other problems are encountered.

8.08 Driveways

See Section 9.05, Access to Lots or Parcels

8.09 Above-Ground Fuel Storage

- 8.09.1 Above ground fuel storage tanks, as defined by this Ordinance shall be located so that no portion of the tank is closer to a property line or building than stated below:
- | | |
|--------------------|-------------------|
| 0 - 275 gallons | - 10 foot setback |
| 276 - 750 gallons | - 15 foot setback |
| 751 - 6000 gallons | - 25 foot setback |
- 8.09.2 All above-ground fuel tanks shall comply with applicable requirements and standards contained in the Oregon State Fire Code and Oregon Structural Specialty Codes (as amended), including minimum setbacks from property lines and structures.
- 8.09.3 All tanks, regardless of capacity, shall require a conditional use permit when located in a residential zone.
- 8.09.4 Tanks with a capacity exceeding 6000 gallons shall be considered a bulk plant or tank farm and shall require a conditional use permit.

8.10 Storage Containers

8.10.1 Definitions.

- A. Portable Storage Container (PSC). Any box-like container which is transported by truck or trailer to a desired location for drop off and which is otherwise stored at an offsite location.
- B. Accessory Storage Building.
1. A building originally constructed for the storage of materials and equipment accessory to a primary use located on the property.
 2. For purposes of this Section, cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not accessory storage buildings.
- C. Cargo container. A standardized reusable vessels that was:
1. Originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; and/or
 2. Originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device.



8.10.2 Storage on Residentially Zoned Properties.

- A. Only accessory storage buildings defined in 8.4.1B shall be permitted as accessory storage on property in any residential zone of the city, or on any property within the city the primary use of which is residential. Cargo containers, railroad cars, truck vans, converted mobile homes, travel trailers, recreational vehicles, bus bodies, vehicles, and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not permitted to be used as accessory storage buildings on property zoned residential or on property the primary use of which is residential.
- B. Notwithstanding the provisions set forth in subsection A of this Section, the temporary placement of transport containers and/or portable site storage containers on residentially zoned properties, or on properties the primary use of which are residential, for the limited purpose of loading and unloading household contents shall be permitted for a period of time not exceeding 30 days in any one calendar year.
- C. Notwithstanding the provisions set forth in subsection A of this Section, licensed and bonded contractors may use cargo containers for the temporary location of an office, equipment, and/or materials storage structure during construction which is taking place on the property where the cargo container is located. All such facilities must be removed within 30 days of completion or cessation of construction.
- D. Portable Storage Containers May be permitted in residential zones pursuant to the following standards:
1. The maximum allowable area of a PSC shall be 160 square feet with no dimension exceeding 20 feet.
 2. No more than one PSC shall be placed on any lot at one time.
 3. PSCs shall not be placed or unloaded on any street within the City.
 4. PSCs shall be placed no closer than 10 feet to a front property line and shall comply with the side and rear lot setback requirements and Vision Clearance standards for structures in the applicable zone.
 5. PSCs shall only be placed on a hard surface and shall not be located in any required open space, landscaped area, on any sidewalk or trail, or in any location that blocks or interferes with any vehicular

and/or pedestrian circulation, and shall be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection.

6. During a construction project under an active Building Permit, PSCs and trailers may be used to store tools and materials on site. All such storage facilities must be removed within 30 days of completion or cessation of construction.
7. No PSCs shall be placed for a total of more than 180 days under any circumstances.

8.10.3 **Cargo Containers – Permitted Locations.**

- A. The placement of a cargo container as an accessory storage use is limited to properties in Commercial and Industrial zones.
- B. The placement of cargo containers is further limited to properties in Commercial and Industrial zones only if the property upon which the cargo container is proposed to be located is not primarily used for residential purposes.



8.10.4 **Cargo Containers – Development Standards.**

- A. A Development Permit is required prior to placement of any cargo container.
- B. Cargo containers shall be anchored according to the most current edition of the Building Code. The application shall show the proposed cargo container is accessory to a permitted use on the property and meets the placement criteria for the zone.
- C. Cargo containers shall meet the setback requirements of the underlying zone.
- D. Cargo containers shall not be stacked above the height of a single container device, except for placement within Industrial zones.
- E. Cargo containers shall be painted a single uniform color.
- F. As a condition of placement, cargo containers may be required to be fenced or screened from abutting properties and/or rights-of-way pursuant to the provisions of the underlying zoning regulations.
- G. Cargo containers shall be on the same property as the principal use and shall be included in the calculation of overall lot coverage and stormwater runoff.
- H. Cargo containers shall not occupy required off-street parking, loading or landscaping areas.
- I. Materials stored within cargo containers may be subject to review and approval by the Fire Marshall.

8.11 **Crime Prevention Through Environmental Design**

Crime Prevention Through Environmental Design is based on the premise that "The proper design and effective use of the built environment can lead to a reduction in the fear of crime and incidence of crime, and to an improvement in quality of life." [CPTED](#) standards and principles should be considered, but are not required, in all new development projects, including land divisions.

ARTICLE IX. DESIGN STANDARDS FOR LAND DIVISIONS

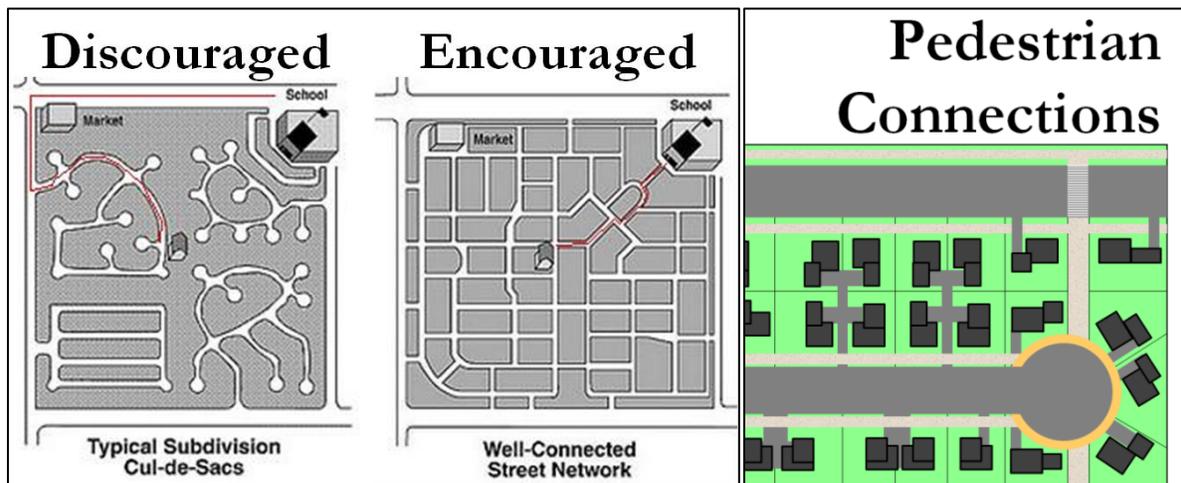
9.01 Blocks

9.01.1 Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted due to topography, or in blocks adjacent to arterials, railroads, waterways, cemeteries, parks, or public land or farmland.

In certain blocks, the Planning Commission may require an easement or dedicated right-of-way through the block to accommodate utilities, drainage facilities, pedestrian ways, or bicycle ways. The dedication of pedestrian or bicycle ways, not less than five (5) feet wide for the travel way, may be required by the Commission through a block or to connect to a cul-de-sac or where deemed necessary to provide circulation or access for non-motorized traffic.

In order to promote efficient pedestrian and vehicular circulation throughout the city, subdivisions and site developments shall be served by a connecting network of public streets and/or access ways, in accordance with the following standards. The standards preferably determine minimum and maximum distances between streets and access ways):

- A. Residential Districts: Minimum of one hundred (100) foot block length and maximum of eight hundred (800) length; maximum two thousand (2,000) feet block perimeter;
- B. Downtown: Minimum of one hundred (100) foot length and maximum of four hundred (400) foot length; maximum one thousand seven hundred (1,700) foot perimeter;
- C. General Commercial Districts: Minimum of one hundred (100) foot length and maximum of six hundred (600) foot length; maximum one thousand four hundred (1,400) foot perimeter;
- D. Master planned Developments: Large multi-use sites may be granted a variance from these limits if the development is developed with multiple users and owners in its final development. These developments may not include districts solely developed for retail sales establishments or other similar uses that involve high traffic; and not applicable to the Industrial Districts.



9.02 Lot or Parcel Arrangement

9.02.1 The lot or parcel arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots or parcels in compliance with this ordinance and health regulations and in providing reasonable driveway access to buildings on such lots or parcels from improved streets.

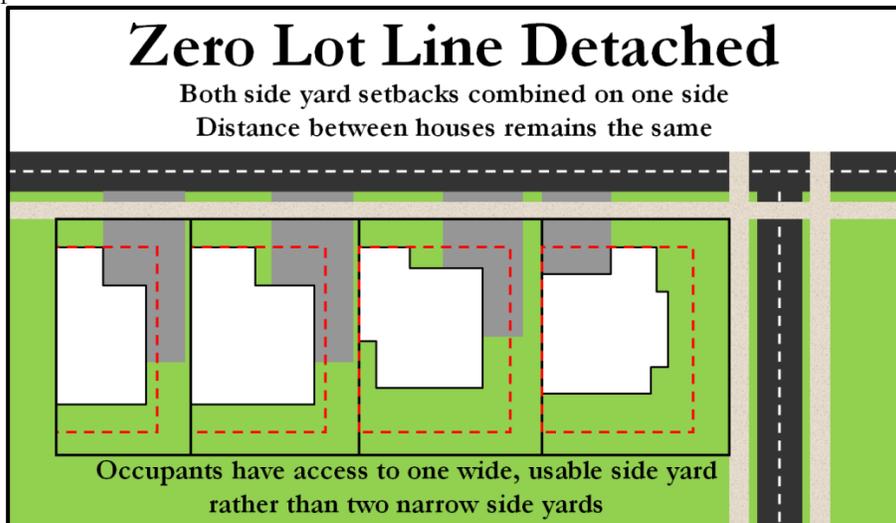
9.02.2 Developers shall encourage solar energy usage when topography allows by ensuring that a maximum number of lots can be developed with access to active and passive solar energy potential.

9.02.3 In general, side lot or parcel lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street, lot or parcel plan. Dimensions of corner lots or parcels shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties anticipated for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in this ordinance.

- 9.02.4 Lot or parcel dimensions shall comply with the minimum standards of this ordinance. Where lots or parcels are more than double the minimum required area for the zoning district, the Planning Commission may require that such lots be arranged to allow further subdivision or partition and the opening of future streets or other means of access.
- 9.02.5 To allow creativity and flexibility in subdivision design and to address physical constraints such as topography, existing development, significant trees and other natural and built features, the Planning Commission may grant a modification to the minimum and maximum lot area, provided that the overall density of the subdivision meets the standards of the zone and every lot has a sufficient building envelope.
- 9.02.6 Through lots or parcels shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. Flag lots or parcels shall also be discouraged, unless deemed appropriate by the Planning Commission to overcome topographical or other hardships.
- 9.02.7 A parcel, partitioned solely for the purpose of segregating one separate smaller parcel for an existing or proposed single family house, shall be exempt from the provisions above provided the parcel to be created for the single-family house shall not contain sufficient lot area to allow further division under the standards of the applicable existing zone.
- 9.02.8 Development Permits for siting of new dwellings on any lot more than twice the minimum size of the underlying zone that would prohibit future land divisions are discouraged unless topographical or other similar constraints merit consideration of a larger lot in order to achieve a suitable building envelope.

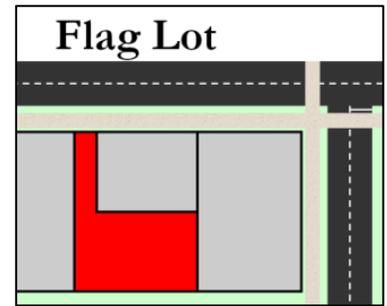
9.03 Zero Lot Line Development

- 9.03.1 In a newly platted land division, side setbacks may be combined onto one side and reduced to zero on the other side provided the remaining setback equals the total of both minimum side setbacks.
- 9.03.2 Zero-lot line houses are subject to the same standards as non-attached single family housing, except that a side yard setback is not required on one side of the lot. The standards for zero-lot line housing are intended to ensure adequate outdoor living area, compatibility between adjacent buildings, and access to side yards for building maintenance.
- 9.03.3 The allowance of a zero (0) side yard setback is for one single family dwelling on each lot; accessory structures shall conform to the applicable setback requirements of the zone.
- 9.03.4 Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero-lot line house that guarantees access onto the adjoining lot for the purpose of construction and maintenance of the zero-lot line house. The easement shall require that no fence or other structure be placed in a manner that would prevent maintenance of the zero-lot line house. The easement shall not be less than six (6) feet wide and shall not preclude the adjoining owner from landscaping the easement area.



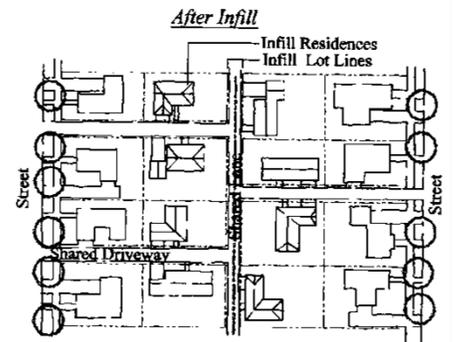
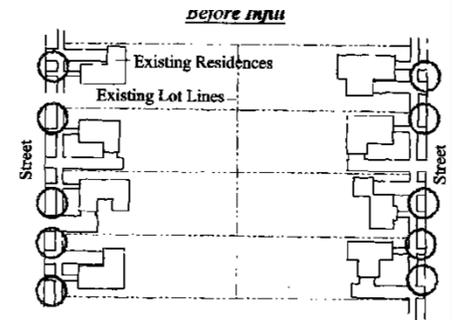
9.04 Flag Lots, Lots Accessed by Mid-Block Lanes

9.04.1 **Flag lots** shall be discouraged unless topographical constraints limit construction of a City-standard right of way for access. Flag lots may be created only when a through street or mid-block lane cannot be extended to serve abutting uses or future development. A flag lot driveway (“flag pole”) may serve no more than two (2) dwelling units, including accessory dwellings and dwellings on individual lots, unless Fire Code access standards are met for more units. When Fire Code standards are met, the maximum number of dwellings shall be three (3). A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots. No fence, structure or other obstacle shall be placed within the drive area.



Mid-block Infill

9.04.2 **Mid-block lanes** shall be permitted when topographical constraints or pre-existing development limit dedication and construction of a City-standard right of way meeting standards for maximum block length and/or connectivity. Lots may be developed without frontage onto a public street when lot access is provided by mid-block lanes, as shown at right. Mid-block lanes or shared driveways may be required when practicable to provide connectivity between infill developments. Mid-block lanes with access easements for adjoining properties may be allowed as an alternative to requiring through streets where block lengths do not necessitate a through street. The lanes shall meet the minimum standards for Alleys and Fire access.



9.05 Access to Lots or Parcels

9.05.1 All lots in any land division shall have frontage on or access from an existing street on the official map or Comprehensive Plan or:

- A. An existing State Highway, County Road, or City street;
- B. A street shown upon a plat or map approved by the City Planning Commission and recorded in the Umatilla County Clerk's office. Such street shall be suitably improved as required by the standards of the jurisdiction, or be secured by a performance agreement or bond as required by this Ordinance, with the width and right-of-way required by this Ordinance and the Transportation System Plan.

9.05.2 Driveways Permitted.

- A. City Streets. In any district, driveways or access-ways providing ingress and egress to or from private parking areas or garages, public parking areas or garages and parking spaces shall be permitted and constructed consistent with the standards in this Section, together with any appropriate traffic control devices in any required yard.
- B. County Roads. Access to lots fronting on County Roads requires a Umatilla County Access Permit, issued through the [Public Works Department](#).
- C. State (ODOT) facilities. Access to ODOT rights-of-way requires a Permit to Operate, Maintain and Use a State Highway Approach issued through the ODOT [District 12](#) Office at 1327 S.E. 3rd Street.
- D. Permits for new driveways or any other form of access to a street not improved to City standards shall carry, as a condition of approval, the requirement to either improve the street to City standards or provide a consent to LID to do so at a later date.

9.05.3 Residential lots or parcels shall derive access other than from an arterial street. Where driveway access from an arterial may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive, or not be served at all, in order to limit possible traffic hazards on such a street. Driveways shall be designed and arranged so as to avoid requiring vehicles to back into traffic on an arterial or collector street.

9.05.4 When a land division borders on or contains an existing or proposed arterial, the Planning Commission shall require that access to such streets shall be limited to the following means (and in priority order):

- A. Lots shall be subdivided and parcels partitioned so as to not front the arterial, but to front onto a minor or local street. Screening shall be provided in a strip of land along the property line common to the arterial of such lots or parcels;
- B. Alleys or dedicated access easements located between an arterial and a local street shall meet all applicable fire code standards.
- C. A series of cul-de-sacs, U-shaped streets, or short loop streets entered from and designed generally at right angles to such a parallel street, with rear and/or side lines of their terminal lots or parcels being adjacent to the arterial;
- D. A marginal access street (separated from the arterial by a planting or grass strip and having access thereto at suitable points).

9.05.5 **Corner and Intersection Separation; Access Spacing; Backing onto Public Streets.** New and modified accesses shall conform to the following standards:

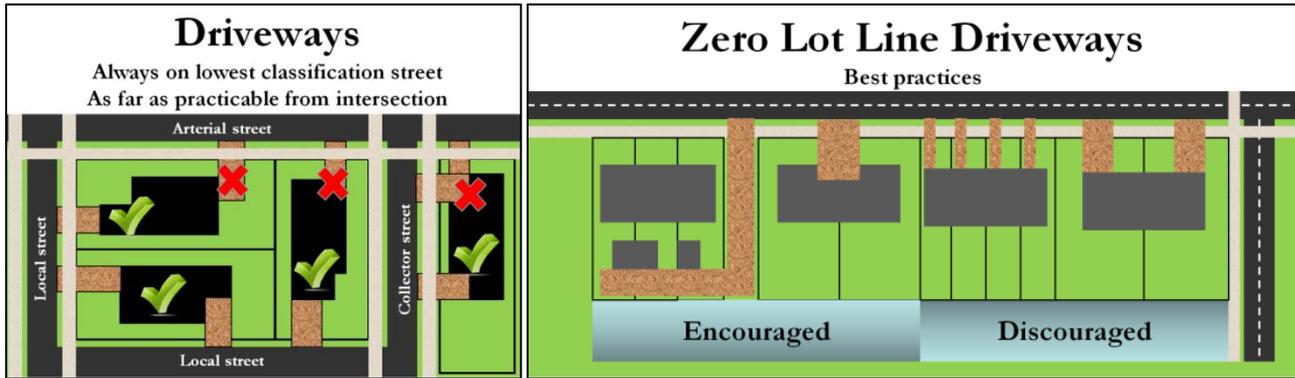
- A. On lots having two or more street frontages, the frontage abutting the street with a lower classification shall be used for access.
- B. On lots having two or more street frontages, all of which are the same classification, the longer frontage shall be used for access.
- C. In all cases, vehicular access on corner lots shall be the maximum practical distance from the intersection.
- D. Except as provided under subsection H, below, the following minimum distances shall be maintained between access points or approaches, where distance is measured from the edge of one approach to the edge of another:
 - 1. On an arterial street: 300-500 feet based on speed limit or posted speed, as applicable, except as otherwise required by ODOT for a state highway, pursuant to Oregon Administrative Rules (OAR) [734-051](#); and
 - 2. On a collector street: 100 feet; and
 - 3. On a local street, 30 feet.
- E. New property access on state highways shall conform to the State highway access spacing requirements in OAR 734-051.
- F. New property access on Collector and Arterial streets other than state highways shall not be permitted within fifty (50) feet of an intersection, unless no other reasonable access to the property is available or could be developed and a modification in the site design of the property cannot remedy the situation. The measurement shall be taken from the curb edge, or if no curb exists, from the theoretical curb location based on the planned roadway section for the given street. Where no other alternatives exist, the City may, at its discretion, allow construction of an access connection at a point less than 50 feet from an intersection, provided the access is as far away from the intersection as possible. In such cases, the City may impose turning restrictions and other traffic management techniques (i.e., right in/out, right in only, or right out only).
- G. Access to and from off-street parking areas shall generally not permit backing onto a public street, except for single-family dwellings and duplexes. Where no other alternative exists the City, at its discretion, may allow backing onto a public street from perpendicular or angle parking spacing with the employment of a variety of transportation engineering or transportation planning techniques designed to mitigate or reduce to a reasonable level the safety hazard. Required features may include one-way streets with curb bulb-outs, curvilinear design, and modification of sidewalk locations.
- H. The Director may reduce required separation distance of access points where they prove impractical due to lot dimensions, existing development, other physical features, or conflicting code requirements, provided all of the following requirements are met:
 - 1. Joint-use driveways and cross-access easements are provided, where practical;
 - 2. The site plan incorporates a unified access and circulation system in accordance with this Section; and
 - 3. The property owner(s) enter in a written agreement with the City that pre-existing connections on the site will be closed and eliminated in conjunction with construction of each side of the joint-use driveway. Said written agreement can take the form of a condition of approval for a subdivision, partition, development review, site plan review, or recorded with the deed.
- I. While the TSP does not restrict private driveway access on urban local streets, residential projects under review will be encouraged to combine driveway access through joint-use driveways or to access parking off of established alleys where conditions are practical.

9.05.6 **Site Circulation.** New developments shall be required to provide a circulation system that accommodates expected traffic on the site and does not conflict with traffic on adjacent roads. Pedestrian and, as applicable, bicycle way connections on the site, including connections through large sites, and connections between sites (as applicable) and adjacent sidewalks, must meet minimum City Standards.

- 9.05.7 **Joint and Cross Access Requirement.** The number of driveway and private street intersections with public streets should be minimized by the use of shared driveways for adjoining lots where feasible. When necessary for traffic safety and access management purposes, or to access flag lots, the Director may require joint access and/or shared driveways in the following situations as follows:
- A. For shared parking areas;
 - B. For adjacent developments, where access onto an arterial is limited;
 - C. For multi-tenant developments, and developments on multiple lots or parcels. Such joint accesses and shared driveways shall incorporate all of the following:
 1. A continuous service drive or cross-access corridor that provides for driveway separation consistent with the applicable transportation authority's access management classification system and standards;
 2. A design speed of 10 miles per hour and a maximum width of 20 feet, in addition to any parking alongside the driveway; additional driveway width or fire lanes may be approved when necessary to accommodate specific types of service vehicles, loading vehicles, or emergency service provider vehicles;
 3. Driveway stubs to property lines (for future extension) and other design features to make it easy to see that the abutting properties may be required with future development to connect to the cross-access driveway.
- 9.05.8 **Joint and Cross Access: Reduction in Required Parking Allowed.** When a shared driveway is provided or required as a condition of approval, the land uses adjacent to the shared driveway may have their minimum parking standards reduced in accordance with the shared parking provisions.
- 9.05.9 **Joint and Cross Access: Easement and Use/Maintenance Agreement.** Pursuant to this Section, property owners shall:
- A. Record an easement with the deed allowing cross-access to and from other properties served by the joint-use driveways and cross-access or service drive;
 - B. Record an agreement with the deed that remaining access rights along the roadway for the subject property shall be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
 - C. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.
- 9.05.10 **Width of Driveway Approach Apron.** The width of driveway approach aprons shall not exceed the following dimensions:
- A. For residential driveways, 14 feet for single driveways and 22 feet for double driveways. No more than one driveway shall be permitted for lots having frontages of 60 feet or less.
 - B. For commercial driveways, when one or more driveway approaches serve a given property frontage, no single apron shall exceed 30 feet in width if the property abuts a street where the speed limit is 25 miles or less per hour; or 35 feet in width where the speed limit is in excess of 25 miles per hour.
 - C. A safety island of full height curb shall be provided between driveway approaches serving any one property frontage. Whenever possible, this safety island shall be 22 feet in length and in no case shall it be less than 10 feet in length.
 - D. In no case shall single driveways serving more than one property be combined to allow greater widths than stated above.
 - E. Deviations not to exceed 50%, of the maximum Driveway Approach Apron width limitations may be considered for Type II Minor Variance approval.
- 9.05.11 **Driveway Surfaces.**
- A. Driveway surfaces shall be designed for all weather conditions (paved or compacted gravel). Vehicle driveway and storage areas will not be allowed to be dirt or vegetation. For grades over 8 percent, paved driveway surfaces are required. All portions of the driveway within the public right-of-way, and at a minimum of the first 20 feet behind the curb or sidewalk shall be paved as an apron to control gravel.
 - B. For residential driveways, including private roads, the maximum slope of any portion of the driveway shall be 20 percent, with an overall average grade of less than 15 percent along the entire length of the driveway. The maximum grade change in any given 10 feet of driveway shall be 12 percent for a crest situation and 16 percent for a sag situation. The maximum number of houses served by a driveway or private road is three.
 - C. For commercial or industrial driveways, including private roads, the maximum slope of any portion of the driveway shall be 15 percent for any point above the elevation of the roadway, and shall be 8 percent for any point below the elevation of the roadway. The overall average grade shall be less than 12 percent along the

entire length of the driveway. The maximum grade change in any given 10 feet of driveway shall be 8 percent for a crest situation and 12 percent for a sag situation.

- D. Every driveway approach or entrance to abutting property shall be maintained and kept in safe condition by the owner of the abutting property. Any driveway approach which is not so maintained or which interferes with the drainage or safe travel of the street shall be repaired to conform to the specifications of the City ordinances and the City Engineer or be removed.
- E. Driveways less than 18 feet in depth, or those that would force a vehicle to park over an existing or future public sidewalk, shall be prohibited.



9.05.12 **Abandoned Driveways.** When a driveway approach no longer provides necessary access for vehicles to parking areas, driveways, or doors intended and used for vehicles, such driveway approach shall be removed. Upon removal of any such driveway approach, that portion of the street occupied by the same shall be restored as nearly as practicable to match the conditions adjacent to the driveway approach or in accordance with design standards for public streets. Restoration shall include curbing, sidewalk to the nearest grid section, and landscaping, all by and at the expense of the owner abutting the property.

9.06 Public Parks, Recreation Facilities and Open Spaces

9.06.1 The developer shall dedicate land for parks and playgrounds and other public purposes in locations designated by the Comprehensive Plan, or in locations deemed by the Planning Commission, on recommendation of the Parks Commission, to be appropriate for the public welfare.



9.06.2 **Dedication Required.** Each land dedication for parks purposes shall be of suitable size, shape, topography, and location and shall have adequate street frontage and pedestrian access. When recreation areas are required by the Planning Commission, on recommendation of the Parks and Recreation Commission, the area to be dedicated shall be based upon the standard of .015 acres of recreation land for every lot or dwelling unit proposed. The developer shall dedicate all such recreation areas to the City without any reservation at the time of final plat approval.

- A. In single-family residential developments (limited to single family by covenant or other restriction) the recreation standard shall be based on one dwelling unit per lot.
- B. In duplex, multi-family, and high density residential districts (not limited to single-family dwellings by covenant or other restriction) the recreation standard shall be based upon the maximum number of dwelling units per acre that could occupy the property as permitted by this ordinance. The only exception to this standard shall be when a lesser density than that permitted by this ordinance is attached as a condition of approval of the plat by the Planning Commission. In no case shall greater density be allowed at a subsequent date without additional dedication or fee payment by the developer, based upon the recreation standards above and the remainder of this Section.

9.06.3 **Minimum Size of Dedication.** In general, land dedicated and accepted for recreation purposes shall have an initial or potential area of at least five (5) acres. The Planning Commission may require that the recreation area be provided at a suitable place on the edge of the subdivision, or on suitable lands outside of the subdivision but under the same ownership, so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than two acres be accepted for recreational purposes if it will be impractical to secure additional lands in order to increase its area.

- 9.06.4 **Character.** Land set aside for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or other recreational purposes, and shall be relatively level.
- 9.06.5 **Street Frontage.** Any recreation site shall have frontage on public streets of at least thirty three (33) percent of its perimeter. All land to be dedicated to the City for park purposes shall be marked on the plat: “Dedicated for park/public purposes.”
- 9.06.6 **Payment in Lieu of Land Dedication.** Where, with respect to a particular subdivision and in all cases with respect to partitions, the dedicating of land pursuant to this Section does not meet the minimum requirements for park dedication, or in cases when the Planning Commission determines (on recommendation of the Parks and Recreation Commission) that such a dedication is not in the public interest, the land divider shall pay a fee in lieu of land dedication prior to final plat or map approval. Such fee shall be deposited in a Neighborhood Park and Recreation Improvement Fund. This fund shall be used by the City in developing neighborhood parks, play lots, and other recreation facilities that will be available to and benefit the persons that will inhabit the land division and surrounding neighborhood.
- 9.06.7 **Maximum Dedication.** A land divider shall not be required to dedicate more than thirty percent (30%) of his land for public purposes, including streets but not including easements. If greater land areas are required for public use, the Planning Commission may require the reservation of such areas for a period of three (3) years, during which time the appropriate agency may acquire such land at such price as is established prior to final approval of the plat or map.

9.07 Noise Buffering

- 9.07.1 A buffer zone and/or noise barrier may be required by the Planning Commission to protect and minimize the noise created in new residential subdivisions from arterial streets, state highways, and the federal interstate system (including on and off-ramps).
- 9.07.2 Open space areas, landscaped areas, man-made barriers or walls (constructed of wood, earth, masonry, concrete, etc.) may be acceptable as noise mitigation measures. The location of any proposed or required noise buffering shall be indicated on the Tentative Plat for Planning Commission approval.



9.08 Pedestrian Walkways

- 9.08.1 The City recognizes the need to provide safe, non-vehicular access to all areas of the City. The developer is encouraged to design the land division in such a manner as to creatively provide for the efficient and secure flow of pedestrian traffic.
- 9.08.2 Sidewalks shall be included within the dedicated rights-of-way of all streets, unless a variance is approved by the Planning Commission at the tentative plat stage:
- A. Minor Street: five-foot wide sidewalks on both sides in residential or nonresidential zones;
 - B. Collector Street: five-foot wide sidewalks on both sides in residential or nonresidential zones;
 - C. Arterial Street: five-foot wide sidewalks on both sides in residential zones and on both sides from the curb line to the private property line in nonresidential zones, for a maximum of 8' in width.
- 9.08.3 Variances for sidewalks on both sides may be granted by the Planning Commission if:
- A. The topography of the site does not permit the reasonable use of a sidewalk; or
 - B. Some other existing or proposed access way, sidewalk or other facility exists that provides a safe and convenient bicycle and pedestrian route (e.g. pedestrian and bicycle pathways along the rear or side of the lot, easements, bridal paths).
- 9.08.4 Concrete is the standard material for sidewalk construction. Asphalt sidewalks shall be permitted only on approval of the City Council.
- 9.08.5 The City recognizes that certain developers may wish to consider more aesthetic materials for the construction of pedestrian walkways in order to add to the value and attractiveness of the land division. The City encourages the developer to discuss the construction of such innovative walkways with the Community Development Director as early as possible in the platting process.



- 9.08.6 The Planning Commission may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, the dedication of a strip of land or provision of an access easement at least five (5) feet in width for a pedestrian right-of-way. All such dedications or easements shall be noted on the tentative plan and the final plat.

9.09 Pedestrian and Bicycle Access Ways

- 9.06.1 The dedication of access ways through a block, not less than ten (10) feet wide shall be required to connect to a cul-de-sac or a long block where it is deemed necessary to provide circulation or access for non-motorized traffic and potentially emergency access for vehicles. Design considerations should be considered to restrict non-emergency motorized vehicles from accessing such ways. Where constraints limit access to pedestrians only, or where it can be determined that bicycle use may be minimal or non-existent, the Pedestrian Walkway Improvement standards shall apply.



9.10 Natural Features and Trees

- 9.10.1 Existing features which would add to the value of residential development or to the City as a whole, such as trees, waterways, historic sites, and similar assets, shall be preserved as they exist in the design of the land division. No trees shall be removed from any land division nor any change in grade of land affected until approval of the Tentative Plat has been granted. The Tentative Plat shall indicate the location of existing trees, and whether they are planned for removal or retention. Trees required to be retained shall be preserved and protected against excavations. The location of all proposed new shade trees along the street side of each lot or parcel as required by this Ordinance shall also be shown on the Tentative Plat.
- 9.10.2 As a requirement for any subdivision or major partition approval, and prior to City acceptance of the street improvements, the developer shall plant shade trees as established by this Ordinance. Such trees are to be planted within the planting strip five (5) feet of the right-of-way of the streets within and abutting the land division, unless this location is altered for utility purposes. A minimum of at least one (1) tree shall be planted for every seventy (70) feet of frontage along each street unless otherwise approved by the Planning Commission. A minimum of two trees per frontage is required. Sleeves shall be provided under the sidewalk for irrigation of the planting strip. Tree planting is required before the City will establish a Water service account, or other agreements must be made with the City. Shade trees planted in planting strips shall come from the street tree manual developed by the City. At the discretion of the Director and where the sidewalks are curb-tight, the Plantings can be allowed behind the sidewalk or within tree wells.
- 9.10.3 New shade trees to be provided pursuant to this Ordinance shall have a minimum trunk diameter of not less than two (2) inches measured twelve (12) inches above the ground level, and be oak, honey locust, hard maples, or other long-lived shade trees as approved by the Planning Commission. Shade tree maintenance shall be the responsibility of the property owner.



9.11 Design of Streets

- 9.11.1 Streets shall be designed consistent with American Association of State Highway and Transportation Officials ([AASHTO](#)) and Federal Highway Administration Manual on Uniform Traffic Control Devices ([MUTCD](#)) standards. Consideration shall also be given to the National Association of City Transportation Officials ([NACTO](#)) [Urban Street Design Guide](#). Bicycle facilities may be designed according to the NACTO [Urban Bikeway Design Guide](#). This Code recognizes that some other jurisdictions in Oregon and elsewhere may have more progressive design standards than those contained in the adopted AASHTO, MUTCD and NACTO guides. Developers have the option of proposing treatments that have been approved in other jurisdictions, subject to review and approval by the Community Development Director and/or City Engineer.
- 9.11.2 Streets shall be related appropriately to the topography, to permit efficient drainage and utility systems, and to provide convenient and safe access to property. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above the grade of the adjoining streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided where possible.

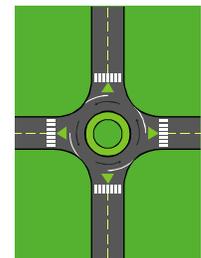


- 9.11.3 Streets shall be graded and improved to conform with City construction standards and specifications and shall be approved as to design and specifications by the Community Development Director, in accordance with the construction plans required to be submitted prior to final plat or map approval.
- 9.11.4 As topography permits, streets within a new land division should be oriented east-west to take advantage of solar energy applications. East-west streets are conducive to more north-south lot orientations and east-west home orientations that are desirable for solar access.
- 9.11.5 All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as set forth in the Comprehensive Plan.
- 9.11.6 Minor streets shall be platted to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to provide convenient and safe access to property.
- 9.11.7 A rectilinear gridiron street pattern need not be adhered to, provided the network achieves a similar level of connectivity.
- 9.11.8 The use of cul-de-sacs and U-shaped streets may be considered only when a reasonable grid cannot be accomplished.
- 9.11.9 Proposed streets shall be extended to the boundary lines of the property to be divided, unless prevented by the topography or other physical conditions, or unless the Planning Commission determines that the extension is not necessary or desirable for the coordination of the layout of the subdivision or partition with the existing layout or the most advantageous future development of adjacent tracts.
- 9.11.10 In commercial and industrial developments, the streets and other access-ways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provisions of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflicting movements between various types of traffic.
- 9.11.11 In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation, transit, and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardship to adjoining properties, design standards are set forth in this Section and the Design Standards Table at the end of this Article. The pavement surface width indicated herein are the maximum permitted and lesser widths may be approved by the Planning Commission when it can be shown that the projected traffic volume can be safely and efficiently accommodated on the proposed width.
- 9.11.12 After sewer and water utilities have been installed by the developer, he shall construct curbs and gutters and shall surface roadways to the widths prescribed in this Ordinance. Said surfacing shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the Community Development Director. Adequate provisions shall be made for culverts, drains, and bridges. All street pavements, shoulders, drainage improvements and structures, curbs, turnarounds, pedestrian walkways, and bicycle ways shall conform to all construction standards and specifications adopted by the Community Development Director and shall be incorporated into the construction plans required to be submitted by the developer for final plat or map approval.
- 9.11.13 Right-of-way widths in excess of the standards designated in this Ordinance shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes.
- A. In residential districts, a buffer strip at least twenty-five (25) feet in depth in addition to the normal depth of the lot or parcel required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots or mapped parcels and shall be designated on the plat or map: This strip is reserved for landscape buffering; the placement of structures hereon is prohibited.
 - B. In districts zoned for commercial or industrial uses, the nearest street extending parallel or approximately parallel to a railroad right-of-way shall, whenever practical, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
 - C. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practical, be at a distance of at least one hundred and fifty (150) feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of adequate approach gradients.

- 9.11.14 The creation of reserve strips controlling access to streets shall not be approved unless necessary to protect the public welfare or a substantial property right. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the City under conditions approved by the Planning Commission.
- 9.11.15 **Dead End Streets.** A temporary “T” or “L-shaped” or circular turnaround shall be provided on all temporary dead-end streets (which may extend into adjoining vacant property as some future date). The plat or map shall contain a notation that such land outside the normal street right-of-way shall revert back to the abutting property owners whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of this Ordinance.
- 9.11.16 When a street does not extend to the boundary of the land division or cannot be extended due to topography or other means, and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Commission may require the reservation of an appropriate easement to accommodate drainage facilities, utilities, or the dedication of land for pedestrian or bicycle ways. A cul-de-sac turn-around shall be provided at the end of a permanent dead-end street in accordance with this Ordinance and the City construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length in accordance with the design standards of this Ordinance and be appropriately signed.
- 9.11.17 **Temporary dead-end streets** shall include clear signage that the street is a dead-end and that it is barricaded. The sign shall read “Dead End, This road will be extended with future development”. Further the street shall include a reflective barricade (per Manual of Uniform Traffic Control Devices) constructed at the end of the street by the developer and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The cost of the barricade and signage shall be included in the street construction cost and born by the developer

9.11.18 **Intersections**

- A. The use of roundabouts instead of traditional intersections may be considered for all new intersections unless prohibited by topography.
- B. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets shall not be less than seventy-five (75) degrees. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. A maximum of two streets (four approaches) shall intersect at any one point, unless alternative intersection designs are considered, such as roundabouts.
- C. Proposed new intersections along one side of an existing street shall, whenever practical, coincide with any existing intersections on the opposite side of the street. Street jogs with center line offsets shall not be less than 125 feet, except where the intersected street has reserve strips without median breaks at either intersection. Where streets intersect arterial streets, their alignment shall be continuous. Intersection of arterial streets shall be at least 800 feet apart.
- D. Minimum curb return radius at the intersection of two minor streets shall be at least twenty feet, and the minimum curb return radius at an intersection involving a collector or arterial street shall be at least twenty-five feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practices, as approved by the Community Development Director, to permit safe vehicle movement.
- E. Intersections shall be designed with a grade no greater than five percent (5%). In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having no greater than a ten percent slope at a distance of fifty feet from the nearest right-of-way line of the intersecting street.
- F. Wherever street intersections will involve earth banks or existing vegetation inside any lot or parcel corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance. However, the design of any proposed street shall take into consideration the location of any existing trees and vegetation. Trees shall not be destroyed for the construction of a street or other improvement if practical alternative design is available.
- G. The cross slopes on all streets, including intersections, shall be five (5) percent or less.



- 9.11.19 **Bridges.** Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the expense of the developer, with no reimbursement from the City. The sharing of expense for the construction of bridges not of primary benefit to the applicant (as determined by the City Council on

recommendation of the Planning Commission) if approved, will be established by agreement. Said cost shall be charged to the applicant pro rata as the percentage of vehicular impact of the proposed land division versus the bridge capacity or potential traffic volumes.

9.11.20 **Alleys.** Alleys shall be permitted in all zones.

- A. The minimum alley width shall be 20 feet unless additional width is warranted due to Fire code or other applicable standards.
- B. Dead-end alleys shall not be permitted, except that the Planning Commission may waive this restriction if such an alley is unavoidable, provided that adequate turnaround facilities are either provided or deemed unnecessary to preserve/satisfy public safety needs.
- C. Access and utility easements shall be preferred over dedication of ROW for alleys. Maintenance of alleys and access easements shall be the responsibility of developer and abutting property owners. Any access easement that may serve future infill development shall be recorded with a reservation for dedication as future right-of-way.

9.11.21 **Perimeter Streets.** Streets systems in new land divisions shall be laid out so as to eliminate or avoid the creation of new perimeter half-streets. Where an existing half-street is adjacent to a new land division, the other half of the street shall be improved and dedicated by the land developer. The Planning Commission may authorize a new perimeter street where the land divider improves and dedicates the entire required street right-of-way width within his own land division boundaries.

9.11.22 Where directions of travel are separated by a median, such as with boulevard cross-sections with or without a left turn lane, the median shall be no less than twelve (12) feet and be provided for landscaping. Planted medians may be a minimum of six (6) feet in width when separating travel lanes for a road section without center or left turn lanes in the median. Median shall be planted with shade trees no less than every thirty (30) feet. Trees planted in medians shall come from the street tree manual developed by the City.

9.12 Street Improvements

9.12.1 All streets shall be constructed and surfaced in accordance with the applicable standard specifications of the City. In a residentially zoned area, if the City requires a developer to install a street with pavement width greater than 36 feet to provide an arterial street or traffic route, the City will pay only the portion of the pavement and rock base cost in excess of the cost of a 36 foot street. If the City determines that a developer shall install a street with pavement width greater than 36 feet to provide a collector street or traffic route, the City will have no obligation to participate in oversizing costs. In a commercial or industrially zoned area, if the City requires a developer to install a street with a pavement width greater than 36 feet to provide a collector or arterial street or traffic route, the City will have no obligation to participate in oversizing costs.

9.12.2 In instances where streets will provide direct access for any residential zone utilizing a density of less than 21 dwelling units per acre, the developers shall provide excavation and embankment for every right-of-way within their development from the back of the curbs and/or sidewalks to the property line to a vertical grade not to exceed five (5%) percent. In all other instances, developers shall provide excavation and embankment behind the curb and/or sidewalk to plus or minus five (5%) percent vertical grade for a total width of fifty-two (52) feet for a thirty-six (36) foot wide street, and sixty (60) feet for a forty-four (44) foot wide street. If after construction of the street, the land requiring access is changed to any residential zone utilizing a density of less than 21 units per acre, the developer making the change to any residential zone utilizing a density of less than 21 units per acre shall modify the direct access streets to provide excavation and embankment of those rights-of-way within their development from the back of the curbs and/or sidewalks to the property line to a vertical grade not to exceed five (5%) percent.

9.12.3 When a parcel borders an existing narrow road or street, or when the Comprehensive Plan or other City policies indicate plans for realignment or widening of a street that would require use of some of the land in the land division, the developer shall provide an irrevocable commitment to pay for the dedication and improvement of said substandard street to the full width as required by the Comprehensive Plan and City standards. Land dedicated for street purposes shall not be counted in satisfying area or yard requirements of this ordinance.

9.12.4 **Street names** are assigned by the City and reviewed and approved by the Planning Commission at the time of Tentative Plat approval. All new street names and house numbers shall conform to Ordinance No. 2290 (Street Naming). A street which is or is planned as a continuation of an existing street shall bear the same name. Names

of any new streets shall be sufficiently different in sound and in spelling from other street names in the City so as to not cause confusion.

9.13 Mail Boxes

9.13.1 **Joint mail box facilities** shall be provided in all residential subdivisions, with each joint mail box group servicing at least two, but no more than **twelve** dwelling units, unless otherwise approved by the Planning Commission. Joint mailbox structures shall be placed in the street right-of-way adjacent to the curb as set forth in the design standards adopted by the Community Development Director. Proposed locations of joint mailboxes shall be designated on the Tentative Plat and shall be approved by the Community Development Director and the U.S. Postal Service. Sketch plans for the structures shall be approved by the City prior to final plat approval.



9.13.2 The applicant shall be responsible for the cost for all street name and traffic signs required by the City. The City shall install all street signs before accepting a street for public maintenance.

9.14 Soil Grading, Drainage, and Retention



9.14.1 Prior to the issuance of a Certificate of Occupancy, final grading shall be completed in accordance with applicable Code requirements and the approved final subdivision plat or partition map.

9.14.2 Lots or parcels shall be laid out so as to provide positive drainage away from all buildings and individual lot or parcel drainage shall be coordinated with the general storm drainage pattern for the entire area. Drainage shall be designed using berms, swales, and other techniques so as to not permit storm water drainage from each lot or parcel to adjacent lots or parcels.

9.14.3 Each land developer shall be required to furnish and install retaining walls should the Planning Commission determine that a hazardous condition may exist without such walls. Retaining walls shall be constructed according to standards established by the City. Any wall greater than 4' in height or subject to surcharging above the top of the wall shall be designed by an Oregon Registered Engineer. Such improvements shall be installed prior to the approval of occupancy of any home or structure in the land division.

9.15 Drainage Improvements



9.15.1 The Planning Commission shall approve a plat only when adequate provisions are made for the handling of storm or flood water runoff. The storm water drainage system shall be separated and independent of any sanitary sewer system. Storm sewers shall be designed to the approval of the Community Development Director, and a copy of design computations shall be submitted along with the construction plans. Inlets shall be provided so that surface water is not carried across or around any intersection, or for a distance of more than six hundred (600) feet in a gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Manholes shall be installed at the end of each line; at all changes in size, alignment, or grade; at all intersections; and at distances not greater than five hundred (500) feet, or as approved by the Community Development Director. All manholes must be accessible by a motor vehicle. Manhole construction shall be in accordance with City standard specifications.

9.15.2 The development of commercial or industrial sites, and all subdivision type land developments, shall restrict the rate and volume of stormwater runoff from the site to a pre-construction/pre-development peak rate for a 25-year storm. All calculation methods and analysis shall follow the Central Oregon Stormwater Manual.

9.15.3 All drainage facilities shall be installed at the fair share expense of the land divider (as determined by the City Council) and be large enough to accommodate potential runoff from the entire upstream drainage basin, whether inside or outside of the City limits or land division. The Community Development Director shall determine the necessary size of the drainage facilities based on the provisions of the construction standards and specifications and the adopted stormwater manual, assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan, zoning ordinance, and other regulations.

9.15.4 The developer shall provide a drainage study showing the effect of each development or land division on existing downstream facilities outside the area of development or the land division for flow greater than a 25-year storm, and up to a 100-year storm. This drainage study, together with other such studies as shall be appropriate, shall

serve as a guide to improvements. Where it is anticipated that the additional runoff from the development from an incident greater than a 25-year storm will overload an existing downstream drainage facility, and especially when it is found that there is imminent potential of downstream property damage, the Planning Commission may withhold approval of the land division until provisions have been made to upgrade the drainage facility so it can handle the anticipated flows.

9.15.5 For any land division proposed within a Special Flood Hazard Area, all applicable standards contained in the City's Floodplain Ordinance (No. 3791) shall be observed.

9.15.6 Drainage Easements.

- A. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within the street rights-of-way, perpetual unobstructed easements at least ten feet in width for such drainage facilities shall be provided across property outside the street lines with satisfactory access to the street. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.
- B. When a proposed drainage system will carry water across private land outside of the land division, appropriate drainage rights must be secured and indicated on the plat.
- C. The applicant may be required to dedicate land (either in fee or by drainage or conservation easement) adjacent to existing water-courses, in locations to be determined by the Planning Commission to meet the policies of the City.

9.16 Water System Improvements



9.16.1 Water system design shall take into account provisions for extension beyond the development and to adequately grid the City system. All public water lines shall be extended through the property served consistent with City polices and as approved by the Community Development Director.

9.16.2 In an area utilizing municipal water, the developer will be required to install public water lines to acceptable standards and of sufficient size to meet all demands including fire flow demands, actual and potential, of the area being developed. The sizes required shall be established by the Community Development Director in accordance with acceptable engineering standards, but in no case, except in certain dead-end water lines recognized by the Community Development Director, shall this size be less than eight (8) inches in diameter. Should the City require water line oversizing in excess of that normally required for the area being developed, the City shall reimburse the developer in the amount of the difference in pipe material costs.

9.16.3 Nothing in this Ordinance shall be construed as requiring the City to furnish water to any land division.

9.16.4 All water lines shall have a minimum depth of thirty (30) inches.

9.16.5 Wherever a water main or service passes beneath a sidewalk, this location shall be permanently identified by etching a "W" into the concrete curb directly above the water line at the time of street and curb improvements.

9.16.6 Fire hydrants shall be required for all subdivisions and may be required for a partition. Fire hydrants shall be so located per the Fire Code. The location of fire hydrants shall be approved by the Community Development Director and the Fire Chief. To minimize future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, shall be installed before any final paving of a street shown on the final plat. Fire Hydrants shall be installed and flow tested to the satisfaction of the Fire Department, Public Works Department, and Community Development Director prior to the beginning of any combustible construction.

9.17 Sewer System Improvements



9.17.1 General Requirements.

- A. All developers shall install sanitary sewer facilities in a manner prescribed by the construction standards and specifications of the City. All plans must be approved by the Community Development Director.
- B. All sanitary sewage facilities of any land division shall connect to the City sanitary sewer system. Individual disposal systems or treatment plants (private or group disposal systems) will not be permitted.

9.17.2 Design Criteria.

- A. These design criteria are not intended to cover exceptional circumstances or situations which may be granted an exception by the Community Development Director if adequate justification is provided by the applicant.

- B. Sanitary sewer design shall take into account the capacity and grade to allow for desirable extension beyond the development. All public sanitary sewer lines shall be extended through the property served consistent with City policies and as approved by the Community Development Director.
- C. In an area utilizing municipal sanitary sewage disposal, the developer shall be required to install public sewer lines to acceptable standards and of sufficient size to meet all demands, actual and potential, of the area being developed. The sizes required shall be established by the Community Development Director in accordance with acceptable engineering standards. In no case, except in certain dead-end sewer line instances approved by the Community Development Director, shall this size be less than eight (8) inches in diameter. Should the City require sewer line sizing in excess of that normally required for the area being developed, the City shall reimburse the developer in the amount of the difference in pipe material costs.
- D. Sewer capacities shall also be adequate to handle anticipated maximum hourly quantities of sewage and industrial waste, including acceptable allowances for infiltration or other extraneous flow. Sewer line size, slope, depth and alignment shall be to City standards as approved by the Community Development Director.
- E. Manholes shall be installed at the end of each line; at all changes in size, alignment, or grade; at all intersections; and at distances not greater than five hundred (500) feet, or as approved by the Community Development Director. All manholes must be accessible by a motor vehicle. Manhole construction shall be in accordance with City standard specifications.
- F. Sanitary sewers shall be located within street rights-of-way unless topography or other extraordinary circumstances dictate otherwise. When located in easements on private property, all such easements shall be at least twenty (20) feet in width.
- G. Wherever a sanitary sewer line passes beneath a sidewalk, this location shall be identified by permanently etching an "S" into the concrete curb directly above the sewer line, at the time of street and curb improvements.
- H. Clean outs are required at all points where the service lateral crosses the right-of-way line, and shall be permitted otherwise only when approved by the Community Development Director.
- I. There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply.
- J. A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer mains. The sewer shall be constructed of ductile iron pipe or encased in concrete for a distance of ten (10) feet in each direction from the crossing, measured perpendicularly to the water lines. These requirements are not applicable when the water main is at least three (3) feet above the sewer line.



9.18 Utilities

- 9.18.1 All utility facilities, including but not limited to gas, electric power, telephone, and television cables, shall be located underground throughout the land division. The costs associated to the installation of all utilities shall be the responsibility of the developer. Wherever existing facilities are located above ground, they shall either be removed and/or placed underground at the cost of the developer. When possible all utility facilities should be located within a public utility easement (PUE). Utilities may be located in the dedicated street right-of-way with prior approval of the Community Development Director. All new subdivisions shall provide a minimum ten foot (10') wide PUE outside of, but continuously adjacent to all public right-of-ways.
- 9.18.2 Easements centered on rear or side lot lines shall be provided for utilities, both public and private, when deemed necessary by the Planning Commission, the Community Development Director, and/or Public Works Director, or upon recommendation of the appropriate utility. Such recommendations shall be made at the prehearing conference for a subdivision or major partition, and during plat review for a minor partition. Such easements shall be a minimum of ten feet wide, five (5) feet on each side of the property line.
- 9.18.3 All utility easements shall be kept free of any building, structure, or tree in accordance with the City easement standards. If approved, fences, hedges, and other landscaping may be located within an easement, as may parking areas.

9.19 Dedication of Public Improvements.

- 9.19.1 Land dedicated for public purposes may be provided to the City by any of the following methods:
 - A. By dedication on the land subdivision plat, condominium plat or replat; or
 - B. By a separate dedication or donation document on the form provided by the City.

9.20 Maintenance of Public Improvements

- 9.20.1 The developer shall be required to maintain all improvements and provide for snow removal, sweeping and flushing on streets and walkways, until acceptance of said improvements by the City.
- 9.20.2 The developer shall be required to file a maintenance bond with the City in an amount determined by the Community Development Director and in a form satisfactory to the City Attorney, in order to assure the satisfactory condition of the required improvements for a period of one (1) year after the date of their acceptance by the City.

9.21 Bonding and Assurances

- 9.21.1 **Performance Guarantee for Public Improvements.** On all projects where public improvements are required, the City shall require a guarantee prior to final plat approval in order to guarantee completion of the public improvements.
- 9.21.2 **Performance Guarantee Required.** When a performance guarantee is required, the developer shall file an assurance of performance with the City supported by one of the following:
- A. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
 - B. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
 - C. Cash.
- 9.21.3 **Determination of Sum.** The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- 9.21.4 **Itemized Improvement Estimate.** The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- 9.21.5 **Agreement.** An agreement between the City and developer shall be recorded with the final plat. The agreement may be prepared by the City or prepared by the applicant as a letter. It shall not be valid until it is signed and dated by both the applicant and City. The agreement shall contain all of the following:
- A. The period within which all required improvements and repairs shall be completed;
 - B. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
 - C. The improvement fees and deposits that are required;
 - D. (Optional) A provision for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.
- 9.21.6 Any and all right-of-way and public improvements proposed for dedication to the public shall be constructed in accordance with an approved tentative plat, construction plans and/or other adopted standards and any applicable conditions of approval.
- 9.21.7 Any required landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the City or a qualified landscape architect is filed with the City assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.
- 9.21.8 All improvements, new right-of-way and other public infrastructure, including receipt of staff approved as-builts, shall be completed prior to acceptance by the City; otherwise, all public improvements will remain under the ownership of the developer with notification sent to the entity providing assurance.
- 9.21.9 Final acceptance of all improvements shall be submitted to the City Council for adoption by Resolution.
- 9.21.10 Concurrent with acceptance of any new infrastructure, the Resolution shall authorize staff to notify the provider of assurance that applicable constructions bond(s) have been released.
- 9.21.11 Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

9.21.12 When Developer Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.

Design Standards for Public Streets													
ROW	Total Lanes	Travel Lanes	Width	Center Lane	Width	Bike Lanes	Width	Parking Lanes	Width	Pavement Width	Planter Width	Sidewalk	Notes
Arterial													
60	2	2	12	0	14	2	6	0	8	36	0-7	5-12	3,5
80	2	2	12	0	14	2	6	2	8	52	0-9	5-14	5
70	2	2	12	0	14	1	6	2	8	46	0-7	5-12	1,5
70	3	2	11	1	14	2	6	0	8	48	0-6	5-11	3,5
90	3	2	11	1	14	2	6	2	8	64	0-8	5-13	5
80	4	4	12	0	14	2	6	0	8	60	0-5	5-10	3,5
90	5	4	11	1	14	2	6	0	8	70	0-5	5-10	3,5
Collector													
60	2	2	12	0	14	2	6	0	8	36	0-7	5-12	3
80	2	2	12	0	14	2	6	2	8	52	0-9	5-14	
70	3	2	11	1	14	2	6	0	8	48	0-6	5-11	3
90	3	2	11	1	14	2	6	2	8	64	0-8	5-13	
Local Commercial													
60	2	2	16	0	14	0	6	0	8	32	0-9	5-14	3
60	2	2	12	0	14	2	6	0	8	36	0-7	5-12	3
80	2	2	12	0	14	2	6	2	8	52	0-9	5-14	
60	3	2	14	1	14	0	6	0	8	42	0-5	5-9	3
70	3	2	11	1	14	2	6	0	8	48	0-7	5-11	3
90	3	2	11	1	14	2	6	2	8	64	0-9	5-13	
Industrial													
60	2	2	12	0	14	0	5	2	3	30	3-10	5-12	3
70	2	2	12	0	14	2	5	2	3	40	3-10	5-12	3
70	3	2	11	1	14	0	5	2	3	42	4-9	5-10	3
80	3	2	11	1	14	2	5	2	3	52	4-9	5-10	3
Major Residential													
50	2	2	14	0	14	0	6	0	8	28	3-6	5-8	3,4
60	2	2	12	0	14	0	6	1	8	32	6-9	5-8	3,4
60	2	2	10	0	14	0	6	2	8	36	4-7	5-8	
Minor Residential													
50	2	2	7	0	14	0	6	2	7	28	3-6	5-8	2
50	2	2	10	0	14	0	6	0	7	20	7-10	5-8	3
50	2	2	8.5	0	14	0	6	1	7	24	5-8	5-8	2,3
50	2	2	8	0	14	0	6	2	7	30	2-5	5-8	2
50	2	2	11	0	14	0	6	1	8	30	2-5	5-8	3
60	2	2	10	0	14	0	6	2	7	34	5-8	5-8	
Accessway													
8	1	1	5	NA	NA	Integrated	NA	0	0	5	NA	Integrated	
10	1	1	8	NA	NA	Integrated	NA	0	0	8	NA	Integrated	
14	2	2	6	NA	NA	Integrated	NA	0	0	12	NA	Integrated	
Alley													
18	2	2	60	NA	NA	NA	NA	0	0	12	NA	0	

- Notes:
- 1 One-way streets only.
 - 2 Considered to be Queuing Streets. Allowed for streets with less than 500 ADT and shorter than 400 lf. Consideration must be given in the design to provide queuing space for yielding vehicles by restricting street parking in areas.
 - 3 Additional off street parking must be provided.
 - 4 Utilized in hillside areas to minimize grading in steep terrain.
 - 5 Arterial roadways in the downtown must have sidewalks 10 feet in width and consistent with all city codes.
 - 6 Planted Medians may be built and can be as narrow as 6 feet when not also serving as a center turn lane, or left turn lane.

Cul-de-sacs
 Maximum Length (In feet)
 Permanent 400
 (Serving no more than 16 dwelling units)
 Temporary 1000
 (Serving no more than 25 dwelling units)

Radius of Cul-de-sac (In feet)
 Minimum Right-of-way Radius
 Temporary 50
 Permanent 50
 Minimum Pavement Radius
 Temporary 40
 Permanent 40

Design Speed (Miles per Hour), maximum road grades (%), and maximum super-elevation (e):
 Alley 15-20, 18%, e(max)=0.02
 Minor/Residential Street 20-25, 16%, e(max)=0.04
 Industrial 20-30, 8%, e(max)=0.04
 Collector 30-35, 14%, e(max)=0.06
 Arterial 35-40, 10%, e(max)=0.06

Radius of Horizontal Curves shall be based on AASHTO standards considering the design speed, sight distance, and design cross slopes of the roadway (see maximum super-elevations, above right), with the following absolute minimums and recommended minimum values (in feet):

	(Absolute Min. Radius)	(Recommended Radius with normal crown, +/-2%)	Minimum Design Sight Distance (In feet)
Alley	70'	90'	Minor 150'
Minor	130'	175'	Collector 200'
Collector	275'	425'	Arterial 300'
Arterial	375'	600'	

Length of Vertical Curves shall be based on AASHTO standards considering the design speed, street lighting, sight distance, driver comfort, and drainage. For drainage purposes, the length of vertical curves shall be such that a minimum slope of 0.5% is maintained for all tangents, and/or the equivalent grade of the vertical curve is equal to, or greater than 0.5% at a point within 50 feet of the low or level point of the vertical curve. "K" values in excess of 150 should be avoided, or additional drainage facilities may be required. Recommended minimum "K" values for vertical curves are as follows:

Design Speed (mph)	Sag Curve (K)	Crest Curve (K)
15	10	3
20	17	7
25	26	12
30	37	19
35	49	29
40	64	44

Note: "K" values for sag vertical curves may be reduced by up to 50% if the bottom of the curve is lighted with overhead street lights.

ARTICLE X. LAND DIVISIONS

10.01 Purpose

The purpose of this Article is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions, replats and boundary line adjustments, as defined below:
 - 1. Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
 - 2. Partitions are the creation of three or fewer lots within one calendar year.
 - 3. Replats reconfigure an existing subdivision or partition plat.
 - 4. Boundary line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B. Carry out development as envisioned by the Comprehensive Plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and
- F. Encourage the conservation of energy resources.

10.02 Approving Agency

- 10.02.1 By authority of Ordinance No. 2759 of the Planning Commission of Pendleton adopted pursuant to the powers and jurisdictions vested through ORS [Chapter 227](#) and other applicable laws, statutes, ordinances, and regulations of the state of Oregon, the Planning Commission is hereby granted the authority to review, approve, and disapprove plats for subdivisions or partitions of land within the corporate limits of the City of Pendleton which show lots, parcels, blocks, or sites with or without new streets or highways.
- 10.02.2 The Planning Commission may also exercise the authority to review, approve, and disapprove plats for new subdivisions or partitions within the Urban Growth Boundary but beyond the corporate limits of the City pursuant to the Pendleton Planning Area Joint Management Agreement between the City and Umatilla County.
- 10.02.3 By the same authority, the Planning Commission is hereby granted the authority to pass and approve the development of platted subdivisions or mapped partitions of and inside the City limits, already recorded in the office of the county clerk, if such plats are entirely or partially undeveloped. The plat or map shall be considered to be entirely or partially undeveloped if:
 - A. Said plat has been recorded in the county clerk's office without prior approval by the Planning Commission, or;
 - B. Said plat has been approved by the Planning Commission where such approval has been granted three (3) years prior to granting a building permit, on the partially or entirely undeveloped land and the zoning regulations, either bulk or use, for the district in which the subdivision or partition is located, have been changed subsequent to the original final subdivision or partition approval.

10.03 Land Division Classifications

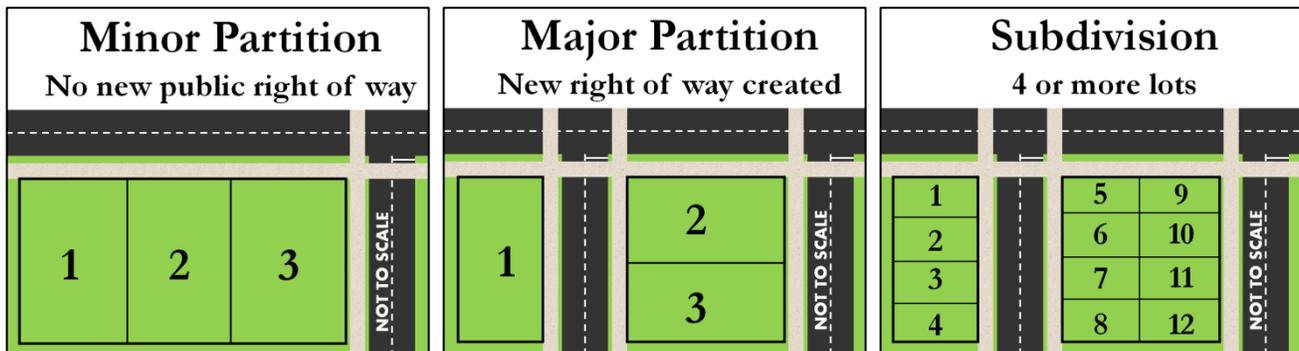
- 10.03.1 Under Oregon Revised Statutes, [Chapter 92](#), land divisions are classified as one of two types:
 - A. Partition (parent parcel into no more than three individual parcels in a calendar year)
 - B. Subdivision (parent parcel into more than three individual lots in a calendar year)

LAND DIVISIONS Partitions create PARCELS Subdivisions create LOTS
--

10.03.2 Land divisions do not include:

- A. Divisions of land resulting from lien foreclosures;
- B. Divisions of land resulting from foreclosure of recorded contracts for the sale of real property;
- C. Divisions of land resulting from the creation of cemetery plots;
- D. Any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an this ordinance. Such boundary line adjustments shall be reviewed and approved by the City as set forth in this Ordinance;
- E. The sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner;

- F. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and Oregon Law.



10.04 General Requirements

- 10.04.1 **Land Division Approval through Two-step Process.** Applications for subdivision, partition or replat approval shall be processed by means of a tentative plat evaluation and a final plat evaluation, according to the following two steps:
- The tentative plat must be approved before the final plat can be submitted for consideration; and
 - The final plat must include all conditions of approval of the tentative plat.
- 10.04.2 **Compliance with ORS Chapter 92.** All subdivision, partition or replat proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- 10.04.3 **Future Re-division Plan.** When subdividing, partitioning or replating tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size required in the underlying zone), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the zone. A re-division plan shall be submitted for large lots identifying:
- Potential future lot division(s), consistent with the density and lot size standards of the zone;
 - 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;
 - A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- 10.04.4 **Lot Size Averaging.** Single family residential lot sizes may be averaged to allow lots less than the minimum lot size in Residential districts, provided all lots can show an adequate building envelope.
- 10.04.5 **Temporary Sales Office.** A sales office in conjunction with a subdivision may be located in an approved model home.
- 10.04.6 **Flood Damage.** All land divisions shall be designed to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway and, where possible, allow building outside of the flood fringe. Development in a 100-year flood plain shall comply with the [National Flood Insurance Program](#) and [State Building Code](#) requirements, including elevating structures above the base flood elevation.
- 10.04.7 **Utilities.** All lots created through land division shall have adequate public utilities and facilities such as water, sewer, gas and electric. Utilities shall be located and constructed to prevent or minimize flood damage, and to avoid impairment of the system and contamination from them during flooding.
- 10.04.8 **Drainage.** All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required.

- 10.04.9 **Preservation of Natural Features.** In all subdivisions and partitions, due regard shall be shown for all natural features such as natural vegetation, water courses, historical sites and structures, and similar community assets which, if preserved and maintained in perpetuity, will add, in the opinion of the Planning Commission, attractiveness and value to the area and the City as a whole.
- 10.04.10 **Floodplain, Park, and Open Space Dedications.** Where land filling and/or development is allowed within or adjacent to regulatory flood plain and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway and/or trail adjoining or within the flood plain for transportation, storm drainage/water quality, or park purposes in the public interest. When practicable, this area shall include portions at a suitable elevation for the construction of a multi-use pathway in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable.
- 10.04.11 **Unsuitable Lands.** Land which the Planning Commission finds to be unsuitable for land division or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will be harmful to the safety, health and general welfare of the present or future inhabitants of the land division and/or its surrounding areas, shall not be subdivided or partitioned unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the Public Works Director, to solve the problems created by unsuitable land conditions. Such unsuitable land shall be reserved for uses that do not involve such danger.
- 10.04.12 **Water Bodies.** If a tract being subdivided or partitioned contains a water body or portion thereof, the responsibility for safe maintenance of the water body shall be that of the abutting property owners. Where such a watercourse separates the buildable area of a lot or parcel from the street by which it has access, provisions shall be made for installation of a bridge, culvert or other structure of a design approved by the Public Works Director.
- 10.04.13 **Naming of Subdivisions and Partitions.** The proposed name of a Tentative Plat or final plat of a subdivision shall not duplicate, be similar to, or too closely approximate phonetically, the name of any other subdivision in the county. The Planning Commission shall have final authority to determine the name of the land division at the time of Tentative Plat approval. If a partition name is selected by the developer, it shall conform to all the requirements of a subdivision name.
- 10.04.14 **Conditional Approvals.** Regulation of the subdivision of land, and the attachment of reasonable conditions to land divisions is an exercise of valid powers delegated by the state of Oregon to the City. The developer has the duty of compliance with reasonable conditions established by the Planning Commission for design, dedication, improvements, and restrictive usage of land so as to conform to the Comprehensive Plan.
- 10.04.15 **Conformance to Applicable Rules and Regulations.** In addition to the requirements established in this Ordinance, all subdivisions, partitions and replats shall comply with the following laws, rules, and regulations:
- A. All applicable statutory provisions;
 - B. The Structural Code, Fire Code, and all other applicable laws of the City;
 - C. The Comprehensive Plan, official map, public utilities plan and capital improvements program, including all streets, drainage systems, and parks shown on the official map or Comprehensive Plan as adopted;
 - D. The special requirements of these regulations and any rules of county and state agencies, such as the State Department of Transportation (if any part of the subdivision or partition were to abut a state highway);
 - E. The standards and regulations adopted by the Public Works Director and all boards, commissions, agencies and officials of the City of Pendleton;
 - F. All pertinent standards contained within the planning guides published by any state or regional planning agency;
 - G. The Transportation System Plan.
 - H. If the owner places restrictions on any of the land contained in the land division greater than those required by this ordinance, such restrictions or reference thereto may be required to be indicated on the plat, or the Planning Commission may require that restrictive covenants be recorded with the Umatilla County [Office of County Records](#) in a form approved by the City Attorney. Such restrictions shall not be the enforcement responsibility of the City of Pendleton.
- 10.04.16 **Sale of Land, Issuance of Permits.**
- A. Approval of a final plat in accordance with these regulations and the filing of said plat with the Umatilla County Clerk is required before any owner, or agent of the owner, of any lot or parcel of land located in a

proposed subdivision or partition shall transfer or sell any such lot or parcel. No person shall sell any lot in any subdivision or convey any interest in a parcel in any partition by reference to or exhibition or other use of a plat of such subdivision or partition before the plat for such subdivision or partition has been so recorded, pursuant to the standards contained in ORS Chapter 92.

- B. The description of any lot or parcel of land, by the use of metes and bounds descriptions for the purpose of sale, transfer, or lease with the intent of evading these regulations shall not be permitted. All such described land divisions shall be subject to all of the requirements contained in this Ordinance.
- C. A building permit shall be withheld for the construction of any building or structure located on a lot or parcel of a subdivision or partition sold in violation of this Ordinance.
- D. In a subdivision or partition, no approval of occupancy for any building in the land division shall be issued prior to the completion of the public improvements required, and their acceptance by the City.
- E. No building permit or certificate of occupancy shall be granted or issued if a developer or his authorized agent shall have violated any federal, state, or local law pertaining to consumer protection of real estate land sales, promotions, or practices, or any applicable conflict of interest legislation with respect to the lot or parcel which is the subject of the permit or certificate, until so ordered by a court of competent jurisdiction.

10.05 Subdivisions, Partitions and Replats

10.05.1 Pre-Application Conference.

- A. Purpose. Due to the technical data required for the consideration of a subdivision or partition tentative plat, and to inform the developer of the requirements of public and private agencies affected by the proposed development, after the filing of an application for tentative plat approval, a pre-application conference shall be held with the developer and/or his agent meeting with City Staff and representatives of other public and private agencies affected by the proposed development. Said conference shall be held at a time and place convenient to all participants.
- B. Study of Initial Tentative Plat. After receipt of the initial tentative plat, the City shall transmit copies of the plat to appropriate officials or agencies of the City, county, school district and special districts or other bodies applicable under any state or federal law. The City shall request that all officials and agencies requested to comment submit their written report prior to the pre-hearing conference or transmit their report verbally at the conference.
- C. Scheduling of Pre-application Conference. Within ten (10) days after receipt of the application for tentative plat approval, the Department of Planning and Building shall, after consultation with the parties concerned, notify the applicant and other affected parties of the time and place of the pre-hearing conference. The conference will be held within fifteen (15) days after receipt of the application.
- D. Pre-application Conference. At this conference, representatives of the City and other public and private agencies affected by the proposed land division may transmit, either in writing or verbally, such information and make such recommendations to the developer as they deem desirable for the benefit of the developer in preparing the tentative plat. The conference shall include on its agenda the requirements of this Ordinance. Reasonable attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, natural features, open space and school requirements, sewage disposal, drainage, lot or parcel sizes and arrangement, the further development of adjoining lands as yet not subdivided or partitioned, the requirements of the Comprehensive Plan and official map.
- E. Report of Pre-application Conference. Within ten (10) days after the pre-application conference, the City shall give written notice to the developer or his agent of the specific changes or additions, if any, in the layout, and the character and extent of required improvements and dedications or reservations deemed necessary for approval of the proposed subdivision or major partition. The report concerning the pre-hearing conference shall be presented to the Planning Commission at the time it considers the tentative plat.

10.05.2 Tentative Plat Procedure.

- A. Purpose. The process of tentative plat approval is intended to present for evaluation:
 - 1. The plat documents and statements submitted by the developer or his agent concerning the plan for the proposed development;
 - 2. The report of the pre-hearing conference;
 - 3. Additional reports or statements of public officials or agencies affected by the proposed land division;
 - 4. The testimony of all citizens who wish to comment upon the proposed land division;
 - 5. The staff report of the Planning Department and other City officials concerning the tentative plat.
- B. Application Procedure and Requirements. Prior to proceeding to application for final plat approval, the developer of a subdivision or major partition shall file an application for approval of a tentative plat. The application shall:
 - 1. Be made on forms available at the Community Development Department;

2. Include all the land which the applicant proposes to divide and any abutting properties under the same ownership;
 3. Be accompanied by a statement of the intended method of developing the proposed land division, indicating:
 - a. If the land will be developed in one or more stages or phases;
 - b. If the lots or parcels, in whole or in part, will be sold to additional contractors for the construction of structures or if the contracting will be undertaken in whole or in part by the applicant for tentative plat approval.
- C. Information Required on the Tentative Plat. The tentative plat shall be prepared by an Oregon licensed Surveyor or Engineer. All sheets shall be numbered in sequence and the following shall be shown on all documents:
1. General Information.
 - a. The proposed name of the land division;
 - b. The name and address of the owner or owners, land divider, engineer, and/or surveyor and land planner;
 - c. Appropriate identification clearly stating the map is a tentative plat;
 - d. The date, north arrow, and scale of the drawing.
 2. Vicinity Map. A vicinity map shall be provided and shall specify:
 - a. All existing subdivisions, partitions, streets and tract lines of acreage land parcels within 1500 feet of the proposed land division;
 - b. The manner in which streets and alleys in the proposed land division will connect with existing and proposed streets and alleys in neighboring land divisions or undeveloped property to produce the most advantageous development of the entire area.
 3. Detail Map. The Tentative plat shall be drawn at a scale of one inch equals 100 feet. The size of the plat shall be either 18 inches by 24 inches or 24 inches by 36 inches. The following information shall be shown on the detailed map:
 - a. The location of the proposed land division by section, township, range, and a legal description sufficient to define the location and boundaries of the property;
 - b. The area of the proposed land division;
 - c. The date of the last property survey;
 - d. The number of lots or parcels.
 4. Existing Conditions. The detailed map shall show the following existing conditions:
 - a. The location, widths, and names of all existing and platted or mapped streets or other public rights-of-way within or adjacent to the proposed land division, railroad rights-of-way and other features such as section lines and corners, political subdivision or corporate lines, monuments and easements;
 - b. The location in the adjoining streets or property of existing sewer and water mains, culverts and drain pipes, electrical conduits or lines proposed to be used or connected to the property to be subdivided. The invert elevations of sewers, culverts and drains shall be shown at points of proposed connection;
 - c. Contour lines having the following minimum intervals:
 - Two foot contour intervals for ground slopes less than ten percent;
 - Five foot contour intervals for ground slopes more than ten percent.
 The elevations of all control points which are used to determine the contours shall be indicated and must be to U. S. Geodetic Survey Datum, if within a one-mile radius of an existing monument. If datum is not within a one-mile radius, datum shall be that approved by the City Engineer.
 - d. The approximate location of area subject to inundation or storm water overflow with the approximate high water elevation. Surface water drainage patterns shall be shown for every lot, parcel and block;
 - e. Location, width, direction and flow of all water courses;
 - f. Natural features, such as rock outcroppings, marshes, wooded areas and existing trees;
 - g. Existing use or uses of the property and adjacent property, including the location of existing structures to remain on the property or immediately adjacent to the property after final approval;
 - h. The land use zoning on and adjacent to the tract;
 - i. The location of at least one temporary bench mark within the plat boundaries.
 5. Proposed Plat of Land Division. The following information shall be included on the tentative plat:
 - a. The location, width, names, approximate grades and radii of curves of proposed streets;
 - b. The locations, widths and purposes of all easements on the land proposed to be divided and on abutting property;

- c. The location, area, and approximate dimensions of proposed lots or parcels and the proposed lot or parcel and block numbers;
 - d. The proposed land use, including any lots or areas allocated for multi-family dwellings, shopping or commercial facilities, churches, industrial uses, parks, schools, playgrounds, public or semi-public use;
 - e. Applicants shall also submit a circulation plan which includes the subject site and all adjacent parcels. Proposed streets must be shown to the point of connection with the existing street system within six hundred (600) feet. The circulation plan shall demonstrate feasibility with development of adjacent properties, or may revise the off-site portion of prior approved plans. Circulation plans shall also be consistent with the Transportation System Plan Map, as amended.
Circulation plans shall be schematic in nature and include sufficient off-site and on-site conditions to evaluate it against the review criteria. It shall include:
 - Proposed project boundary;
 - Existing and proposed streets (from TSPM), transit routes and facilities, and other pedestrian/bicycle destinations within six hundred (600) feet of the project boundary;
 - Site access points for vehicles, pedestrians, bicycles, and transit; and
 - Contours showing changes in elevation.
 - Sensitive lands (wetlands, shorelines, geologic hazard, floodplain, etc.)
6. Explanatory Information. The following information shall be included with the tentative plat, but may be submitted in the form of statements in lieu of being drawn on the detailed map:
 - a. Proposed deed restrictions, if any, in outline form;
 - b. The location within the land division and in the adjoining street and properties of existing sewer and water mains, culverts, drain pipes and electrical lines as well as the provisions to be made for water supply, sewage disposal and drainage and flood control.
 7. Supplementary Proposals with Tentative Plat. Any of the following may be required by the Community Development Department to supplement the plat of land division:
 - a. Approximate center-line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction;
 - b. A plan for domestic water supply lines and related water service facilities;
 - c. Proposals for sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways;
 - d. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil;
 - e. Proposals for other improvements such as electric utilities, pedestrian walkways, bikeways, etc.

10.05.3 Study of Tentative Plat.

- A. The tentative plat, upon being submitted to the City Planner and distributed to appropriate departments and agencies for their review and comment, will be checked against the Comprehensive Plan and City Ordinances; and if conforming, may be processed pursuant to the standards for a Type II action contained in Article 13.
- B. If the proposed tentative plat is a residential subdivision containing ten or more lots, if it does not appear to comply with the Comprehensive Plan, or if it appears to comply only if conditions are imposed, the application shall be submitted to the Planning Commission under the standards for a Type III action contained in Article 13. The Planning Commission may require such dedications of land and easements and may specify such conditions and modifications to appear on the final plat as are deemed necessary to achieve compliance with the Comprehensive Plan and City Ordinance.

10.06 Following Tentative Plat Approval

- 10.06.1 **Approval Period.** The approval of a tentative plat shall be effective for a period of twenty-four (24) months, at the end of which time the applicant shall have submitted a complete application and the appropriate fee for final plat approval, although the plat need not yet be signed and filed with the Umatilla County Clerk. An extension of time may be granted by the Community Development Director, provided such extension shall not exceed two (2) years. If the subdivision is to be developed in phases, extensions not to exceed two (2) year increments may be granted, but in no case shall the total time period for filing final plat or map for all phases exceed six (6) years without resubmitting for a new tentative plat for approval. Any plat or map not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to submit a new tentative plat for approval subject to all existing zoning and land division regulations.

- 10.06.2 **Modification of a Tentative Plat.** Within the approval period of a tentative plat, the applicant may apply for modification of the tentative plat pursuant to all applicable standards.
- 10.06.3 **Resubmittal of Tentative Plat Following Disapproval.** At any time following denial of a tentative plat, the applicant may re-apply for approval of the land division. All procedures and stages normally required for initial application shall be followed, including the pre-application conference and payment of fees.
- 10.06.4 **Zoning Regulations.** Every tentative plat and final plat shall conform to the zoning and land division regulations applicable at the time of tentative plat approval; the tentative plat approval shall be exempt from any subsequent amendments to this ordinance rendering the plat nonconforming as to bulk or use, provided that final approval is obtained within the approval period.
- 10.06.5 **Grading of Site Prior to Final Approval.** After tentative plat approval, the developer may apply for a grading permit, and upon receipt of such permit, may commence construction to the grades and elevations specified by the approved tentative plat.
- 10.06.6 **Construction Documents.** Prior to submittal of materials for final plat approval, the developer shall submit Construction Documents detailing all public improvements for review and approval by the Public Works Director and City Engineer.
- 10.06.7 **Construction Plans.** Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no less than one inch equals fifty feet, and map sheets shall be of the same size as the tentative plan. The following shall be shown but not limited to:
- A. Profiles showing existing and proposed elevations along center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within one hundred (100) feet of the intersection shall be shown. Radii of all curves, lengths of tangents and central angles on all streets shall be indicated.
 - B. The Public Works Director may require, where steep slopes exist, that cross sections of all proposed streets at fifty-foot stations be shown at five points as follows: on a line at right angles to the center line of the street, and said elevation point shall be at the center line of the street, each property line, and said points fifteen feet inside each property line.
 - C. Plans and profiles showing the locations and typical cross section of street pavements including curbs and gutters, sidewalks, drainage easements, servitudes, rights-of-way, manholes and catch basins. Also to be shown are: the location of street trees, mailboxes and street signs, the location, size and invert elevations of existing and proposed sanitary sewers, waterlines, storm water drains and fire hydrants, showing connection to any existing or proposed utility systems:
 - D. Location, size, elevation, and other appropriate description of any existing facilities or natural features, including but not limited to: water bodies, streams and other pertinent features such as marshes, railroads, buildings, features noted by the Comprehensive Plan, and the point of connection to proposed facilities and utilities within the land division. The water elevations of adjoining bodies of water at the date of the survey and approximate high water and low water elevations of such bodies of water. All elevations shall be referred to the U.S.G.S. datum plane. If the land division borders a lake, river or stream, the distances and bearings of a meander line established not less than twenty feet back from the ordinary high water mark of such bodies of water. The boundaries of the 100 and 500 year flood zones shall also be indicated.
 - E. Topography at the same scale as the tentative plan with a contour interval of two feet referred to sea-level datum. All datum provided shall be latest applicable U.S.G.S. datum and shall be so noted on the plat.
 - F. All specifications and references required by the City's construction standards and specifications, including a site grading plan for the entire land division.
 - G. Title, name, address and signature of the professional engineer registered in Oregon, with date and revision dates.
- 10.06.8 **Monumentation.** The applicant shall place permanent reference monuments in the land division as required herein. These monuments shall be placed by a registered professional land surveyor licensed in Oregon and as approved by the City Surveyor.
- A. The initial point of a subdivision shall be marked with a concrete monument or galvanized iron pipe. If concrete is used it shall not be less than 6 inches by 6 inches by 24 inches and shall contain not less than five cubic inches of ferrous material permanently imbedded in the concrete. If galvanized iron pipe is used it shall not be less than one inch in inside diameter and two feet long. The monument shall be set or driven six inches below the surface of the ground. The location of the monument shall be with reference by survey to a

section corner, one-quarter corner, one-sixteenth corner, Donation Land Claim corner or to a monumented lot corner or boundary corner of a recorded subdivision or condominium. The City Surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.

- B. In subdivision plats, the intersections, points of curves and points of tangents, or the point of intersection of the curve if the point is within the pavement area of the road, of the centerlines of all public streets and roads and all points on the exterior boundary where the boundary line changes direction, shall be marked with monuments either of concrete, galvanized iron pipe, or iron or steel rods. If concrete is used it shall be as described in Subsection A of this Section. If galvanized pipe is used it shall not be less than three-quarter inch inside diameter and 30 inches long, and if iron or steel rods are used they shall not be less than five-eighths of an inch in least dimension and 30 inches long. The City Surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.
- C. All lot corners except lot corners of cemetery lots shall be marked with monuments of either galvanized iron pipe not less than one-half inch inside diameter or iron or steel rods not less than five-eighths inch in least dimension and not less than 24 inches long. The City Surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.
- D. Points shall be plainly and permanently marked upon monuments so that measurements may be taken to them to within one-tenth of a foot.
- E. Monuments shall be set with such accuracy that measurements may be taken between monuments within one-tenth of a foot or within 1/10,000 of the distance shown on the subdivision or partition plat, whichever is greater.
- F. All monuments on the exterior boundaries of a subdivision shall be placed and the monuments shall be referenced on the plat of the subdivision before the plat of the subdivision is offered for recording. However, interior monuments for the subdivision need not be set prior to the recording of the plat of the subdivision if the registered professional land surveyor performing the survey work certifies that the interior monuments will be set on or before a specified date and if the person subdividing the land furnishes to the City a bond, cash deposit or other security as required by the City guaranteeing the payment of the cost of setting the interior monuments for the subdivision.
- G. All monuments on the exterior boundary and all parcel corner monuments of partitions shall be placed before the partition is offered for recording. Any parcels created that are greater than 10 acres need not be surveyed or monumented.
- H. If the interior corners of a subdivision are to be monumented on or before a specified date after the recording of the plat of the subdivision, the person subdividing the land described in the subdivision plat shall furnish to the City Surveyor, prior to approval of the subdivision plat by the City Surveyor, a bond, cash deposit or other security, as required at the option of the City, in an amount equal to 120 percent of the estimated cost of performing the work for the interior monumentation.
- I. The City Surveyor may require that the setting of the interior corners of the subdivision be delayed, according to the provisions of this Section, if the installation of street and utility improvements has not been completed, or if other conditions or circumstances justify the delay.
- J. The persons subdividing the lands described in Subsection H of this Section shall pay the surveyor for performing the interior monumentation work and notify the City Surveyor of the payment. The City Surveyor, within one (1) month after the notice, shall release the bond or other required security, or return the cash deposit upon a finding that the payment has been made. Upon written request from the person subdividing the land, the City may pay the surveyor from moneys within a cash deposit held by it for that purpose and return the excess of the cash deposit, if any, to the person who made the deposit. If the subdivider has not paid the surveyor within thirty (30) days of final approval of the interior monumentation, the City may pay the surveyor from moneys held in a cash deposit, if any, or require payment to be made from other security.
- K. In the event of the death, disability or retirement from practice of the surveyor charged with the responsibility for setting interior monuments for a subdivision or upon the failure or refusal of the surveyor to set the monuments, the City Surveyor shall cause the monumentation to be completed and referenced for recording as provided in ORS. If any other surveyor completes the interior monumentation, the surveyor completing the interior monumentation shall place the surveyor's seal and signature on the original subdivision plat and any true and exact copies filed in accordance with ORS. Payment of the fees for completing said monumentation shall be made by the subdivider within thirty (30) days of the completion of such work. In the event that the subdivider fails to pay such fees within thirty (30) days, the bond, cash deposit or other security may be used to pay such fees; and when such cash or other securities are inadequate to cover the cost incurred by the City Surveyor, the balance due will constitute a lien on any lots in the subdivision that are still in ownership of the subdivider when recorded pursuant to ORS.

- L. Except as otherwise provided in this Section, all subdivision or partition plats designating the location of land in any county in the State of Oregon, offered for record, shall have attached thereon an affidavit of the surveyor having surveyed the land represented on the subdivision plat, to the effect that the surveyor has correctly surveyed and marked with proper monuments the lands as represented, and has placed a proper monument as provided in ORS indicating the initial point of the survey, and giving the dimensions and kind of monument, and its location in accordance with ORS and accurately describing the tract of land upon which the lots and blocks or parcels are laid out.
- M. If the person subdividing any land has complied with ORS the surveyor may prepare the plat of the subdivision for recording with only the exterior monuments referenced on the subdivision plat as submitted for recording. The subdivision plat shall include an affidavit of the surveyor that the interior corners for the subdivision will be monumented on or before a specified date in accordance with ORS noting those monuments to be set on or before said specified date on the subdivision plat as approved by the City.
- N. After the interior corners for a subdivision have been monumented as provided in an affidavit submitted under subsection (M) of this Section, the surveyor performing the work shall:
 - 1. Within five days after completion of the work, notify the person subdividing the land involved and the City Surveyor; and
 - 2. Upon approval of the work by the surveyor, submit an affidavit for recording stating that the subdivision plat has been correctly surveyed and marked with proper monuments at the interior corners of the subdivisions as noted on the original subdivision plat. Any monument that cannot be set shall be separately noted and a reference monument shall be set. The affidavit shall be approved by the City Surveyor before recording. The surveyor who prepared the affidavit shall cause the affidavit to be recorded in the office of the County Clerk where the subdivision plat is recorded. The County Clerk shall promptly provide a recorded copy of the affidavit to the County Surveyor. The County Surveyor shall note the monuments set and the recorder's information on the original subdivision and any true and exact copies filed in accordance with ORS.
- O. A City Surveyor approving the work under ORS shall reference approval on the affidavit required under this Section prior to approval by the County Surveyor.

10.06.9 **Public Improvements.** All public improvements shall be installed, inspected and approved prior to approval of the final plat. Alternatively, a performance bond shall be submitted for approval by the City Attorney and Public Works Director, to ensure the future installation of the required public improvements.

10.06.10 **As-Builts.** A drawing or diagram showing all public improvements "as built" shall be filed with the Community Development Department upon completion of said improvements.

10.06.11 **Model Homes.** The City may accept permits for a single model home in an approved land division prior to final plat approval under the following conditions:

- A. The home is sited in accordance with all setbacks and other standards applicable to an approved tentative plat.
- B. No Certificate of Occupancy will be issued until after the final plat is approved and recorded.

10.07 Review of Final Plat

10.07.1 **Purpose.** The process of final plat approval is to ensure, before the signing and recording of the documents, that all regulations of this Ordinance and conditions of tentative plat approval have been met.

10.07.2 **Application Procedure and Requirements.** The application shall:

- A. Be made on forms available at the Department of Planning and Building, and be submitted with the appropriate filing fee;
- B. Include the entire land division or replat, or section thereof, which derives access from an existing State, County or City street or highway;
- C. Be accompanied by a minimum of three copies of the plat, and one copy of the construction plans, if applicable, as described in this Ordinance;
- D. Comply in all respects with the approved tentative plat;
- E. Be accompanied by the performance agreement or bond, if required, in a form satisfactory to the City Attorney and in an amount established by the Public Works Director;
- F. Be accompanied by written assurance from the public utility companies that necessary utilities will be installed.

10.07.3 **Final Plat Information Required.** The final plat shall be prepared by an Oregon registered Professional Land Surveyor. In addition to that required for the tentative plat or otherwise specified by law, the following information shall be shown on the final plat:

- A. Primary control points, approved by the City Surveyor, or reference points of existing surveys identified, related to the plat or map by distances and bearings, and referenced to a field book or map as follows:
 - 1. Monuments or other evidence found on the ground and used to determine the boundaries of the subdivision (in accordance with ORS);
 - 2. Adjoining corners of adjoining land divisions;
 - 3. Other monuments found or established in making the survey of the land division or required to be installed by the provisions of this Ordinance;
- B. The exact location and width of streets and easements intercepting the boundary of the tract;
- C. The block and lot or parcel boundary lines and street right-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings. Normal high water lines for any creek or other body of water. In addition to showing bearings in degrees, minutes and seconds of a degree and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivision or partition plat either on the face of the map or in a separate table:
 - 1. Arc length;
 - 2. Chord length;
 - 3. Chord bearing;
 - 4. Radius; and
 - 5. Central angle.

The surveyor submitting any subdivision, condominium or partition plat that is within one (1) mile of an established geodetic control monument, that has been approved by the National Geodetic Survey or has been approved by and filed with the County Surveyor, shall by field survey according to Federal Geodetic Control Committee guidelines for third order class II, show the measured angles and distances from the geodetic control monument to the initial point of a subdivision or condominium or to a monumented boundary corner of a partition. If there is an azimuth mark for the geodetic control monument or if there is another geodetic control monument that is intervisible to the primary geodetic control monument, the bearings shall be based, if practicable, on the bearings between the geodetic control monument and the azimuth mark or the intervisible geodetic control monument. The City Surveyor may waive the requirement of a distance and bearing to a geodetic control monument if the subdivision or condominium, or partition thereof, has previously furnished the required information.

- D. The width of the portion of streets being dedicated and the width of existing rights-of-way. For streets on curvature, curve data shall be based on the street center line dimensions, the radius and central angle shall be indicated;
- E. Public and private easements clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division shall be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication. The purpose of all recorded and proposed easements shall be stated. Water line easements shall specifically exclude all structures. Sewer line easements shall specifically exclude all trees, bushes and structures.
- F. Lot or parcel numbers beginning with the number one (1) and numbered consecutively;
- G. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale;
- H. Lot or parcel area and building setback lines, if any, are to be made a part of the land division restrictions;
- I. The following certificates may be combined where appropriate:
 - 1. A certificate signed, notarized, and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the final subdivision plat;
 - 2. A certificate signed, notarized, and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot or parcel owners in the subdivision, their licensees, visitors, tenants and employees;
 - 3. A certificate with the seal of and signed by the surveyor responsible for the survey and final drawing of the plat, indicating compliance with ORS;
 - 4. Other certificates now or hereafter required by law;
- J. Supplemental Information With Final Plat. The following data shall accompany the final plat:
 - 1. A preliminary title report issued by a title insurance company in the name of the owner of the land to be subdivided, showing all parties whose consent is necessary and their interest in the premise;
 - 2. Sheets and drawings showing the following:

- a. Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners, and showing the error of closure, if any, which shall not exceed one foot in 10,000 feet;
 - b. The computation of distances, angles and courses shown on the plat;
 - c. Ties to existing monuments, proposed monuments, adjacent land divisions, street corners and state highway stationing;
3. A copy of the deed restrictions applicable to the subdivision or major partition;
 4. A copy of any dedication requiring separate documents;
 5. A list of all taxes and assessments on the tract which have become a lien on the tract;
 6. A certificate by the City Surveyor that the land divider has complied with the improvement requirements of this Ordinance.

10.07.4 **Study of Final Plat.**

- A. Final plat submittals for tentative plats approved through a Type II procedure may be approved by staff, with signatures from the Planner and City Engineer.
- B. Final plat submittals for tentative plats approved through a Type III procedure shall be presented to the Planning Commission at a regularly scheduled meeting, to determine if the plat conforms to the approved tentative plat, any conditions of approval, and this Ordinance. The Planning Commission shall, after consideration of the application, approve, approve with conditions, or disapprove the application, setting forth in detail the conditions of approval or reasons for disapproval. Tentative plats approved by the Planning Commission shall be signed by the Planning Commission Chair and the City Engineer. One copy of the final subdivision plat or major partition plat shall be returned to the developer with the date of approval, conditional approval, or disapproval noted thereon.
- C. The plat and other documents shall be reviewed by the City staff, who shall examine them to determine that the land division as shown on the final plat is substantially the same as it appeared on the approved tentative plat and that there has been compliance with the provisions of this Ordinance, and conditions of approval, and other applicable laws.
- D. City staff and other agencies may make checks in the field as are desirable to verify that the plat is correct on the ground, and the property may be entered for that purpose.
- E. If the City determines the full conformity has not been made, it shall advise the developer of the changes or additions that must be made and shall afford the developer an opportunity to make the changes or additions within a reasonable time.
- F. After the final decision of the Planning Commission, the developer shall submit to the City Surveyor for final review one (1) reproducible Mylar copy and one (1) paper copy of the plat. All plats subdividing or partitioning any land and dedications of streets or roads or public parks and squares and other writings made a part of such subdivision or partition plats offered for record shall be made in permanent black India type ink or silver halide permanent photocopy, upon material that is 18 inches by 24 inches in size. Such material shall be 5 mil, matte one side. The subdivision or partition plat shall be of such a scale as required by the City Surveyor. The lettering of the approvals, the dedication, the affidavit of the surveyor and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one (1") inch. The subdivision or partition plat may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for subdivision or partition plats placed upon three (3) or more sheets.
- G. No final approval shall be endorsed on the plat by the City Surveyor or Planning Commission Chairman until a review has indicated that all requirements of the final approval have been met.
- H. At the time of filing such plat in the county plat records, the person offering it for filing shall also file with the City Surveyor, County Surveyor and County Clerk an exact Mylar copy thereof.

10.07.5 **Resubmittal of Final Plat.** Following disapproval of a final plat, the applicant may re-apply for approval of the land division. At the discretion of the Planning Commission all procedures and steps for an initial application may be required, including application for tentative plat approval. The pre-application conference for a subdivision or major partition, or certain stages not deemed necessary by the Commission may be waived.

10.08 **Planned Unit Developments (PUD)**

10.08.1 **Description and Purpose.** The Planned Unit Development Subdistrict (PUD) is intended to encourage the appropriate development of tracts of land that are large enough to allow comprehensive site planning, and to provide flexibility in the application of zoning regulations, thereby promoting a harmonious variety of uses, the economy of shared service and facilities, compatibility with surrounding areas, and the creation of an attractive, healthful, efficient and stable environment for living, shopping and working.

The City of Pendleton understands that a developer may wish to propose a project that offers options or amenities generally not contemplated under a “standard” subdivision or other development within a given zone. Should a developer propose to submit a development project including public or private amenities, conservation areas, varied lot sizes and density, neighborhood commercial, or other features, they may be considered provided the density targets under the applicable zone are achieved. In an effort to encourage creative development proposals, the standard application procedure for a subdivision shall be followed except it shall be processed as a Type IV application with final approval by the City Council rather than a Type III.

10.08.2 **Development Standards.**

- A. The principle use of land in a Planned Unit Development Subdistrict (PUD) shall reflect the type of use indicated on the zoning map for the area. Accessory uses within the development may include uses permitted outright in any zone, except the EFU, Aviation Activities (A-A) and Heavy Industrial (M-2) zones. The following Density Bonuses may be permitted in association with an approved PUD:
 - R-1 – 7.5%
 - R-2 – 5%
 - R-3 – 2.5%
- B. Size of Parcel. A Planned Unit Development Subdistrict (PUD) shall not be permitted on a parcel less than twenty (20) acres in area.
- C. Ownership:
 - 1. The tract or tracts of land included in a proposed Planned Unit Development Subdistrict (PUD) must be in one ownership or control, or the subject of a joint application by the owners of all the property included. For the purpose of this Section the holder of a valid written real estate contract shall be deemed the owner of such land;
 - 2. Unless otherwise provided as a condition for approval of a Planned Unit Development Subdistrict (PUD) permit, the developer may divide and transfer units of any development for which a permit is required. The transferee shall use and maintain each such unit in strict conformance with the approved permit and development plan;
- D. Professional Design. The applicant for all proposed Planned Unit Development Subdistrict (PUD) pursuant to the requirements of this Section, shall certify that the talents of at least one of the following professionals shall be utilized in the planning process for development:
 - 1. An architect licensed by the state of Oregon, or a landscape architect licensed by the state of Oregon;
 - 2. A registered engineer or land surveyor licensed by the state of Oregon;
 - 3. One of the professional consultants chosen by the applicant from either (1) or (2) shall be designated as coordinator to be responsible for conferring with the City Manager with respect to the concept and details of the plan. The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the City Manager;
- E. Performance bonds shall be required to ensure that a Planned Unit Development (PUD) proposal is completed as submitted within the time limit agreed upon by the developer and the Planning Commission.

10.08.3 **PUD Permit Criteria.** A Planned Unit Development Subdistrict (PUD) may be granted by the Planning Commission only if it is found that the development conforms to all of the following criteria:

- A. There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements;
- B. Resulting development will not be inconsistent with the general plan provisions for zoning objectives of the area.
- C. The area around the development can be planned to be in substantial harmony with the proposed plan.
- D. Any proposed commercial or industrial development can be justified economically.
- E. Public streets must be to City standard and adequate to support anticipated traffic, so that the development will not overload streets outside of the planned area.
- F. Proposed utility and drainage facilities shall be to City standard and adequate to serve the population densities and type of development proposed.

10.08.4 **Mapping and Building Permits.** Whenever a Planned Unit Development Subdistrict (PUD) had been granted, and so long as the permit is in effect, the boundary of the Planned Unit Development shall be indicated on the Zoning Map of the City of Pendleton with the letters PUD in addition to the abbreviated designation of the pre-established zoning. Building permits in a Planned Unit Development Subdistrict (PUD) shall be issued only on the basis of the approved plan.

10.08.5 **Revocation.** In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with an approved development schedule, the Planning Commission may, after notice

and hearing, revoke a Planned Unit Development Subdistrict (PUD) permit. The determination of the Planning Commission shall become final thirty (30) days after the date of decision unless appealed to the City Council.

10.09 Condominiums

- 10.09.1 A request to create a condominium plat for existing development shall be reviewed under the Type II Procedure.
- 10.09.2 A request to create a condominium plat for new development shall be reviewed under the Type III Procedure.
- 10.09.3 The applicant shall submit all necessary site, utility, circulation, parking and other plans, documents and plat copies following the applicable requirements of this Article for a Subdivision and applicable sections of ORS [94.550 to 94.785](#), ORS Chapter [100](#), and the platting requirements of ORS Chapter [92](#).

10.10 Dedication of Public Right-of-Way

- 10.10.1 Any person desiring to create a public street within the City of Pendleton shall submit a written request to the City Manager along with:
- A. A legal description and dedication deed for the subject property;
 - B. A Map of the proposed street and vicinity;
 - C. The appropriate application fee.
- 
- 10.10.2 Said request shall be forwarded to the City Planning Commission, which will review the proposal for compliance with the Comprehensive Plan and City Ordinances and policies. The Planning Commission shall make a recommendation to the City Council regarding the acceptability of the proposal, which may include certain conditions of approval necessary for compliance with the Comprehensive Plan.
- 10.10.3 Streets to be created by deed shall be improved to the City Standard determined by the City Council on recommendation of the Planning Commission, or have legal assurance of such improvement. Such assurances shall be made to the City in the form of bonds, irrevocable consents for local improvement district participation (in the case of collector or arterial streets, and then only for the pavement and base rock portions in excess of a standard 36-foot street) or other methods approved by the City Council.
- 10.10.4 When the Planning Commission recommendation is received, the City Council shall schedule a quasi-judicial public hearing for review of the request. When approval has been given the applicant will submit a drawing of a survey prepared by an Oregon licensed Land Surveyor indicating that it has been recorded with the County Surveyor's Office.

10.11 Vacation of a Street or Plat

- 10.11.1 Vacation of all or part of any street, avenue, boulevard, alley, plat, public square or other public place in the State of Oregon is subject to the standards contained in ORS [Chapter 271](#).
- 10.11.2 **Vacation by Petition.**
- A. Petition. Whenever any person interested in any real property desires to vacate all or part of any street, avenue, boulevard, alley, plat public square or other public place, such person may file a petition therefore setting forth a legal description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.
 - B. Consent. There shall be appended to such petition, as a part thereof and as a basis for granting the same, the written, notarized consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing and duly acknowledged before an officer authorized to take acknowledgment of deeds.

- C. Filing of Petition; Notice. The petition shall be presented to the City Recorder. If found to be sufficient, the City Recorder shall file it and inform at least one of the petitioners when the petition will be considered by the City Council. A failure to give such information shall not be in any respect a lack of jurisdiction for the City Council to proceed on the petition.
- D. Action by Council. The City Council, if it finds that such vacation is not in the public interest or would interfere with the existing or future street pattern/ vehicular circulation, may deny the request (petition), but if there appears to be no reason why the petition should not be allowed in whole or in part, the Council shall, by resolution, fix a time for a formal hearing upon the petition, and refer the matter to the City Planning Commission for review and recommendation to the Council regarding the compliance or non-compliance of the proposed vacation with the adopted Comprehensive Plan and implementation ordinances. If the vacation of a street, avenue, boulevard or alley is to be considered at a public hearing, said resolution and resultant hearing notice shall also contain language that; if vacated, the property will be zoned in accordance with the Comprehensive Plan, and indicate the proposed use zone. Vacation of areas previously zoned shall not invalidate the zoning.
- E. Notice of Hearing. The City Recorder shall give notice of the petition and hearing by publishing a notice in a City newspaper once each week for two consecutive weeks. The notices shall describe the ground covered by petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the City Recorder prior to the time of the hearing, will be heard and considered.
- F. Within five (5) days after the first day of publication of the notice, the City Recorder shall cause to be posted at or near each end of the proposed vacation a copy of the notice which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation," or "Notice of Street and Plat Vacation," as the case may be; the notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall not be less than 14 days before the hearing.
- G. The City Recorder shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The City Recorder shall hold the sum so obtained until the actual cost is determined, when the amount of the cost shall be paid into the City treasury and the surplus, if any, refunded to the depositor.

10.11.3 **Hearing; determination.** At the time fixed by the City Council for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the City Council shall hear the petitions and objections and shall determine whether (1) the consent of the owners of the requisite area has been obtained; (2) whether notice has been duly given; (3) whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof; and (4) whether the Planning Commission has reviewed said request and provided a written recommendation thereof. If such matters are determined to be in favor of the petition, the City Council shall by Ordinance make such determination a matter of record and vacate such plat or street; otherwise, it shall deny the petition. The City Council may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

10.11.4 **Recording.** The Vacation document shall be submitted to the County Clerk for recording. A copy of the recorded document shall be provided to the County Surveyor.

10.12 Boundary Line Adjustments

10.12.1 Boundary Line Adjustments may only be used to adjust lot or parcel lines within a recorded land division, and may not result in the creation of a new lot.

10.12.2 Boundary Line Adjustments shall be processed according to the standards for a land division.

10.12.3 The tentative plat, upon being submitted to the City Planner and distributed to appropriate departments and agencies for their review and comment, will be checked against the Comprehensive Plan and City Ordinances; and if conforming, may be processed pursuant to the standards for a Type II action contained in Article 13.

10.12.4 If the proposed tentative plat does not appear to comply with the Comprehensive Plan, or if it appears to comply only if conditions are imposed, the application shall be submitted to the Planning Commission under the standards for a Type III action contained in Article 13.

10.13 Expedited Land Divisions

- 10.13.1 An Expedited Land Division (“ELD”) shall be defined and may be used as provided under ORS [197.360 through 197.380](#).
- 10.13.2 Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;
- 10.13.3 Review procedure. All applications for Expedited Land Divisions shall comply with ORS 197.360 through 197.380 and the Comprehensive Plan; ORS 197.360 through ORS 197.380 details the criteria, application and notice requirements, and action and appeal procedures for expedited land divisions.
- 10.13.4 Appeal procedure. An appeal of an ELD shall follow the procedures in ORS 197.375.

ARTICLE XI. ZONING AND RELATED DECISIONS

11.01 Development Review

- 11.01.1 **Pre-application Conferences.** The City encourages all persons considering any development that requires a land use action to schedule a pre-application conference. The purpose of a pre-application conference is to bring the applicant together with members of City staff to discuss a potential project and identify applicable development requirements, including possible opportunities and constraints.
- A. Participants. Staff at a pre-application conference will vary depending on the proposal. Typically meetings will include the Planner, Community Development Director, Building Inspector and Fire Marshall. Other parties may be included as appropriate.
 - B. Information provided. At such conference, the City Planning Official or designee shall:
 - 1. Cite the comprehensive plan policies and map designations applicable to the proposal;
 - 2. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
 - 3. Provide available technical data and assistance that will aid the applicant;
 - 4. Identify other governmental policies and regulations that relate to the application; and
 - 5. Reasonably identify other opportunities or constraints concerning the application.
 - C. Disclaimer. Failure of any member of City staff to provide information shall not constitute a waiver of any of the standards, criteria or requirements for the application;
 - D. Changes in the law. Due to possible changes in federal, state and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.
 - E. Waiver. Applicants are not required to attend a Pre-application conference. Failure to attend a pre-application conference may result in application delays if additional information is required from the applicant to deem an application complete.
- 11.01.2 **Neighborhood Meetings.** There is no legal requirement to conduct neighborhood-developer meetings. However, applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application to the City in order to solicit input and exchange information about the proposed development. The City can provide the same list used for mailed notices to the applicant if he/she wishes to provide additional notification and/or schedule a community meeting.
- 11.01.3 **Implementing Action.** The following development shall fall within the scope of this Ordinance and shall be required to comply with the requirements identified herein:
- A. New residential, commercial, public/institutional or industrial development.
 - B. Expansion of single-family or duplex residential development valued in excess of thirty (30%) percent of the most recent assessed value of the improvements on the property.
 - C. Reconstruction of a single-family or duplex residential casualty loss valued in excess of one hundred thirty (130%) percent of the most recent assessed value of the structure.
 - D. Expansion of multiple family, commercial, public/institutional or industrial development valued in excess of fifteen (15%) percent of the most recent assessed value of the improvements on the property.
 - E. Reconstruction of multiple family, commercial, public/institutional or industrial casualty loss in excess of one hundred fifteen (115%) percent of the most recent assessed value of the structure.
 - F. Change in use (occupancy class) of a building as defined by the Building Code.
 - G. Development values within this Section shall be determined by the City Manager based on the Building Valuation Data published and updated periodically by the State of Oregon Building Codes Agency for use in determining building permit valuations and the records of the Umatilla County Assessor's Office.
- 11.01.4 **Development Permit Required.** The following requirements shall pertain to all development within the jurisdiction of the City of Pendleton:
- A. The developer shall complete a Development Permit application and a site plan. The site plan shall be drawn to scale and show all existing and proposed structures and their exterior dimensions; all streets, alleys and other public rights-of-way; existing and proposed utility lines and/or easements; building setbacks; location of utilities and proposed connection routes; off-street parking; curb cut and sidewalk locations and dimensions, flood hazard area (if applicable) and drainage plan.
Applicants shall also submit a circulation plan which includes the subject site and all adjacent parcels. Proposed streets must be shown to the point of connection with the existing street system within six hundred (600) feet. The circulation plan shall demonstrate feasibility with development of adjacent properties, or may revise the off-site portion of prior approved plans.

Circulation plans shall also be consistent with the Transportation System Plan Map, as amended. A circulation plan shall be submitted with the application.

Circulation plans shall be schematic in nature and include sufficient off-site and on-site conditions to evaluate it against the review criteria. It shall include:

1. Proposed project boundary;
2. Existing and proposed streets (from TSPM), transit routes and facilities, and other pedestrian/bicycle destinations within six hundred (600) feet of the project boundary;
3. Site access points for vehicles, pedestrians, bicycles, and transit; and
4. Contours showing changes in elevation.
5. Sensitive lands (wetlands, shorelines, geologic hazard, floodplain, etc.)

B. Transportation Impact Study

1. A transportation impact study shall be required for all development applications in which the proposed development is projected to have an impact upon any affected transportation corridor or intersection of local significance, unless the development application is exempt from the provisions of this Section or the requirement for a study has been waived by the Public Works Director.
2. A transportation impact study shall include, at a minimum, an analysis of the following elements:
 - a. Trip generation, modal split, distribution, and assignment for the proposed development; and
 - b. An analysis of the projected impact of the proposed development upon the current operating level of any affected transportation corridor or intersection of regional significance.
3. A transportation impact study shall be prepared by and/or under the supervision of a registered professional traffic engineer in the state of Oregon.
4. A transportation impact study shall be based on traffic counts obtained within twenty (12) months of the date of the development application. The traffic counts shall reflect representative traffic conditions within transportation corridors and at intersections of significance. The Public Works Director may request new counts be taken or estimated when recent development renders counts from within the previous 12 month period to no longer be accurate.
5. A transportation impact study shall analyze impacts on affected transportation corridors or intersections of significance between the subject development and the state highway system. The City staff will provide the list of these intersections for different areas of the City, based on analysis from the State Transportation Planning and Analysis Unit (TPAU). Intersections of significance shall include all those with an arterial or collector level roadway as defined in the TSP.
6. The Director reserves the right to require an applicant to provide additional data and/or analysis as part of a particular transportation impact study, where the Public Works director determines that additional information or analysis is required to implement the standards and requirements contained in this Section.
7. No traffic impact study shall be required, pursuant to the provisions of this Section, where the proposed development includes fewer than 50 single family residential units, 83 multifamily units, or 50,000 square feet of non-residential space.
8. Upon the written request of an applicant, the Public Works Director may waive the requirement for a transportation impact study, or limit the scope of analysis and required elements of a traffic impact study where the Public Works Director determines that the potential transportation impacts upon the affected transportation corridor are minimal.
9. The Traffic Impact Study will be used to determine impacts, and propose mitigation. The City will negotiate with the applicant to determine the most appropriate mitigation. The mitigation shall then be provided by the applicant or an equivalent payment must be made so that the City can initiate the required transportation system improvement project. These improvements must be proportionate and directly related to the impacts of the proposed development.
10. Traffic Impact Studies shall be prepared by a professional engineer in accordance with the requirements of the road authority. If the road authority is the Oregon Department of Transportation ([ODOT](#)), consult ODOT's regional development review planner and [OAR 734-051-180](#).

C. The developer shall provide proof of review and approval by all affected state and/or county agencies, such as the State Department of Transportation or County Public Works Department.

D. Where the development site abuts existing curb and gutter, sidewalks in conformance with City standards shall be constructed in conjunction with the development. If sidewalks exist on none of the abutting properties, the developer may be required to irrevocably consent to participate in an improvement district to install the sidewalk in the future. This requirement may be waived by the City Manager if sidewalks are impractical due to topography.

E. If City standard public facilities do not exist at the time of development, the developer shall be required to irrevocably consent to participate in a future improvement district to construct and dedicate all public facilities, such as water, sewer, storm drainage, pavement, curb, gutter, sidewalk and street right-of-way

adjacent to the development in conformance with City standards and provide easement or deeds to the City for all such public facilities. However, where it is determined by the City Manager that delaying the design and construction of any or all such facilities is not appropriate and logical, or causes an adverse impact on surrounding properties, the City may require the developer to construct and dedicate all such improvements as a condition of development. The City Manager may waive certain improvement requirements based on topography or other locational factors that make provision of the improvement(s) impractical.

- F. When it has been determined that the extension of public facilities is required, costs related to such extension shall be borne by the developer as they relate to the development. In addition, any extension of such facilities shall be continued and extended in a logical fashion through the development site so as to be readily available for adjacent development. This subsection shall not prevent the City from choosing to participate in engineering design and public facility construction or oversizing costs. Where a public or private road has been constructed, created or stubbed in such a manner as to be able to be extended or widened in accordance with adopted plans, prior approved development or this Section, then:
1. Connection with Adjacent Areas. All residences, buildings or structures shall be constructed in such a position on the property that they will not interfere with the extension or widening of the roadway to adjacent areas and shall be so situated that such extension will make orderly and planned development for additional road installations to meet the reasonable minimum requirements of good and safe traffic circulation, consistent with applicable zoning setbacks.
 2. Right-of-Way for Street Extensions. Right-of-way or private easements necessary to such extension or widening and falling within parcels being developed shall be granted or created as a condition of development approval.
 3. Provisions for Future Extensions. Any street for which an extension in the future is planned shall be extended to the edge of the property being developed through the plat, short plat or site plan approval process, unless otherwise approved by the Public Works Director. The street stub shall include sidewalks, bike lanes, planting strips etc., in accordance with the Transportation System Plan. The stub shall include a full street section unless the Public Works Director finds that only a half street or 2/3rd street width is necessary.
 4. Use of Temporary Turnaround. If a road serving more than eighteen (18) dwelling units or more than one hundred fifty (150) feet in length temporarily terminates at a property boundary, a temporary turnaround cul-de-sac bulb consistent with this standard shall be constructed near the plat boundary. The bulb shall be paved and shall be ninety (90) feet in diameter, which may include the width of the roadway with sidewalks, where required, terminating at the point where the bulb radius begins. Removal of the temporary turnaround and extension of the sidewalk shall be the responsibility of the developer who extends the road.
 5. The easement for a temporary turnaround may be extinguished without City approval after the temporary turnaround is determined to be no longer necessary by the City.
 6. Barricades. A barricade shall be placed at the end of all stub streets, whether or not a temporary turnaround is constructed. Barricades must be constructed in accordance with city code, and will include a permanent sign in conformance with the Manual on Uniform Traffic Control Devices with the following or a similar message approved by the Public Works Director: Dead End, This road will be extended in the future.
- G. Where such improvement(s) installed by a developer benefit other properties, a settlement shall be arrived at between the City and the developer prior to installing the improvements. This agreement shall identify the benefiting properties, actual costs to be charged and method of repayment to the developer. Where prior agreement exists for improvements benefiting the subject property, the developer shall make arrangements with the City for the payment of such improvements prior to issuance of any City permit.
- H. Where Required. Bike lanes shall be included in the reconstruction or new construction of any arterial or collector street if bike lanes are indicated in the Transportation System Plan Map or as required by the Public Works Director.
1. Signage and Markings. Bike lanes shall include signage and pavement markings in conformance with the Manual on Uniform Traffic Control Devices.
 2. Vertical Clearance. Bike facilities shall have an unobstructed vertical clearance of not less than eight (8) feet.
 3. Reference Standards. Standards for bikeways consist of (but are not limited to) the following:
 - a. Portland Bureau of Transportation [Bikeway Facility Design](#) guide
 - b. National Association of City Transportation Officials (NACTO) [Urban Bikeway Design Guide](#)
 - c. Manual on Uniform Traffic Control Devices ([MUTCD](#))
 - d. USDOT, and [Federal Highway Administration](#)
- I. No building shall be erected on a lot which fronts upon a street having only a portion of its required width dedicated (as set forth in the Transportation System Plan), unless the yards provided and maintained in

connection with such building have a width and/or depth needed to complete the street right-of-way width plus the width and/or depth of the yards required on the lot by this Ordinance.

- 11.01.5 **Procedure.** Development Review applications shall be processed according to the standards for a Type I application contained in Article 13.
- 11.01.6 **Approval Period.** Development Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:
- A. A public improvement plan or building permit application for the project has not been submitted within one year of approval; or
 - B. Construction on the site is in violation of the approved plan.
- 11.01.7 **Extension.** The Director shall, upon written request by the applicant, grant a written extension of the approval period not to exceed one year; provided that:
- A. No changes are made on the original approved site design review plan;
 - B. The applicant can show intent of initiating construction on the site within the one-year extension period;
 - C. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and
 - D. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

11.02 Home Occupations in Residential Zones



- 11.02.1 **Purpose.** It is the purpose of this Section to:
- A. Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal/family income;
 - B. Protect residential areas from potential adverse impacts of commercial activities;
 - C. Establish criteria and development standards for the use of residentially zoned property for home occupations.
 - D. Ensure that any occupation conducted within a home is secondary to the primary residential use.
- 11.02.2 **Classification.**
- A. A business conducted within a dwelling unit shall be classified as a Home Occupation if it:
 1. Employs persons other than residents of the home; or
 2. Anticipates more than 2 clients or customers per day will visit the home; or
 3. Includes a sign announcing the business.
 - B. Activities not constituting a Home occupation.
 1. Businesses conducted in dwelling units that generate less neighborhood impact than Home Occupations shall be considered a dwelling unit for zoning purposes, provided that such activity complies with the criteria of 11.5.3.
 2. Instruction of five or fewer persons at one time if the activity generates less neighborhood impact than a Home Occupation that would otherwise require a permit.
- 11.02.3 **General Requirements and Criteria.** All Home Occupations require a permit, and must comply with the following additional criteria and standards:
- A. Home Occupations shall not occupy more than twenty-five (25%) percent of the total floor area of all structures on the lot, or five hundred (500) square feet, whichever is less.
 - B. Employment of more than two (2) persons who are not bona fide residents of the premises is prohibited.
 - C. The site shall not be used as a headquarters for the assembly of employees for instructions or other purposes or for the dispatch of employees for work at the other locations.
 - D. Clients, employees or customers may visit the site only between the hours of 7:00 a.m. and 8:00 p.m. (including deliveries).
 - E. There shall be no change in the Building Code occupancy classification of the dwelling unit or any portion of the dwelling unit or accessory structure(s).
 - F. Any activity which may produce waste products of a quality or quantity not normally associated with residential use shall not qualify as a home occupation.
 - G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family

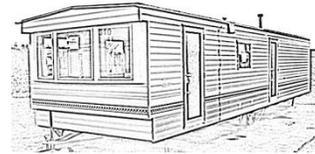
residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any electrical equipment, radio or television receivers off the premises or causes fluctuations in the line voltages off the premises. On-site repair or assembly of vehicles or equipment with internal combustion engines (such as autos, chain saws, boat engines) or of large equipment (such as home appliances) is prohibited.

- H. Home occupation signs shall be flush-mounted on the main residential structure, be unlit, and shall not exceed two (2) square feet in area. Such signs shall be made of nonflashing, nonreflective materials. Colors shall be consistent with residential character.
- I. Exterior structural alterations or additions or the use of accessory buildings for home occupations shall be designed and built as to maintain or preserve the residential character of the premises. In no event shall such structural alterations or additions exceed the development standards permitted for structures in the zoning district in which the premises are located.
- J. No materials or commodities shall be delivered to or from the property which are of bulk or quantity to require delivery by a commercial vehicle containing more than two (2) axles or a trailer.
- K. Parking of customer, employee, or client vehicles shall create no hazard or unusual congestion.
- L. Off-street parking spaces shall not be reduced in size or number, below the minimum required in the district, nor used for any purpose other than parking. Parking of vehicles having three (3) axles or more or pieces of heavy equipment such as construction equipment on the premises or in the public right-of-way in the conduct of the home occupation is prohibited.
- M. Storage of merchandise, materials, or equipment shall be entirely within the residential structure or in an accessory building, and shall not be visible from the exterior of the premises
- N. Storage or use of explosive, flammable, radioactive, toxic or other hazardous materials that are not normally found in the home or beyond amounts normally associated with a residence is prohibited. Specific limitations and requirements for the storage of hazardous materials in a residence are regulated by the Uniform Fire Code.
- O. Home occupations shall comply with all other local, state, or federal regulations pertinent to the activity pursued, and the requirements or permission granted or implied by this Section shall not be construed as an exemption from such regulations. Such regulations include building and fire codes enacted to protect the applicant and surrounding property owners from hazardous conditions. State or local officials may inspect home occupations to ensure fire and life safety codes are met.
- P. Applicants should be aware of any deed restrictions or covenants in effect on a property. It shall be the sole responsibility of the applicant to research said deed restrictions or covenants and determine if they prohibit or regulate home occupations.

11.02.4 **Procedure.** There shall be two types of Home Occupation applications:

- A. Type I, ministerial applications shall be approved if an applicant can provide proof that all standards contained in this Section are met or can be met through specific non-discretionary conditions of approval.
- B. Type III, discretionary Home Occupation permits shall require Conditional Use approval for any proposal that cannot show compliance with all standards contained in 11.5.3. In addition to the application requirements for a Conditional Use Permit, the applicant shall provide:
 - 1. A written description of the proposed home occupation;
 - 2. A site plan, not necessarily to scale, of the lot proposed for the home occupation, including:
 - a. The property lines and their dimensions;
 - b. Outlines of all buildings proposed for home occupation use with dimensions for each wall, and the distances from each wall to the nearest property line;
 - c. Boundaries and dimensions of driveways and parking areas, indicating areas for use by home occupation employees and customers;
 - d. Outlines of the foundations of abutting residences, and the distances from the shared property line to the nearest wall of each neighboring residence; and
 - e. The buildings and areas of those buildings in which home occupation activities will take place, and identifying which activities will take place in which buildings and areas.
 - 3. Specific details describing which standards contained within this Section can and cannot be met, and why.
 - 4. Specific details showing how the proposed use will not be materially detrimental to the stated purposes of this Code and to other properties in the general vicinity of the subject property;
 - 5. Identification of impacts to surrounding properties and how they will be mitigated;
 - 6. Proof that existing physical and natural systems such as, but not limited to drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance with this Section.

11.03 Caretaker Dwellings in Commercial and Industrial Zones



11.03.1 Purpose.

- A. To provide for dwellings in commercial and industrial zones under limited circumstances and subject to appropriate criteria.
- B. To ensure that there is no shift from the accepted limited accommodation concept of caretaker's dwellings, to the establishment of a significant residential community.
- C. To ensure that residential uses do not impose constraints on the lawful use of land for commercial and industrial purposes nor compromise the integrity of commercial and industrial areas.
- D. To acknowledge that such accommodation may be appropriate for commercial and industrial landowners from a security point of view, while equally recognizing that the physical environment in industrial areas is potentially unsafe and unattractive for residents.
- E. To ensure that any caretaker dwelling is secondary to the primary commercial or industrial use.

11.03.2 Criteria for Approval. Caretaker dwellings may be permitted only upon findings of fact that demonstrate compliance with all of the following criteria:

- A. The primary use for which the dwelling is requested is permitted within the zone.
- B. The primary use for which the dwelling is requested is in active operation.
- C. The dwelling shall be located on the same lot or parcel as the primary use.
- D. Only one caretaker dwelling may be permitted as accessory to a primary use or uses on one lot or parcel.
- E. The existence of multiple business entities on one lot or parcel shall not be justification for additional caretaker dwellings.
- F. The applicant must demonstrate that the dwelling is necessary for the security or operation of the primary use.
- G. The dwelling shall be occupied only by individuals (and immediate family) employed at the site in the capacity of a caretaker or watchman.
- H. The dwelling shall not exceed 1,200 square feet in total enclosed area.
- I. Manufactured housing is encouraged; site built housing on a permanent foundation is discouraged.
- J. The dwelling shall be designed so that it may be removed from the property or converted to a permitted use if the primary use is abandoned for more than 365 days.
- K. Caretaker dwellings shall be clearly incidental to the primary commercial or industrial use. If the relationship between the dwelling and the associated use is within what could be approved as a home occupation, the request for a caretaker dwelling shall be denied.

11.03.3 Process. Caretaker Dwelling applications shall be processed as a Type III Conditional Use application.

11.04 Variances

11.04.1 Purpose. This Code cannot provide standards to fit every potential development situation. Variances are modifications to land use or development standards that are not otherwise permitted elsewhere in this Code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with applicable standards and requirements. The variance procedures are intended to provide flexibility while ensuring that the intent of this Code is met.

11.04.2 The Planning Commission may authorize variances from the requirements of this Ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of the Ordinance would cause an undue or unnecessary hardship.

11.04.3 Allowances. Unless specifically stated otherwise, a person or party may apply for a variance from any standard contained herein.

11.04.4 Findings of fact. In order to grant any Variance, the Planning Commission must find, based upon evidence provided by the applicant, both factual and supportive, that:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this Ordinance, topography, or other circumstances over which the applicant has no control.
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possessed.
- C. The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the zone or 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 hardship.

11.04.5 **Conditions of Approval.** In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood or to otherwise achieve the purposes of this Ordinance.

11.04.6 **Limitations.** No variance shall allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

11.04.7 **Procedure.** Variance applications shall be processed according to the standards for a Type III application contained in Article 13.

11.04.8 **Appeal.** Appeal of a Variance shall be processed according to the standards for appeal of a Type III decision contained in Article 13.

11.05 Minor Variances

11.05.1 Certain Minor Variances which are less likely to result in a change to neighborhood character may be approved by the Planning Director without a public hearing.

11.05.2 **Allowances.** Only those specific deviations identified herein shall be eligible for approval of a Minor Variance.

A. Deviation from lot coverage requirements of 5% or less.

B. Deviation from lot size or building height requirements of 10% or less.

C. Deviation from minimum setbacks:

1. Front Yard: No reduction.

2. Side Yard Abutting a Street: minimum 8 feet.

3. Side and Rear Yards: minimum 3 feet.

D. Deviation, not to exceed 50%, of Length of Driveway Approach Apron

E. Front Yard Fence and Wall Waivers. Waiver of the front and side yard (3.5') fence provisions may be sought by any person who proves he can provide equal aesthetic qualities by other means. The Director shall consider such application on the basis of aesthetic value of the substitute plan. The substitute plan must:

1. Provide adequate vision clearance for automobiles, both those passing on the street and those leaving the development site;

2. Include landscaping;

3. Not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.

11.05.3 **Approval criteria.** A Type II Variance shall be granted only if the request falls within established allowances.

11.05.4 **Procedure.** Minor Variance applications shall be processed according to the standards for a Type II application contained in Article 13.

11.05.5 **Appeal.** Appeal of a Minor Variance shall be processed according to the standards for appeal of a Type II decision contained in Article 13.

11.06 Conditional Use Permits

11.06.1 **Purpose.** In all zones, conditional uses may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this ordinance and their effect on surrounding properties.

The Planning Commission shall have the authority to approve, approve with conditions, disapprove or revoke conditional use permits subject to the provisions of this Section. Changes in use, expansion or contraction of site area, or alteration of structure or uses classified as conditional and existing prior to the effective date of this ordinance shall conform to all regulations pertaining to conditional uses.

11.06.2 **Allowances.** Those uses specifically identified as Conditional Uses in this Code may be considered for approval. This Code cannot anticipate every potential development proposal; uses that are similar in nature and impact to those that may be considered under the Conditional Use procedure, pursuant to a formal interpretation by the Planning Commission, may be processed and considered for approval under these standards.

- 11.06.3 **Findings of fact.** In order to grant any conditional use, the Planning Commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:
- A. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this ordinance.
 - B. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.
 - C. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other ordinance standards, or other reasonable conditions of approval.
 - D. In areas designated as requiring preservation of historic, scenic or cultural resources and attributes, proposed structures will be of a design complimentary to the surrounding area.
- 11.06.4 **Conditions of approval.** In permitting a conditional use, the Planning Commission may impose, in addition to regulations and standards expressly specified in this ordinance, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the City as a whole. These conditions may include, but not be limited to, the following:
- A. Increasing required lot size, yard dimensions, open spaces or buffer areas.
 - B. Requiring fences, walls or landscape screening and/or buffering where necessary to reduce noise, glare and maintain the property in a character in keeping with the surrounding area.
 - C. Requiring landscaping and maintenance thereof.
 - D. Increasing street widths, controlling the location and number of vehicular access points to the property for ingress/egress.
 - E. Requiring means of pedestrian/bicycle access pathways to serve the property.
 - F. Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking areas.
 - G. Limiting size, location and number of signs.
 - H. Limiting the location, coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property.
 - I. Limiting or prohibiting openings in sides of buildings or structures.
 - J. Enclosure of storage areas and limitation of outside display and/or storage of merchandise.
 - K. Requiring maintenance of grounds.
 - L. Regulation of noise, vibration, odors, etc.
 - M. Regulation of time for certain activities.
 - N. Establishing a time period within which the proposed use shall be developed.
 - O. The requirement of a bond for removal of such use within a specified period of time.
 - P. Increase the size, type or capacity of any or all utility services, facilities or appurtenances.
 - Q. Requirements under which any future enlargement or alteration of the use shall be reviewed by the Planning Commission and new conditions imposed.
 - R. The Planning Commission may require that an applicant furnish the City a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers or other necessary and essential public improvements to City standards; or an irrevocable consent to participate in an LID for those improvements has been executed.
 - S. And such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purposes set forth in this Section.
- 11.06.5 **Limitations.** A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application, and both applications may be reviewed at the same hearing.
- 11.06.6 **Procedure.** Conditional Use applications shall be processed according to the standards for a Type III application contained in Article 13.
- 11.06.7 **Appeal.** Appeal of a Conditional Use shall be processed according to the standards for appeal of a Type III decision contained in Article 13.
- 11.06.8 **Alterations.** The Commission may establish standards under which any future enlargement or alteration of the use shall (or shall not) require a new or modified Conditional Use application.
- 11.06.9 **Revocation.** Upon a determination that there are sufficient grounds, the Planning Commission may at any time initiate a review of the operation of any Conditional Use. A review shall be initiated if the Planning Director

receives three documented and unresolved complaints within six months that a conditional use has not complied with the applicable conditions of approval or the applicable standards of this Section. If a review is initiated, the Commission shall hold a public hearing to determine whether the use is in compliance with applicable standards and conditions. Review of an existing Conditional Use shall be processed as a Type III procedure consistent with the standards for a new Conditional Use. At the conclusion of the hearing, the Planning Commission shall adopt findings of compliance or non-compliance for the conditional use. Upon adoption of findings of non-compliance, the property owner(s) shall submit a compliance schedule documenting that compliance will be achieved within forty-five (45) days or a shorter period of time if the Commission determines there is a cause for emergency action. Receipt of further documented and unresolved complaints will result in revocation of the conditional use permit.

11.07 Pre-Existing, Non-Conforming Uses and Developments

11.07.1 Non-Conforming Uses are existing uses or development that do not comply with the Code. The standards for non-conforming uses and development are intended to provide some relief from code requirements for uses and developments that were established prior to the effective date of this Code and do not comply with current standards.

Except as is hereinafter provided in this Ordinance, the lawful use of a building or structure or of any land or premises lawfully existing at the time of the effective date of this Ordinance or at the time of a change in the official zoning maps may be continued although such use does not conform with the provisions of this Ordinance. No unlawful use of property existing at the time of passage of this Ordinance shall be deemed a non-conforming use.

11.07.2 **Continuation of Nonconforming Uses.** Where at the time of adoption of this Code a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. Expansion Prohibited. No such nonconforming use may be enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land;
- B. Location. No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Code;
- C. Discontinuation or Abandonment. The nonconforming use of land is not discontinued for any reason for a period of more than 12 months. For purposes of calculating the 12-month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
 1. On the date when the use of land is physically vacated;
 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
 3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
 4. On the date a request for final reading of water and power meters is made to the applicable utility districts.
- D. Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

11.07.3 **Non-conforming Development.** Where a development exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, access, parking, landscaping, its location on the lot or other requirements concerning the development; and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. Alterations. No such nonconforming development may be enlarged or altered in a way that increases its nonconformity, but any development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its nonconformity;
- B. Destruction. Should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than 50 percent of its current value as assessed by the Umatilla County Assessor, it shall be reconstructed only in conformity with this Code;
- C. Roadway Access. The owner of a non-conforming access connection (i.e., street or highway access) may be required to bring the non-conforming access into conformance with this Code and other applicable

standards as a condition of the City or other roadway authority approving a new access connection permit, or a change in land use.

- D. Relocation or Removal. Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of this Code.

11.07.4 **Nonconforming Lots of Record.**

- A. In any zoning district in which single family dwellings are permitted, a single family dwelling and accessory buildings may be erected on any single lot of record in existence on the date of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.
- B. This provision shall apply even though such lot fails to meet the requirements for area that are applicable in the zoning district, provided that yard dimensions and requirements other than those applying to area of the lot shall conform to the regulations for the zoning district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Planning Commission.
- C. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on the date of this Ordinance, and if all or part of the lots do not meet the requirements established for lot areas, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot size requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with a size below the requirements stated in this Ordinance.

11.07.5 **Alterations or Repairs of a Non-Conforming Use.**

- A. Alterations or repairs of a non-conforming use may be permitted to continue the use in a reasonable manner subject to the provisions of this Ordinance. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use.
- B. Any proposal for the alteration or repair of a non-conforming use may be permitted to reasonably continue, restore or replace the use.
- C. As used in this Section, "alteration" of a non-conforming use includes, as determined by the City Manager:
 - 1. A change in the use of no greater adverse impact to the neighborhood; and
 - 2. A change in the structure or physical improvements of no greater adverse impact to the neighborhood.
- D. A non-conforming use may be altered only insofar as it applies to the zone in which it is located. Once altered to conforming use, no building or land shall be permitted to revert to a non-conforming use.

11.07.6 **Restoration of a Non-Conforming Building, Structure or Lot.**

- A. A non-conforming building or structure which is damaged by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, may be restored, and the occupancy or use of such building or structure or part thereof, which existed at the time of such partial destruction, may be resumed, provided that the restoration is commenced within a period of one (1) year and is diligently prosecuted to completion.
- B. The restoration or reconstruction of a non-conforming building or structure may not create a greater non-conformance than existed at the time of damage or destruction.
- C. Nothing in this Ordinance shall be construed to prevent the reconstruction or replacement of a pre-existing building or structure conforming as to use on a non-conforming lot, so long as such lot did not become non-conforming in violation of the provisions of this Ordinance.

11.07.7 **Creation of a Non-Conformance through a Land Use Action Prohibited**

- A. No action shall be approved that would result in the creation or increase of a non-conformance with this or any other City of Pendleton ordinance and all applicable Oregon State Specialty Codes, unless expressly permitted by same.
- B. For any proposed land division, boundary line adjustment or replat, the City shall require as a condition of approval that any violation or non-conformance be remedied prior to submittal of a final plat.
- C. Non-conformances created as a result of right-of-way dedication or condemnation are exempt from this prohibition.

11.08 **Temporary Uses**

- 11.08.1 **Temporary Uses.** The City Planning Commission shall, upon petition, notice and hearing, recommend to the City Council the granting or denying of a temporary permit to use certain specified property for a purpose not authorized in the zone in which such property is located, subject to such limitations and conditions as are necessary to protect the best interests of the surrounding property or the City as a whole. Such temporary permit

may be granted by motion, shall be revocable at the will of the City Council, and subject to such other limitations and conditions as the City Council may impose.

- 11.08.2 **Permit Criteria.** The City Planning Commission and City Council shall grant a temporary use permit ONLY upon review of ALL the following criteria:
- A. The impact of the use is minimized with the provision of landscaped buffers and/or fencing abutting residence, adequate off-street parking plan, and safe public access and vehicular movement.
 - B. The request is not for more than one (1) year.
 - C. It must be unanimously approved by the Planning Commission, or City Council (on appeal) in the event that sixty-six and two-thirds (66.66) percent or more of the property owners within one hundred (100) feet of the property in question object in writing, before the closing of the public hearing, to the granting of the Temporary Use Permit.
- 11.08.3 **Procedure.** Temporary Use applications shall follow the procedure for a Type III application contained in Article 13.

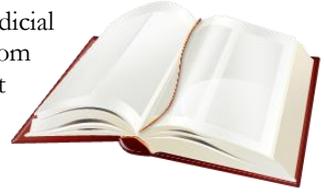
11.09 Interpretations of this Ordinance

- 11.09.1 The City of Pendleton reserves the right to interpret this ordinance. Some terms or phrases within the Code may be open for interpretation or not foreseen. This Section provides a process for resolving differences in the interpretation of the Code text.
- 11.09.2 **Procedure.**
- A. A request for a code interpretation shall be made in writing to the Planning Director.
 - B. The Planning Director shall have the authority to interpret the code, or refer the request to the Planning Commission for its interpretation. The Planning Director shall advise the person making the inquiry in writing within 14 days after the request is made, on whether or not the City will make an interpretation.
 - C. If the City decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy. The written interpretation shall be issued within 14 days of the request. The decision shall become effective 14 days later, unless an appeal is filed in accordance subsection D below.
 - D. Appeals. The applicant and any party who received notice or who participated in the proceedings through the submission of written or verbal evidence may appeal the decision to the Planning Commission pursuant to the standards for appeal of a Type II decision. The appeal must be filed within 14 days after the interpretation was postmarked to the applicant.

ARTICLE XII. AMENDMENTS TO THIS ORDINANCE

12.01 Purpose

This Article provides standards and procedures for legislative and quasi-judicial amendments to this Code and the Zoning map. Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.



12.02 Authorization to Initiate Amendments

An amendment to the text of this Ordinance or to a zoning map may be initiated by the City Council, the Planning Commission or by application of the property owner for an amendment by filing an application with the City Manager using forms prescribed pursuant to this Ordinance.

12.03 Compliance with Comprehensive Plan

An amendment to the text of this Ordinance or the Zoning map shall comply with the provisions of the City of Pendleton Comprehensive Plan text and map. Any deviation shall be preceded by an amendment to the Comprehensive Plan Text or map.

12.04 Transportation Planning Rule Compliance

When a development application includes a proposed Comprehensive Plan amendment or land use district change, the proposal shall be reviewed to determine whether it is consistent with the City of Pendleton Transportation System Plan (TSP) and if it significantly affects a transportation facility, in accordance with Oregon Administrative Rule ([OAR](#)) 660-012-0060 (the Transportation Planning Rule).

12.05 Procedure

Text and/or map amendment applications shall follow the procedure for a Type IV application contained in Article 13.

12.06 Record of Amendments

The City Recorder shall maintain records of amendments to the text and map(s) of this Ordinance in a form convenient for use by the public.

12.07 Compliance with Statute and Rule

Certain Sections of this ordinance are pre-empted by Oregon Revised Statutes ([ORS](#)) and Oregon Administrative Rules ([OAR](#)). If an amendment to either is adopted at the State level, the City shall observe those standards even if not formally incorporated into this ordinance through the procedure for an amendment.

ARTICLE XIII. LAND USE APPLICATION PROCEDURE

13.01 Application Submittal and Completeness Review

The City of Pendleton provides a consolidated procedure by which an applicant may apply at one time for all land use permits needed for a development project.

13.01.1 Application Forms and Checklists

- A. The Director shall supply land use application forms pursuant to the standards contained in the applicable state law, comprehensive plan, and implementing ordinance provisions. All applications provided for in this Ordinance shall be made on the application forms prescribed by the City.
- B. The Director shall supply checklists or information sheets for applications, which shall detail the specific information which must be contained in the application, including format and number of copies. Such checklists may be incorporated into the application forms.

13.01.2 Who May Apply

- A. An application for a Special Permit may be filed by:
 1. The owner or the contract purchaser of the subject property, or any person authorized in writing to act as agent of the owner or contract purchaser.
 2. The City Council, Planning Commission, City Manager, or the City Manager's designee, as to property owned by the City, including public right of way and easements, or which the City intends to acquire.
 3. Public agencies that own the property or have passed a resolution declaring that they intend to exercise their statutory authority to condemn the property.
- B. A Text Amendment application may be filed by an interested person, City Council, Mayor, or Director.
- C. A Zoning Map Amendment application subject to a Type III-procedure may be filed by the owner or the contract purchaser of the subject property, City Council, Mayor, or Director.
- D. A Zoning Map Amendment application subject to a Type IV procedure may be filed only by the City Council, Mayor, City Manager, or the City Manager's designee.

13.01.3 Classification of Applications

- A. All applications shall be subject to the procedure type specified in this Code. If the Code does not specify a procedure type for a given application and another procedure is not required by law, the Director shall determine the appropriate procedure based on the following guidelines. Where two or more procedure types could be applied to a particular application, the selected procedure will be the type providing the broadest notice and opportunity to participate.
 1. A Type I (Ministerial) application is subject to non-discretionary criteria or criteria that require the exercise of professional judgment only about technical issues.
 2. A Type II (Ministerial) application is subject to criteria that require the exercise of limited discretion about non-technical issues and about which there may be limited public interest.
 3. A Type III (Quasi-Judicial) application is subject to criteria that require the exercise of substantial discretion and about which there may be broad public interest, although the application applies to a limited number of land owners and properties.
 4. A Type IV (Legislative) procedure typically involves the adoption, implementation or amendment of policy or law by ordinance. The subject of a Type IV procedure generally applies to a relatively large geographic area containing many property owners.
 5. When an applicant submits more than one complete application for a given proposal, where each application addresses a separate set of code requirements and the applications are subject to different procedure types, all of the applications are subject to the procedure type of the application which requires the broadest notice and opportunity to participate. For example, a Type II application will be consolidated with a Type III application for the same proposal on the same site, in which case, the Type II application will be reviewed by the decision making authority of the Type III application. The decision making authority's action on the Type II application will be based on the approval criteria governing the Type II application.
- B. In the event that the completed applications involve applications where the decision making authority is a combination of the Director and the Planning Commission, the decision making authority will be the Planning Commission.
- C. Notwithstanding any other provision and at no cost to the applicant, the Director may choose to combine multiple applications for the same development as a way to increase the efficiency of development review.
- D. For applications within the Historic District, the Director shall determine the appropriate decision-making authority between the Façade Committee, the Landmarks Commission and the Planning Commission. Such determination will be based upon the characteristics of the proposal and the associated application, if any.

- E. Notwithstanding the Director's determination of procedure type, an applicant may choose to have a Type II application submitted directly to the Planning Commission provided the applicant pays the appropriate fee for the selected procedure type and the Director determines that statutory timelines for reaching a final decision can be satisfied.
- F. Notwithstanding any other provision, and at no additional cost to the applicant, the Director may choose to process a Type II application under the Type III procedure in order to provide greater notice and opportunity to participate than would otherwise be required, or in order to comply with the time requirements for reviewing development applications pursuant to ORS 227.178.

13.01.4 **Application Submittal**

- A. Applications for development permits shall be submitted upon forms supplied by the Director. Partial submittal of applications will not be accepted. All of the following items must be submitted to initiate the completeness review:
 - 1. Applications for Type I and Type II actions which do not require a public hearing shall be processed administratively in the order they are received. One copy of the application and all attachments shall be submitted.
 - 2. All applications for Type III quasi-judicial actions shall be submitted to the Planning Department no less than 28 days before the next scheduled meeting of the Planning Commission. Ten complete sets of the application and all attachments shall be submitted.
 - 3. Any proposal for a Type IV Legislative action to amend the City of Pendleton Comprehensive Plan or any City of Pendleton land use regulation or to adopt a new land use regulation shall be submitted a minimum of 50 days prior to the first evidentiary hearing, consistent with the standards contained in ORS 197.760. Twenty complete sets of the application and all attachments shall be submitted.
 - 4. In no instance shall an application be scheduled for a public hearing if local or State notice requirements cannot be met. Applications submitted after applicable deadlines shall be scheduled for the next available hearing date upon determination of completeness.
- B. All applications shall provide the following minimum information, unless specifically waived by the Planning Director:
 - 1. Application form, including required notarized signature(s) that demonstrate consent of all owners of the affected property;
 - 2. Deed, title report or other proof of ownership;
 - 3. Completed checklist provided for each type of application, including all required materials;
 - 4. A narrative summarizing the project, including (but not limited to) such information as: the nature of the structure(s) and/or activities proposed (Residential, Commercial, Industrial, Institutional, Mixed Use, etc.) number of dwellings/employees/ students/participants, hours of operation, and any other information to assist staff and the public in understanding the proposal. If negative impacts are anticipated, please identify them and provide a proposal for mitigation.
 - 5. Plans and specifications, drawn to scale, showing the following:
 - a. The actual shape and dimensions of the lot or site to be built upon. Site drawings should be provided at a scale of 1" = 20' or 1" = 40' unless a large site dictates a more appropriate scale, which shall in all cases be consistent with a U.S. Standard Engineer scale.
 - b. The sizes and locations of all structures on the site (existing and proposed), including all setbacks.
 - c. Elevations of any proposed buildings, if part of or relevant to the application.
 - d. The number of dwelling units, if any, that exist on the site or are proposed for construction.
 - e. The relationship of the property to the surrounding area.
 - f. Documentation of the public improvements abutting the site (streets, curb/gutter, sidewalks, etc.).
 - g. Elevation Certificate and/or topographic map prepared by a registered land surveyor to show compliance with floodplain standards, if applicable.
 - h. Any other information deemed necessary by the Planning Director to determine conformance with this Ordinance or compatibility with the general neighborhood or zone.
 - 6. Special reports or plans required to demonstrate that the specific proposal and its site constraints comply with applicable codes. These are noted on the application checklist.
 - 7. Application narrative to address each applicable approval criteria and standards.
 - 8. Any mitigation proposed to address actual or potential negative impacts.
 - 9. A Trip Generation study or Traffic Impact Analysis, if deemed necessary pursuant to this Ordinance and/or the City of Pendleton Transportation System Plan.
 - 10. Electronic copies of all submittal materials, if possible.
 - 11. Payment for the appropriate land use application fee(s) and deposit(s), based on the fee schedule in effect on the date of application submittal.

13.01.5 **Completeness Review**

- A. The Director shall review the application submittal and advise the applicant in writing whether the application is complete or incomplete within thirty (30) calendar days after the city receives the application submittal.
- B. Incompleteness shall be based solely on failure to pay required fees, failure of the applicant's narrative to address the relevant criteria or development standards, or failure to supply the required information listed in the checklist and shall not be based on differences of opinion as to quality or accuracy. Determination that an application is complete indicates only that the application contains the information necessary for a qualitative review of compliance with the Development Code standards.
- C. Submittal and/or acceptance of the required fees shall not constitute acceptance of a complete application.
- D. Failure to provide necessary or relevant information may result in delay or denial of an application.
- E. If the application was complete when first submitted or the applicant submits additional information within 180 days of the date the application was first submitted, and a decision has not been issued, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.
- F. If an application is incomplete, the Director shall prepare a notice of incompleteness. The notice shall list what information is missing and allow the applicant to submit the missing information. The completeness notice shall include a form, to be returned to the Director by the applicant, indicating whether or not the applicant intends to amend or supplement the application.
- G. The application will be deemed complete for purposes of this Section upon receipt by the city of:
 - 1. All of the missing information;
 - 2. Some of the missing information and written notice from the applicant that no other information will be provided; or
 - 3. Written notice from the applicant that no additional information will be provided.
- H. The application will be deemed void if the application has been on file with the city for more than 180 calendar days and the applicant has not met the obligations of subsection G. above.
- I. The City shall take final action on an application for a permit, limited land use decision or zone change consistent with the standards contained in ORS 227.178, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete. The 120 calendar day time limit may be extended pursuant to subsection J. below or as may otherwise be permitted under State law.
- J. The 120 calendar day time line may be extended at the written request of the applicant. The total of all extensions may not exceed 245 calendar days, for a total of 365 days from the date the application is deemed complete.

13.01.6 **Withdrawal of an Application**

- A. An applicant may withdraw an application at any time before the application is deemed complete.
 - 1. An applicant may withdraw an application previously deemed complete at any time prior to adoption of a final City decision if the Director determines that:
 - 2. The owners or contract purchasers or the interest holders in the property consent in writing to withdraw the application.
- B. No violation of this Code has been identified on the subject property and processing of the application would not correct the identified violation.
- C. The City Manager, or his designee may withdraw any City-initiated application at any time.
- D. If an application is withdrawn after public notice has been mailed, the Director shall send written notice stating the application has been withdrawn to all persons to whom notice of the application or hearing has been sent. This provision shall not apply to legislative applications that require Citywide mailed notice.
- E. Once an application has been withdrawn, the application fees shall be refunded by the following formula:
- F. Application withdrawn prior to being deemed complete: 85%.
- G. Application withdrawn prior to publication or distribution of public notice: 50%.
- H. Application withdrawn after publication or distribution of public notice: no refund.
- I. There shall be no refund of fees for appeal of a Type III/Planning Commission decision; appeal fees may be refunded if the appellant prevails in an appeal of a Type II decision pursuant to ORS 227.175.

13.02 **Type I Procedure (Ministerial)**

13.02.1 **Application Requirements.**

- A. Type I applications shall be made on forms provided by the Community Development Department.
- B. Type I applications shall:
 - 1. Include the information requested on the application form;
 - 2. Address the criteria in sufficient detail for review and action; and

3. Be filed with the required fee.

13.02.2 **Administrative Decision Requirements.** The City Planning Official or designee's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Planning Official shall approve or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

13.02.3 **Final Decision.** A Type I decision is the final decision of the City and cannot be appealed.

13.02.4 **Effective Date.** A Type I decision is final on the date it is made.

13.03 Type II Procedure (Administrative)

13.03.1 **Pre-application Conference.** A pre-application conference is not required for Type II applications but is highly recommended.

13.03.2 Application Requirements.

A. Type II applications shall be made on forms provided by the Community Development Department.

B. Type II applications shall:

1. Include the information requested on the application form;
2. Be filed with the required fee.

13.03.3 Notice of Application.

A. Before making a Type II Administrative Decision, the City Planning Official or designee shall mail notice to:

1. All City-recognized neighborhood groups or associations whose boundaries include the site;
2. Any person or party who submits a written request to receive a notice; and
3. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

B. Notice of a pending Type II Administrative Decision shall:

1. Provide a 14-day period for submitting written comments before a decision is made on the permit;
2. List the relevant approval criteria by name and number of code sections;
3. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
4. Include the name and telephone number of a contact person regarding the Administrative Decision;
5. Describe proposal and identify the specific permits or approvals requested;
6. Describe the street address or other easily understandable reference to the location of the site;
7. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
8. State that all evidence relied upon by the City Planning Official or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
9. State that after the comment period closes, the City Planning Official or designee shall issue a Type II Administrative Decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

13.03.4 **Administrative Decision Requirements.** The City Planning Official or designee shall make a Type II written decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the City Planning Official or designee shall approve, approve with conditions, or deny the requested permit or action. Alternatively, the City Planning Official, and/or the applicant, may refer the application to the Planning Commission for review in a public hearing, in which case the review shall follow the Type III procedures in this Article.

13.03.5 Notice of Decision.

A. Within five days after the City Planning Official or designee signs the decision, a Notice of Decision shall be sent by mail to:

1. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
 2. All owners of record of real property within a minimum of 100 feet of the subject site;
 3. Any person who submits a written request to receive notice, or provides comments during the review period;
 4. Any City-recognized neighborhood group or association whose boundaries include the site; and
 5. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
- B. The Type II Notice of Decision shall contain:
1. A description of the applicant's proposal and the specific permits or approvals requested;
 2. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
 3. The relevant approval criteria by name and number of code sections;
 4. A statement that all evidence relied upon by the City Planning Official or designee to make this decision is in the public record and available for public review, and that copies can be obtained at a reasonable cost from the City;
 5. A statement of where the City's decision can be obtained;
 6. The date the decision shall become final, unless appealed;
 7. A statement that all persons entitled to notice may appeal the decision; and
 8. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 9. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.
 10. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 11. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Pendleton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
 12. Include the name and telephone number of a contact person regarding the Administrative Decision;
 13. State that after the comment period closes, the City Planning Official or designee shall issue a Type II Administrative Decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
- C. The City Planning Official or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

13.03.6 **Final Decision and Effective Date.** A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

13.03.7 **Appeal.** A Type II administrative decision may be appealed to the Planning Commission as follows:

- A. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:
1. The applicant or owner of the subject property;
 2. Any person who was entitled to written notice of the Type II administrative decision;
 3. Any other person who participated in the proceeding by submitting written comments.
- B. Appeal filing procedure.
1. Notice of appeal. Any person with standing to appeal, as provided in subsection A, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;
 2. Time for filing. A Notice of Appeal shall be filed with the City Planning Official or designee within 14 days of the date the Notice of Decision was mailed;
 3. Content of notice of appeal. The Notice of Appeal shall contain:
 - a. An identification of the decision being appealed, including the date of the decision;
 - b. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - c. A statement explaining the specific issues being raised on appeal;
 - d. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
 - e. Filing fee.
- C. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be a hearing de novo before the Planning Commission. The appeal shall not be limited to the application

materials, evidence and other documentation, and specific issues raised in the Type II administrative review. The Planning Commission may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.

- D. Appeal procedures. Type III notice, hearing procedures and decision process shall be used for all Type II Administrative Appeals.
- E. Further Appeal to City Council. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission hearing. The decision of the City Council on an appeal is final and effective on the date it is mailed by the City. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 – 197.860.

13.04 Type III Procedure (Quasi-Judicial)

13.04.1 **Pre-application Conference.** A pre-application conference is not required for Type III applications but is highly recommended.

13.04.2 **Neighborhood Meetings.** There is no legal requirement to conduct neighbor-developer meetings. However, applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application to the City in order to solicit input and exchange information about the proposed development. The City can provide the same list used for mailed notices to the applicant if he/she wishes to provide additional notification and/or schedule a community meeting.

13.04.3 Application Requirements.

- A. Application forms. Type III applications shall be made on forms provided by the Community Development Department; if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.
- B. Submittal Information. When a Type III application is required, it shall:
 - 1. Include the information requested on the application form;
 - 2. Be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
 - 3. Be accompanied by the required fee.

13.04.4 Notice of Hearing.

- A. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Planning Official or designee in the following manner:
 - 1. At least 20 days before the hearing date, notice shall be mailed to:
 - a. The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
 - b. All property owners of record within 100 feet of the site;
 - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
 - d. Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;
 - e. Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
 - f. Any person who submits a written request to receive notice;
 - g. For appeals, the appellant and all persons who provided testimony in the original decision; and
 - h. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - 2. The City Planning Official or designee shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.
 - 3. Notice of the hearing shall be printed in a newspaper of general circulation in the City at least 7 business days before the hearing. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

- B. Content of Notice. Notice of appeal of a Type II Administrative decision or notice of a Type III hearing to be mailed and published per Subsection 1 above shall contain the following information:
- C. The nature of the application and the proposed land use or uses that could be authorized for the property;
- D. The applicable criteria and standards from the development code(s) that apply to the application;
- E. The street address or other easily understood geographical reference to the subject property;
- F. The date, time, and location of the public hearing;
- G. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
- H. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
- I. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Pendleton City Hall at no cost and that copies shall be provided at a reasonable cost;
- J. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- K. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- L. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Pendleton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

13.04.5 **Conduct of the Public Hearing.**

- A. At the commencement of the hearing, the hearings body shall state to those in attendance:
 - 1. The applicable approval criteria and standards that apply to the application or appeal;
 - 2. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
 - 3. An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised in person or by letter not later than the close of the record or following the final evidentiary hearing on the proposal before the local government. Failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue;
 - 4. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a continuance), or by leaving the record open for additional written evidence or testimony per subsection B.
- B. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
- C. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record.
 - 1. When the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
 - 2. An extension of the hearing or record granted pursuant to this Section is subject to the limitations of ORS 227.178 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant;
 - 3. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence;
 - 4. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;

5. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;
 6. The review authority shall retain custody of the record until the City issues a final decision.
- D. Participants in the appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
1. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
 2. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
 3. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
 4. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
 5. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this Section.
- E. Ex parte communications.
1. Members of the hearings body shall not:
 - a. Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per subsection D above;
 - b. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
 2. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
 - a. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
 - b. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
 - c. A communication between City staff and the hearings body is not considered an ex parte contact.
- F. Presenting and receiving evidence.
1. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
 2. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in subsection C;
 3. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

13.04.6 **Recess of Hearing.** The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed action. Upon recessing for this purpose, the Commission shall announce the time and date when the hearing will be resumed.

13.04.7 **The Decision Process.**

1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection B, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City Planning Official or designee within ten business days after the close of the deliberation;
5. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within ten business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.
6. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within 21 days of the City Council's written decision or, in the case of Type I decision, within 21 days of the administrative decision date.

13.04.8 **Appeal.** A Type III decision may be appealed to the City Council as follows:

- A. Who may appeal. The following people have legal standing to appeal a Type III Decision:
 1. The applicant or owner of the subject property;
 2. Any person who participated in the proceeding by submitting written comments to the Planning Commission.
 3. Any person who participated in the proceeding by providing oral testimony to the Planning Commission at the hearing(s).
 4. The City Council, acting upon the recommended action of the City Manager or upon its own motion, may order a de novo review of any lower level decision. This review shall be conducted in accordance with appeal procedures specified herein.
- B. Appeal filing procedure.
 1. Notice of appeal. Any person with standing to appeal, as provided in subsection A, above, may appeal a Type III Decision by filing a Notice of Appeal according to the following procedures;
 2. Time for filing. A Notice of Appeal shall be filed with the City Planning Official or designee within 14 days of the date the Notice of Decision was mailed;
 3. Content of notice of appeal. The Notice of Appeal shall contain:
 - a. An identification of the decision being appealed, including the date of the decision;
 - b. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - c. A statement explaining the specific issues being raised on appeal;
 - d. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
 - e. Filing fee.
- C. Scope of appeal. The appeal of a Type III Decision by a person with standing shall be a hearing de novo before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the Planning Commission review. The City Council may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.
- D. Appeal procedures. Type III notice, hearing procedures and decision process shall also be used for all Type III Appeals;
- E. Further Appeal. The decision of the City Council on an appeal is final and effective on the date it is mailed by the City. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 – 197.860.

13.05 Type IV Procedure (Legislative)

13.05.1 **Pre-Application Conference.** A pre-application conference is required for all Type IV applications initiated by a party other than the City of Pendleton.

13.05.2 **Neighborhood Meetings.** There is no legal requirement to conduct neighbor-developer meetings. However, applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application to the City in order to solicit input and exchange information about a proposed amendment. The City can provide the same list used for mailed notices to the applicant if he/she wishes to provide additional notification and/or schedule a community meeting.

13.05.3 **Application Requirements.**

A. Application forms. Type IV applications shall be made on forms provided by the Community Development Department.

B. Submittal Information. The application shall contain:

1. The information requested on the application form;
2. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
3. The required fee; and
4. A letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

13.05.4 **Notice of Hearing.**

A. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.

B. Notification requirements. Notice of public hearings for the request shall be given by the City Planning Official or designee in the following manner:

1. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing;
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
 - e. Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.
 - f. If a "Measure 56 notice" is required for a privately initiated legislative action, the applicant shall be responsible for all costs relating to preparing and mailing all required notices.
2. At least 7 days before the scheduled Planning Commission public hearing date, and 14 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.
3. The City Planning Official or designee shall:
 - a. For each mailing of notice, file an affidavit of mailing in the record; and
 - b. For each published notice, file in the record the affidavit of publication.
4. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments consistent with the requirements of ORS 197.610, OAR 660-018-0020 and OAR 660-025-0080.

C. Content of notices. The mailed and published notices shall include the following information:

1. The number and title of the file containing the application, and the address and telephone number of the City Planning Official or designee's office where additional information about the application can be obtained;
2. The proposed site location;
3. A description of the proposed site and the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;

4. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall; and
 5. Each mailed notice shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The Pendleton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
- D. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
1. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 2. Published notice is deemed given on the date it is published.

13.05.5 Hearing Process and Procedure.

- A. Unless otherwise provided in the rules of procedure adopted by the Planning Commission or City Council:
- B. The presiding officer of the Commission/Council shall have the authority to:
- C. Regulate the course, sequence, and decorum of the hearing;
- D. Direct procedural requirements or similar matters; and
- E. Impose reasonable time limits for oral presentations.
- F. No person shall address the Commission or the Council without:
- G. Receiving recognition from the presiding officer; and
- H. Stating their full name and address.
- I. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
- J. Unless otherwise provided in the rules of procedures adopted by the Commission/Council, the presiding officer shall conduct the hearing as follows:
- K. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
- L. The City Planning Official or designee's report and other applicable staff reports shall be presented;
- M. The public shall be invited to testify;
- N. The public hearing may be continued to allow additional testimony or it may be closed; and
- O. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.
- P. At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:
- Q. Lists the applicable substantive criteria;
- R. Testimony and evidence must be directed toward the criteria described in paragraph (1) of this subsection or other criteria in the plan or land use regulations which the person believes to apply to the decision;
- S. An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised in person or by letter not later than the close of the record or following the final evidentiary hearing on the proposal before the local government. Failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue;
- T. If a participant at the hearing so requests before the hearing concludes, the record shall be kept open for at least seven (7) days -- unless there is a continuance; and
- U. Any party shall be entitled to a continuance of the hearing if persons other than the applicant submit documents or evidence in support of the application supplementing the documents or evidence submitted by the applicant.
- V. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing. Such an extension shall not be subject to the limitations of ORS 215 and 227.
- W. When the Planning Commission or City Council reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

13.05.6 Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing; no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

13.05.7 Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

- A. Approval of the request is consistent with the Statewide Planning Goals;

- B. Approval of the request is consistent with the Comprehensive Plan; and
- C. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

13.05.8 **Approval Process and Authority.**

- A. The Planning Commission shall:
 1. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
 2. Within 14 business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the City Planning Official or designee.
- B. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Planning Official or designee before the Council public hearing on the proposal. The City Planning Official or designee shall send a copy to each Council member and place a copy in the record;
- C. The City Council shall:
 1. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
 2. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and
 3. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

13.05.9 **Vote Required for a Legislative Change.**

- A. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation to the City Council for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
- B. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

13.05.10 **Notice of Decision.** Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the City Recorder. The City shall also provide notice to all persons and parties as required by other applicable laws.

13.05.11 **Final Decision and Effective Date.** A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

13.05.12 **Record of the Public Hearing.**

- A. A verbatim record of the proceeding shall be made by tape or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
- B. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
- C. The official record shall include:
 1. All materials considered by the hearings body;
 2. All materials submitted by the City Planning Official or designee to the hearings body regarding the application;
 3. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 4. The final ordinance;
 5. All correspondence; and
 6. A copy of the notices that were given as required by this Chapter.

13.06 Burden of Proof

The following language shall be included with all decisions for Type II, III and IV actions.

The specific findings made in granting a Permit shall be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the Permit. If no evidence is produced by the applicant concerning any of the findings, the application may be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings relating to approval or denial of an application.

- A. The applicant has the burden of proof regarding all requests affecting a subject property, and the applicant recognizes that it is the sole obligation of the applicant to substantiate the request.
- B. If any administrative review, suit or action is instituted in connection with any appeal of a decision, the applicant shall be required to either (1) reimburse the City for all costs incurred in defending this action, including but not limited to attorney fees, staff costs, any materials and other related costs, or (2) notify the City that the applicant does not desire to undertake such costs and will drop its request.
- C. The applicant shall notify the City Manager within five (5) days from City's receipt of any notice of appeal by delivering a written statement to the City Manager within said five (5) days advising the City Manager whether the applicant will reimburse the City for all costs as described above or desires to drop the request.
- D. In the absence of written communication from the applicant within the allotted five (5) days the City may at its option presume the applicant desires to drop the request and the City shall have no obligation to defend the appeal.
- E. In appeals involving questions of City-wide significance, the City Council may determine to participate in part of the costs specified herein. Nothing in this condition shall affect applicant's right to retain independent counsel in making their own legal appearance upon appeal.
- F. If any suit or action, including rescission, is instituted by the applicant in connection with any controversy arising out of a request, there shall be taxed and allowed to the City as a part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and upon appeal. In addition, the City may charge a fee for preparation of a written transcript, not to exceed the actual cost of preparing the transcript, up to \$500 plus one-half the actual costs over \$500.



The applicant always carries the burden of proof.

ARTICLE XIV. ANNEXATION

14.01 Purpose

To establish procedures relating to the annexation of territory into the City of Pendleton and provide a process for the subsequent withdrawal of territory from special districts in accordance with applicable Statute and Rule. Annexations within the State of Oregon are guided by [Oregon Administrative Rules](#), Division 14 as set forth in OAR 660-014 and OAR660-15 and Oregon Statewide Planning Goal 14: Urbanization - OAR 660-015-0000(14), as amended. Annexation procedures are implemented in [Oregon Revised Statutes](#) Chapters [197](#) and [222](#), as amended.

- 14.01.1 These regulations apply to annexation applications as specified in this Section. Other proposals permitted by ORS 222 shall be processed as provided in ORS 222.

14.02 Initiation

An annexation application may be initiated by City Council resolution, or by written consents from electors and/or property owners as provided for in this Section.

14.03 Application Requirements

- 14.03.1 In addition to the provisions specified in other sections of this Code, an annexation application shall include the following:
- A. A list of all owners, including partial holders of owner interest, within the affected territory, indicating for each owner:
 - 1. The affected tax lots, including the township, section and range numbers;
 - 2. The street or site addresses within the affected territory as shown in the Umatilla County Assessor records;
 - 3. A list of all eligible electors registered at an address within the affected territory; and
 - 4. Signed petitions as required.
 - B. Written consents on City approved petition forms that are:
 - 1. Completed and signed, in accordance with ORS 222.125, by:
 - a. All of the owners within the affected territory; and
 - b. Not less than 50 percent of the eligible electors, if any, registered within the affected territory; or
 - 2. Completed and signed, in accordance with ORS 222.170, by:
 - a. More than half the owners of land in the territory, who also own more than half the land in the contiguous territory and of real property therein representing more than half the assessed value of all real property in the contiguous territory; or
 - b. A majority of the electors registered in the territory proposed to be annexed and a majority of the owners of more than half the land.
 - c. Publicly owned rights-of-way can be added to annexations initiated by these two methods without any consents.
 - C. In lieu of a petition form described above, an owner's consent may be indicated on a previously executed Consent to Annex form that has not yet expired as specified in ORS 222.173.
 - D. Verification of Property Owners form signed by the Umatilla County Department of Assessment and Taxation.
 - E. A Certificate of Electors form signed by the Umatilla County Elections/Voter Registration Department including the name and address of each elector.
 - F. An ORS 197.352 waiver form signed by each owner within the affected territory.
 - G. A waiver form signed by each owner within the affected territory as allowed by ORS 222.173.
 - H. A legal description of the affected territory proposed for annexation consistent with ORS 308.225 that will include contiguous or adjacent right-of-way to ensure contiguity as required by ORS 222.111.
 - I. A Umatilla County Assessor's Cadastral Map to scale highlighting the affected territory and its relationship to the city limits.
 - J. A list of the special districts providing services to the affected territory.
 - K. A public/private utility plan describing how the proposed affected territory can be served by key facilities and services.
 - L. A written narrative addressing the proposal's consistency with the approval criteria specified in Section 14.06.
 - M. A completed application in the form provided by the City, accompanied by an application fee as established by Council resolution.

14.04 Notice

The following public notice is required for annexations:

- 14.04.1 Mailed Notice. Notice of the annexation application shall be mailed to:
 - A. The applicant, property owner and active electors in the affected territory;
 - B. Owners and occupants of properties located within 100 feet of the perimeter of the affected territory;
 - C. Affected special districts and all other public utility providers; and
 - D. Umatilla County Planning Department, Umatilla County Elections, and the Umatilla County Department of Assessment and Taxation.
- 14.04.2 Published Notice. Notice of the hearing shall be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city.
- 14.04.3 Posted Notice. Notice of the public hearing at which an annexation application will be considered shall be posted in four public places in the City for two successive weeks prior to the hearing date.

14.05 Public Hearing

The City Council shall consider the matter pursuant to the guidelines for a Legislative action. The City shall adopt approved annexations and withdrawals by Ordinance, pursuant to the criteria below.

14.06 Criteria

An annexation application may be approved only if the City Council finds that the proposal conforms to the following criteria:

- A. The affected territory proposed to be annexed is within the City's urban growth boundary, and is;
 - 1. Contiguous to the City limits; or
 - 2. Separated from the City only by a public right-of-way or a stream, lake or other body of water;
- B. The proposed annexation is consistent with applicable policies in the City of Pendleton Comprehensive Plan;
- C. The proposed annexation will result in a boundary in which key services can be provided;
- D. A signed Annexation Agreement to resolve fiscal impacts upon the City caused by the proposed annexation shall be provided. The Annexation Agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the discretion of the City, unless otherwise required by ORS. Where public facilities and services are available and can be extended, the applicant shall be required to do so.

14.07 Application of Zoning Districts

If the property to be annexed does not already have a City zone, an application to apply a zoning district consistent with the Comprehensive Plan designation may be applied for concurrently with the annexation application.

14.08 Effective Date, Filing of Approved Annexation, and Notice

- 14.08.1 The effective date of an approved annexation shall be set in accordance with ORS 222.040, 222.180 or 222.465. The City Council's decision is the City's final decision either on the date the decision is made, or 30 days after the decision is made if there is no emergency clause in the adopting Ordinance, or as specified herein. Notwithstanding the effective date of an ordinance as specified above, the effective date of annexations shall be as prescribed in ORS 222.040, 222.180, or 222.465, or as otherwise established by statute.
- 14.08.2 Filing of Approved Annexation.
 - A. Not later than 10 working days after the passage of an Ordinance approving an annexation, the Director shall:
 - 1. Send by certified mail a notice to public utilities (as defined in [ORS 757.005](#)), electric cooperatives, and telecommunications carriers (as defined in ORS 133.721) operating within the City; and
 - 2. Mail a notice of the annexation to the Secretary of State, Department of Revenue, Umatilla County Clerk, Umatilla County Assessor, affected districts, and owners and electors in the affected territory. The notice shall include:
 - a. A copy of the Ordinance approving the annexation;
 - b. A legal description and map of the annexed territory;
 - c. The findings; and

- d. Each site address to be annexed as recorded on Umatilla County assessment and taxation rolls.
- 3. The notice to the Secretary of State will also include copies of the petitions signed by electors and/or owners of the affected territory.
- 4. Notice of decision is mailed to the applicant, property owner, those persons who submitted written or oral testimony, those who requested notice, and as required by ORS 222.
- B. If the effective date of an annexation is more than one year after the City Council passes the Ordinance approving it, the City Administrator shall mail a notice of the annexation to the Umatilla County Clerk not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

14.09 Withdrawal from Special Districts

- 14.09.1 Withdrawal from special districts may occur concurrently with the approved annexation Ordinance or after the effective date of the annexation of territory to the City. The City Administrator shall recommend to the City Council for consideration of the withdrawal of the annexed territory from special districts as specified in ORS 222.
- 14.09.2 Withdrawal from special districts processed separate from the process annexing the territory to the City requires a Public Hearing before the City Council with notice to the affected district(s) under the same procedure for an annexation as required in this Section.
- 14.09.3 Criteria. In determining whether to withdraw the territory, the City Council shall determine whether the withdrawal is in the best interest of the City.
- 14.09.4 Effective Date. The effective date of the withdrawal shall be as specified in ORS 222.465 as applicable.
- 14.09.5 Notice of Withdrawal. Notice will be provided in the same manner as specified in Section 14.04.

14.10 Annexation of Territory Served by a Non-Franchised Utility

- 14.10.1 No area shall be annexed to the City of Pendleton which has electric utility service operated by a utility not having a franchise of unlimited territory granted to it by the City of Pendleton.
- 14.10.2 Provided, however, that the annexation of any area substantially developed where dual electric utility services exist as of the date of this Ordinance shall not be precluded, and the utilities within such area not holding unlimited franchises shall be granted franchises by the City of Pendleton, limited to the territory they service.
- 14.10.3 "Dual Electric Utility Service" means electric service facilities located in such a manner that, although two or more public utilities offer services of the same nature in the area to be annexed, said facilities are not so closely located that two or more such utilities offer services to the same individual.
- 14.10.4 "Substantially developed" means an area in which there are residential, industrial, or commercial buildings completed to the extent that they are occupied for the purposes for which they were constructed.

ARTICLE XV. ADMINISTRATIVE PROVISIONS

15.01 Policy of Nondiscrimination

Age, gender/race or physical disability shall not be an adverse consideration in making a land use decision as defined in Oregon Law.

15.02 Duty of Enforcement

It shall be the duty of the City Manager to see that this Ordinance is enforced. No permit for the construction or alteration of any building or part thereof shall be issued unless the plans, specifications and intended use of such building conform in all respects with the provisions of this Ordinance.

15.03 Compliance with Ordinance Provisions

- 15.03.1 The provisions of this Ordinance shall be deemed minimum requirements for the preservation of the public safety, health, convenience, comfort, prosperity and general welfare of the people of the City of Pendleton.
- 15.03.2 A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this Ordinance permits.
- 15.03.3 No lot area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance.
- 15.03.4 No lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard, or open space for another use.
- 15.03.5 Development shall not commence until the applicant has received all of the appropriate land use and development permits (including but not limited to a Development Permit and building permits).

15.04 Applicability of Zoning Regulations

- 15.04.1 Private agreements. The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant or other agreement between parties, except that where the zoning regulations impose a restriction or higher standard than that required by such agreement the zoning regulations shall control.
- 15.04.2 The boundaries of the zone are hereby established as shown on the official Zoning map of the City of Pendleton, Oregon, which accompanies this Ordinance and is on file in the office of the City Recorder.
- 15.04.3 Unless otherwise shown on the zoning map of the City, the boundaries of the zone are lot lines, center lines of streets and alleys, railroad right-of-way lines or corporate limit lines as they existed at the time of the enactment of this Ordinance. If a zone boundary as shown on the map divides a lot between zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot is.
- 15.04.4 The schedule of permitted uses cannot include all uses that may be a good fit for a particular zone of the City. A proposed use may be reviewed as a conditional use where the Director determines that the proposed use is consistent with the Comprehensive Land Use Plan and with other uses allowable within the subject district due to similar characteristics.

15.05 Permit to Run with the Land

A Permit granted pursuant to the provisions of this Section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application, except as otherwise provided in this Section.

15.06 Limitations

No building or other permit shall be issued in any case where a Permit is required by the terms of this ordinance until after the applicable appeal period of the decision. An appeal from an action of the Planning Commission shall automatically stay the issuance of a building or other permit until such appeal has been completed. In the event the council acts to grant said Permit, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.

15.07 Permit Expiration

Any permit granted pursuant to this Ordinance shall become void two (2) years after approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises.



15.08 Permit Extension

The Planning Director may extend a permit for one additional period of two (2) years, subject to the following requirements:

- A. The request is made in writing; and
- B. The request is received prior to permit expiration.

It is the responsibility of the permit holder to submit a request for extension. No more than one such extension may be granted. Development standards that apply at time of approval shall remain valid for the original term of approval, and shall not exceed four years from the original date of approval in the event of an extension.

15.09 Vested Rights

Land use approvals granted under this Ordinance shall be effective only when the exercise of the right granted therein is commenced within the approval period of that decision. In case such right has not been exercised or extension obtained the approval shall be void. Nothing contained in this Ordinance shall:

- A. Require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially commenced prior to the adoption of this Ordinance, provided the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two (2) years from the time construction was commenced.
- B. Be construed to limit the sale, transfer, or other conveyance of property on which exists a non-conforming building, structure or use, so long as such sale, transfer or other conveyance does not otherwise violate the provisions of this Ordinance.

15.10 Illegal Occupancy

Any use of a premise or building which deviates from or violates any of the provisions of this Ordinance shall be termed an illegal occupancy and the person or persons responsible therefore shall be subject to the penalties herein provided.

No final approval or certificate of occupancy shall be issued by the City until such time as the applicant has complied with all requirements of this Ordinance. Final approval or certificate of occupancy shall not be issued if there is any major deviation from an approved land use action, including a Development Permit.

15.11 Contract Purchasers Deemed Owners

A person or persons purchasing property under contract, for the purposes of this Ordinance, shall be deemed to be the owner or owners of the property covered by the contract; the City Planning Commission or the City Council may require satisfactory evidence of such contract of purchase.

15.12 Consent to Annexation Required

Pursuant to the Joint Management Agreement with Umatilla County, any land use action on land in the Joint Management Area (lands inside the Pendleton Urban Growth Boundary but not inside the Pendleton city limits) is subject to all City of Pendleton criteria and standards. However, such properties do not pay City taxes, rely on Umatilla County as the primary response for police and fire service, and are also subject to a surcharge for water and sewer service. In order to reduce inter-jurisdictional issues, all land use actions inside the JMA shall carry, as a condition of approval, that:

- A. If the property abuts the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation; or
- B. If the property is inside the Urban Growth Boundary but does not abut the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation at such time as the property does abut the city limits.

15.13 Resubmittal of Application Following Denial

An application which has been denied or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, will be rejected for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least 12 months from the date the final city action is made denying the application unless there is substantial change in the facts, a change in the Development Code, or a change in city policy which would change the outcome.

15.14 Violation of Conditions

The Planning Commission, on its own motion, may revoke any Permit for noncompliance with conditions set forth in the granting of said permit after first providing notice and holding a public hearing pursuant to the standards for a Type III application. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Permit.

15.15 Agreements for Conditional Approvals

Conditions imposed upon rezoning approvals, discretionary permits, land divisions, or any other authorizations to applicants pursuant to this Ordinance, may be incorporated into an agreement which shall be binding on the applicant and the applicant's successors, heirs and assigns as a continuing obligation running with the property which is the subject of such authorization. The Mayor and City Recorder are hereby authorized to execute such agreements when approved by the Planning Commission in the case of discretionary permits, or by the City Council in the case of rezoning ordinances, appeals on discretionary permits, or other authorizations requiring Council action.



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

15.16 Interpretation

The City reserves the right to interpret its own ordinances. Requests for a formal Interpretation shall be processed according to the standards contained in Article 11.



15.17 Severability

The individual Sections of this Ordinance are severable. The invalidity of a Section shall not affect the validity of the remaining Sections.

15.18 Conflict with Public and Private Provisions

15.18.1 These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of the law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulations, or other provision of law, whichever provisions impose higher standards shall govern.

15.18.2 This Ordinance is not intended to abrogate any easement, covenant or any other private agreement or restriction, which shall be enforced by the parties of said provision, not the City.

15.19 Enforcement of Private Agreements

The City of Pendleton is not a party to and does not administer, monitor or enforce provisions contained in covenants, conditions, restrictions, easements, and other private agreements.

15.20 Unlawful Construction or Use a Nuisance

The location, erection, construction, maintenance, repair, alteration or use of a building or other structure, or the division, or use of land, in violation of the terms of this Ordinance is hereby declared to be a nuisance, under the provisions of the Nuisance Ordinance (No. 2422).



15.21 Remedies for Unlawful Structures

In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered or used, or any land is, or is proposed to be, used in violation of this Ordinance, the City Council or any person whose interest in real property in the City is, or may be affected by the violation, may, in addition to other remedies provided by law, institute proceedings for an injunction, mandamus, abatement, or other appropriate action or suit to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.



15.22 Violations and Penalties

- A. A violation of this Ordinance shall be punishable by a fine not to exceed Five Hundred and No/100 (\$500.00) Dollars.
- B. Every full day during which an activity continues to be conducted in violation of this Ordinance shall be considered a separate offense.



- C. Offenses under this Section shall be tried in the Municipal Court as a violation and not as a crime. As a violation there is no right to jury trial or court appointed counsel.
- D. Confiscation. Any building or structure erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, demolished, equipped, used, occupied or maintained in violation of this Ordinance may be confiscated by the City and, may be disposed of as provided by applicable State law or City ordinance.
- E. Additional Remedies.
 - 1. In addition to the penalties provided in this Ordinance, the City may sue in a court of competent jurisdiction to obtain a judgment for a fee due under this Ordinance and to enforce collection of the judgment by execution.
 - 2. The City may seek an injunction to prohibit a person from erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, demolishing, equipping, using, occupying or maintaining any building or structure without complying with this Ordinance.
 - 3. In an action authorized by this Section, if the City prevails, it shall recover reasonable attorney's fees to be set by the Court in addition to its costs and disbursements. These fees are recoverable at all levels of trial and appeal.
 - 4. Whenever a fee required by this Ordinance is not paid when due, the City Recorder shall add as a penalty to the fee an amount equal to ten (10%) percent of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed one hundred (100%) percent of the original fee.

15.23 Saving Clause

Ordinances No. 2327, 3005, 3023, 3088, (Section 8), 3094, 3100 and 3156 (Section 8) repealed by the adoption of Ordinances 3250 and 3251, shall remain in force to authorize the prosecution, conviction and punishment of a person who violates Ordinance No. 2327, 3005, 3023, 3088 (Section 8), 3094, 3100, and 3156 (Section 8) prior to the effective date of this Ordinance.

15.24 Fees

- 15.24.1 The city may adopt by resolution, and revise from time to time, a schedule of fees for applications and appeals. Fees shall be based upon the city's actual or average cost of processing the application or conducting the appeal process. The only exception shall be the appeal fee for a 'Type II decision, which shall be limited by [ORS 227.175.10.b](#). The requirements of this Section shall govern the payment, refund and reimbursement of fees.
- 15.24.2 Payment. All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted without the proper fee being paid.
- 15.24.3 Refunds. Fees will only be refunded as provided in this subsection:
 - A. If a fee is paid for an application which is later found to not be required, the city shall refund the fee.
 - B. When an error is made in calculating a fee, overpayment will be refunded.
 - C. In the event an applicant withdraws an application, the planning department shall refund the unused portion of the fee. In this case, the planning department will deduct from the fee the city's actual costs incurred in processing the application prior to withdrawal.
- 15.24.4 Fee Waivers. The Community Development Department may waive all or any portion of an application fee if, in the opinion of the Director, a particular application must be resubmitted because of an error made by the city. Appeal fees may be waived, wholly or in part, by the City Manager, if the City Manager finds that, considering fairness to the applicant and to opposing parties, a full or partial waiver of the appeal fee is warranted. Appeal fees shall not be charged for an appeal filed by a city-recognized neighborhood association, so long as the appeal has been officially approved by the general membership or board of the neighborhood association at a duly announced meeting.
- 15.24.5 Major Projects. The fees for a major project shall be the city's actual costs, which shall include, but not be limited to, the actual costs for staff time, as well as any consultants, including contract planners, attorneys and engineers. The costs of major projects will not be included in any average used to establish other fees under this Section. For purposes of this subsection only, a "major project" is defined to include any combined plan and zone change and any project with an estimated construction cost exceeding one million dollars.

15.25 Enterprise Zone Exception

A business which is precertified by the City as a qualified business firm, in accordance with the Oregon Enterprise Zone Act, may request an exception from this Ordinance from the City Council. Such requests will be reviewed on a case by case basis. Exceptions may take the form of a waiver of the requirements of this Ordinance or a delay in the time that a given improvement shall be installed. Agreements for exceptions authorizing a delay in the installation of public improvements shall be filed in the Umatilla County Deed Records at the expense of the business.

ARTICLE XVI. DEFINITIONS.

The following words and phrases, when used in this Ordinance, shall have the meanings respectively ascribed to them in this Section, excepting those instances where the context clearly indicates a different meaning. Words used in the present tense include the future, the singular number includes the plural, and the plural the singular, the word lot includes the word plot. The word shall is mandatory, while the word may is discretionary. **The definition of certain terms contained in this list may conflict with the Building Code or Oregon Revised Statutes.** Conflicts with the UBC may be due to differences in perspective between Planning and Building; definitions in the ORS shall supersede local definitions in case of a conflict.

Most Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) related to land use can be found on the Department of Land Conservation and Development (DLCD) web site at: www.oregon.gov/LCD

Abutting. Having a common boundary.

Access. A way or means of approach to provide physical entrance to a property.

Accessory Structure or Use. A structure or use incidental and subordinate to the main use of the property and located on the same lot as the main use.

Addition. A structure added to the original structure at some time after the completion of the original.

Affected City. See [ORS 222](#).

Affected County. See [ORS 222](#).

Affected District. See [ORS 222](#).

Affected Territory. See [ORS 222](#).

Aisle. The traveled way by which cars enter and depart parking spaces.

Airport. A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

Airport Elevation. 1493 feet, as determined by the Airport Master Plan.

Airport Hazard. Any structure or vegetation located on or in the vicinity of the airport, or any use of land near said airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at said airport or is otherwise hazardous to such landing or takeoff of aircraft.

Airport Hazard Subdistrict. A zoning subdistrict designed to protect the airport from hazardous obstructions.

Airport Master Plan. That document adopted by the City Council as a plan for Airport development.

Alley. A narrow street or service way through a block providing a secondary means of public access but not intended for general traffic circulation.

Alteration. Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Amendment. Any addition to or change of this Ordinance.

Annexation. The attachment or addition of territory to, or inclusion of territory in, an existing city or district.

Annexation Agreement. A written agreement between the City and owners of land requesting annexation that states the terms, conditions and obligations of the parties to mitigate fiscal and service impacts to the City associated with the annexation and future development of the property. The agreement may be used to ensure annexation consistent with the Comprehensive Plan.

Annexation Consent. Forms provided by the affected City that must be signed by the owner when urban services are provided to property prior to annexation. The Consent to Annex is recorded and commits the property to future annexation, and is binding on any successive owner. The signature of the owner and/or electors of part or all of the affected territory is required, as applicable.

Annexation Contract. A contract between a city and a landowner relating to extraterritorial provision of service and consent to eventual annexation of property of the landowner. The contract shall be recorded and shall be binding on all successors with an interest in that property.

Appeal. The procedure whereby a person seeks relief from the City Council or Planning Commission regarding a ruling made by the Planning Commission or the City Manager.

Applicant. The owner or agent of the land under review for a proposed land use action. Consent shall be required from the landowner of the premises.

Approach, Transitional, Horizontal, and Conical Zones. These zones apply to the area under the approach, transitional, horizontal, and conical surfaces defined on the approach and clear zone within the Airport Master Plan.

Approval of Occupancy. The issuance of a certificate of occupancy for a building or; for those specified residential buildings (as set forth in the Building Code).

Apron (driveway). That portion of the driveway approach extending from the gutter flow line to the sidewalk section and lying between the end slopes of the driveway approach.

Arterial. See Functional Classifications in the Transportation System Plan.

Average Slope. A measure of topographical features derived by dividing the change in elevation by the linear distance over which such elevation change occurs.

Awning. A roof-like cover that is temporary in nature and that projects from the wall of a building for the

purpose of shielding a doorway or window from the elements.

Bed and Breakfast. A private residence, several rooms of which are set aside for overnight guests whose paid accommodations include breakfast.

Berm. A mound of earth, or the act of pushing earth into a mound.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, waterways, or corporate limit lines of the City.

Block Length. The distance measured along all that part of one side of a street which is between two intersecting or intercepting streets, or between an intersecting or intercepting street and a railroad right-of-way, watercourse, body of water or undivided acreage.

Boarding House. A dwelling, or part thereof, in which lodging is provided by the owner or operator to more than two (2) boarders.

Boundary Change. An action by the City Council duly authorized by ORS 222 that results in the adjustment of the City limits or the boundary of a special district.

Bridge. A structure designed to convey vehicles and/or pedestrians over a water course, railway, public or private right-of-way, or any depression.

Building. A structure built for the support, shelter or enclosure of persons, animals, or property of any kind.

Building Code. An umbrella term used in this Ordinance to describe the [Oregon State Specialty Codes](#), including but not limited to Structural, Residential, Mechanical, etc.

Building Line. A line on a plat or map indicating the area within which buildings or structures shall be erected.

Cadastral Map. A map prepared by the Umatilla County Assessor's office showing bearings and distances and the boundaries of parcels, lots, and tracts of land.

Capital Improvements Program. A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Carport. A roofed structure, or portion of a building, open on two (2) or more sides, used primarily for the parking and storage of automobiles and other property.

Cemetery. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes; including columbaria, crematories, mausoleums, and mortuaries (when operated in conjunction with and within the boundary of such cemetery).

Central Area Parking District. A group of properties within the downtown Pendleton area as portrayed in Article 4, that participated in LID #293 which established parking lots in the downtown area. Uses within this district are not required to provide off-street parking as set forth in Article 8 of this Ordinance.

Church. A building or structure, or group of buildings or structures, which are primarily intended for the conducting of religious services and accessory uses associated therewith.

ORS 65.001(39) "Religious corporation" means a domestic corporation that is formed as a religious corporation pursuant to ORS 65.044 to 65.067, is designated a religious corporation by a statute or is organized primarily or exclusively for religious purposes.

City. The City of Pendleton, Oregon.

City Manager. The City's chief administrative officer or his/her authorized agent.

City Park. A recreation area dedicated and preserved for public usage.

City Standards. Those designs, drawings, and specifications of all public improvements adopted by the City setting forth the accepted design of such improvements.

City Surveyor. A licensed surveyor designated by the City Manager, who shall review and process plats in lieu of the County Surveyor pursuant to Oregon Law.

Class A Manufactured Housing Subdistrict. A zoning subdistrict identified on Map VI of the Pendleton Comprehensive Plan in which manufactured housing defined by this ordinance as "Class A" may be installed, subject to the requirements of this ordinance.

Class B Manufactured Housing Subdistrict. A zoning subdistrict identified on Map VI of the Pendleton Comprehensive Plan in which manufactured housing defined by this ordinance as "Class A" or "Class B" may be installed, subject to the requirements of this ordinance.

Clear Vision Area. A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. (See Article 8.)

Clinic. Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths or other members of the healing arts and which may include a dispensary in each such building to handle merchandise of a nature customarily prescribed by occupants in connection with their practices.

Collector. See Functional Classifications in the Transportation System Plan.

Commercial Amusement and Recreation. An establishment operated for profit and devoted to facilities and equipment for recreation purposes, including bowling, billiards, skating rinks, recreation centers and similar uses whether the use of such establishment is limited to private membership or open to the public upon payment of a fee.

Common or Party Wall. A wall of fire-resistive construction, built to Building Code standards as a separation between two attached single-family dwelling units.

Comprehensive Plan. The generalized, coordinated land use map and policy statement of the City of Pendleton that interrelates all functional and natural systems and activities relating to land and society,

including, but not limited to: natural resources, recreational facilities, sewer and water systems, and air and water quality management programs, including modifications or amendments which may be made from time to time.

Conditional Use. Certain land uses which, due to special requirements, unusual character, size or shape, infrequent occurrence, or possible detrimental effects on surrounding property, and for similar reasons, may be allowed by the Planning Commission as set forth in Article 11 of this Ordinance.

Condominium. A system of separate ownership of attached single-family dwellings in a multiple unit structure, wherein only the interior portion of the dwelling unit itself is owned outright by the occupants, while the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

Construction Plan. The drawings or designs accompanying a subdivision plat or major partition map showing the specific location and design of improvements to be installed in the subdivision or partition in accordance with the requirements of this Ordinance and any other ordinance as a condition of the approval of the plat or map.

Contiguous. Territory that abuts the City limits at any point along the property's exterior boundary or separated from the City limits by a public right-of-way or a stream, bay, lake, or other body of water.

Corner Lot. A lot at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.

Council or City Council. The City Council of the City of Pendleton, Oregon.

County. The county of Umatilla, Oregon.

Cross-Section. A profile of the ground surface perpendicular to a center line.

Cul-de-sac. A short, dead-end street, provided access to individual properties, having one end open to traffic and being terminated by a vehicle turn-around.

Curb return. The curved portion of a street curb at street intersections or the curved portion of a curb in the end slopes of a driveway approach.

Day Nursery. Any facility that provides care to six (6) or more children, including children of the provider, regardless of full-time or part-time status.

De novo. A "new trial" by a different tribunal, typically the result of an appeal.

Demolition. To raze, destroy, dismantle, deface, or in any other manner cause partial or total ruin of a site or structure.

Density. The number of housing units per gross acre of land within a defined area.

Developer: A person who undertakes a development as defined in this Ordinance.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, demolition, mining, dredging, filling, grading, paving, excavation or drilling

operations or storage of equipment or materials (44CFR 59.1). Also, the demolition, conversion or change in character of occupancy or use of a building which would place the structure in a different building group as defined in the Building Code. The term development for purposes of this Ordinance shall NOT mean interior remodeling, repairs, maintenance of improvements to an existing structure which does not increase the volume of the structure. Specifically exempted under this Ordinance are building facades, roof or exterior wall repair or replacement, heating, ventilating or electrical alterations, or activities similar in character.

Development Site: An area consisting of a parcel or tract of land specifically identified by a developer as the land area to be altered or developed.

Domestic. As used in this Ordinance, the term 'domestic' includes residential and commercial utility uses and loads, and excludes agricultural and industrial processed water.

Driveway. An area on private property where automobiles and other vehicles are operated or allowed.

Driveway approach. an area, construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway to a public street to a definite area of the private property, such as a parking area, a driveway, or a door, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or the curb return, and the sidewalk section.

Dwelling. A building designed for residential purposes, including single-family, duplex, and multi-family residences, but not including hotels or motels.

Dwelling, Caretaker or Manager Only. A use accessory to a commercial or industrial facility for a residence for a caretaker or manager employed at the commercial or industrial use which may be allowed with a principal commercial or industrial use on the same property. If a manufactured home, it shall be only of Class A, B, or C.

Dwelling, Duplex. A detached residential building under one ownership that is designed for the occupancy of two (2) families.

Dwelling, Multi-Family. A residential building under one ownership that is designed for the occupancy of three (3) or more families.

Dwelling, Single Family. A detached, conventional manufactured or prefabricated residential dwelling unit designed to be occupied by one family.

Dwelling, Single Family Attached. An attached residential building that contains more than one single family dwelling unit in combination with individual lot ownership.

Dwelling Unit. A structure designed exclusively for residential purposes, including one-family, two-family and multi-family residences, but not including hotels or motels.

Easement. The acquired or reserved right of use over the property of another.

End slopes. Those portions of the driveway approach which provide a transition from the normal curb and sidewalk elevations to the grade of the apron, either by means of a sloping surface or by means of a curb return together with the area between the projected tangents of the curb return.

Erect. To attach, place, alter, construct, reconstruct, or enlarge a principal or accessory building or structure.

Existing Manufactured Home Park or Subdivision. One in which the construction of facilities for servicing the lots on which the manufactured homes are affixed was completed before May 1, 1990. The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

Family. One or more persons related by blood, marriage, legal adoption, or legal guardianship living together in a dwelling unit, together with unrelated individuals up to a total number of occupants that will not exceed that allowed by the Housing Code.

Family Day Care Provider. A person providing care, in the home of the provider, to twelve (12) or fewer children, including children of the provider, regardless of full-time or part-time status. This use shall be treated as a single family dwelling for zoning purposes.

Fence. An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Flag Lot. An interior lot abutting on a street the width of an access strip to said lot, with the remainder of said lot separated from the street by other lots.

Filing. The submittal of materials and fee(s) to initiate an application.

Filing Fee. Monies collected from the developer to defray the costs of processing land use applications submitted to the City.

Floor Area. The area within the surrounding walls of a building or portion thereof, exclusive of vent shafts and courts.

Frontage Road. A minor street parallel and adjacent to an arterial street providing access to abutting properties, but protected from through traffic.

Fuel Storage Tank (Above-Ground). A tank installed on property for the storage of flammable liquids. Said tanks are a maximum of 6000 gallons in size, are installed so as to not be accessible to the public and are used solely for the fueling of vehicles associated with the main use of the property.

Garage, Private. An accessory building, enclosed on at least three (3) sides, used for the parking and storage of vehicles or materials.

Garage, Public. A building available for use by the public for the parking or temporary storage of motor vehicles or recreational equipment.

Governmental Structure or Land Use. A building or use being occupied or conducted by a local, state, or federal government agency (excluding City parks and infrastructure improvements located within public rights of way or easements).

Grade. The slope of a road, street, or other public way, specified in percentage terms.

Ground Level. The average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five (5) feet of a sidewalk, the above-ground level should be measured at the sidewalk.

Height of Building. The vertical distance, using mean sea level elevation datum, from the ground level to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof.

Highway, limited access. A type of [highway](#) which has been designed for high-speed vehicular traffic, with all traffic flow and ingress/egress regulated.

Home Occupation. Any activity conducted within a dwelling unit for financial gain or profit; such activity being clearly incidental to the use of the structure as a dwelling unit and conducted by persons residing in the unit, on a full-time, year-round basis.

Hospital. An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.

Hotel. A building offering transient lodging (no cooking facilities in the guest rooms) and additional services such as restaurants, meeting rooms and recreational facilities.

Improvement. Any building, structure, utility, work of art, or other object or development of the land on which it is situated constituting a physical betterment of real property, or any part of such betterment. Certain lot or parcel improvements shall be properly bonded as provided in this Ordinance.

Infrastructure Improvements. Facilities and structures such as streets, curbs, gutters, sidewalks, storm sewers, sanitary sewers, water lines, private utility poles/lines, bridges, traffic control mechanisms, fire hydrants, and other items commonly found within public rights of way or easements. Such improvements shall be considered outright uses within all zones.

Junk Yard. Any property devoted wholly or in part to the storage, buying, selling or otherwise handling of or dealing in scrap or waste material.

Kennel. Any place where dogs, cats, or other household pets are trained, boarded, bred, or sold for financial return.

Land Division. The act of subdivision, or the major or minor partitioning of land.

Land Use Decision. See [ORS](#) 197.015

Land Use Decision, Limited. See [ORS](#) 197.015

Larger Than Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Lawfully Established Unit of Land. See [ORS](#) 92.010.

Legal Description. The description of real property as defined in [ORS](#) 308.225.

Livestock. Animals of the bovine species, horses, mules, asses, sheep, goats, and swine, or other like animals, but not including pygmy goats.

Local Street. See Functional Classifications in the Transportation System Plan.

Lodging House. A residence wherein lodging is provided for compensation but where meals for guests shall neither be provided nor permitted.

Lot. See [ORS 92.010](#).

Lot Area. The total horizontal area within the boundary lines of a lot.

Lot, Corner. A lot abutting two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.

Lot Coverage. The percentage of a lot that is covered by any roofed structure.

Lot, Interior. Any lot that abuts a street on only one (1) side.

Lot Line. The property line bounding a lot.

Lot Line, Front. In the case of an interior lot, the lot line separating one lot from a street other than an alley. In the case of a corner lot, the lot line upon which the main entrance to the building faces, or is to face, according to a building permit application. If a property has no structure, and is not the subject of a building permit application, the front lot line shall be the shortest lot line abutting a street other than an alley.

Lot Line, Rear. A lot line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line.

Lot Line, Side. Any lot line not a front or rear lot line.

Lot or Parcel Area. The total horizontal area within the lines of a lot or parcel.

Manufactured Dwelling (Home). See [ORS 446.003](#). Please note that the Building Code definition may differ. The four types of manufactured homes (Class A, B, C and D) are defined as meeting all of the appropriate requirements of this Ordinance, as set forth in Article 3. Class A, B and C manufactured homes bear a seal certifying compliance with the Federal Manufactured Housing Construction and Safety Standards Code. Class D manufactured homes were not built in compliance with this code. For flood plain management purposes the term “Manufactured Home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Dwelling (Home) Park. See [ORS 446.003](#).

Manufactured Home Subdivision. A subdivision intended to be occupied primarily or exclusively by manufactured homes.

Mid-Block Walk. A walkway designed for general circulation, not necessarily parallel to, and often perpendicular to nearby streets.

Minor Street. See Chapter 2, Functional Classification, in the Transportation System Plan.

Mixed Use District. A zoning subdistrict designed to allow for the “master-planning” of relatively large tracts of land in conformance with the Comprehensive Plan.

Mobile Home. See [ORS 446.003](#). Please note that the Structural Code definition may differ.

Mobile Home Park. See [ORS 446.003](#).

Model Home. A dwelling unit used initially for display purposes which typifies the type of units that will be constructed within a subdivision.

Motel. A building or group of buildings on the same lot containing guest units with separate entrances and consisting of individual sleeping quarters, detached or in connecting rows, with or without cooking facilities.

Motor Home. A portable unit designed to be driven under its own power having sleeping, cooking, and plumbing facilities independent of external utility connections, and designed for use principally as a temporary recreational or vacation residence.

Negotiate. See [ORS 92.010](#).

Neighborhood Park and Recreation Improvement Fund. A special fund established by the City Council to retain monies contributed by developers in accordance with the provisions of this Ordinance. This fund shall be used for the acquisition and/or maintenance of park land or facilities that will directly serve the development and the surrounding vicinity.

Neighborhood Commercial Use. A use within a residential zone intended to meet the daily convenience shopping or service needs of residents in the immediate area.

Nonconforming Structure or Use. A lawful existing structure, use, or vegetative growth at the time this Ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Nonprecision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Notice. An ordinance, resolution, order, or other similar matter providing notice authorized or required to be published, posted, or mailed.

Obstruction. Any structure, vegetative growth, or other object (mobile or immobile) which exceeds a limiting height set forth in the Airport Hazard Subdistrict.

Off-Street Parking Space. A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located within a dedicated street right of way.

Off-Street Parking Space, Bicycle. An unobstructed, temporary or permanent secure storage area for bicycles that may be located outdoors or inside a structure.

Official Map. The map(s) established by the City pursuant to law showing the streets, highways, parks and other features; including amendments or additions thereto adopted by the City resulting from the approval

of all land divisions by the Planning Commission and the subsequent filing of said plats or maps.

Open Space. An open area designed for passive space, active recreational usage, storm drainage and recreational facilities.

Owner. The legal owner of record according to the latest available Umatilla County tax assessment roll or, where there is an existing recorded land contract that is in force, the purchaser thereunder.

Parcel. See [ORS 92.010](#).

Park. An open space dedicated for public recreational usage.

Parking Area, Public. An area, other than a street, used for the temporary parking of four or more vehicles and available for public use, whether free, or for compensation, or for accommodation of clients or customers.

Partition. See [ORS 92.010](#).

Partition (Major). A partition which includes the dedication of right of way.

Partition (Minor). A partition which does not include the dedication of right of way.

Partition Plat. See [ORS 92.010](#).

Partitioning Land. See [ORS 92.010](#).

Pedestrian Way. A right-of-way dedicated for pedestrian traffic.

Pedestrian Walkway. The portion of a pedestrian way developed for pedestrian traffic. A walkway shall be required to be finished with a permanent surfacing agent, approved by the City Engineer, and shall be maintained as set forth by Ordinance.

Performance Agreement or Bond. A financial commitment by the developer and executed by an Oregon Licensed Surety Company or a financial institution in an amount not to exceed one hundred and twenty percent (120%) of the full cost of construction and improvements as required by this Ordinance, and conditional upon the faithful performance thereof.

Perimeter Half-Street. A portion of the width of a street, usually along the edge of a tract of land, where the remaining portion of the street could be provided in a future development.

Perimeter Street. Any existing street to which the tract of land to be divided abuts on only one side.

Permit. See [ORS 227.160](#)

Person. an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity.

Petition. Any document such as signature sheets, resolutions, orders, or articles of incorporation, required for initiating an annexation, withdrawal, or provision of extraterritorial services.

Planner. An authorized agent of the City Manager with duties to administer and enforce this Ordinance.

Planning Commission. The Planning Commission of the City of Pendleton, Oregon.

Planning Director. The Planning Director of the City of Pendleton, Oregon.

Planned Unit Development (PUD). An area of land to be developed as a single entity for a number of dwelling units and may include public or semi-public, commercial or industrial uses.

Planting Strip. A landscaped area typically in between a curb and a sidewalk.

Plat. A map, drawn to scale, showing the division of a piece of land. See [ORS 92.010](#).

Plat, Final. A final plan for a land division or replat showing conformance with an approved tentative plat and meeting all requirements for recording.

Plat, Tentative. A preliminary plan for a land division or replat consisting of a diagram, drawing or other writing containing all the descriptions, locations, specifications, dedication provisions, and other information as required by this Ordinance.

Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary Structure. A structure containing the primary use on a property. In residential zones, a dwelling is the primary structure.

Primary Surface. A surface longitudinally centered on the runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the [Federal Aviation Regulations](#) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Public or Semi-public Use. An area owned or operated by a public or non-profit organization for the benefit of the public generally. (This does not include landfill sites, garbage dumps, governmental structures and land uses, City parks or infrastructure improvements located within public rights of way or easements.)

Pre-Hearing Conference. A conference held after the acceptance of an application for Tentative Plat approval of a subdivision or major partition.

Proceeding. A public hearing to consider an application.

Property Line. See [ORS 92.010](#).

Property Line Adjustment. See [ORS 92.010](#).

Proposal. The set of documents required to initiate proceedings for a proposed action.

Public Hearing. Public proceedings, at which both those for and against a request have an opportunity to offer testimony.

Public Hearing, Quasi-judicial. A public hearing in which existing law is applied to a proposed action.

Public Hearing, Legislative. A public hearing in which a change in law is considered.

Public Improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrian walkway, bicycle way, tree, lawn, shrub, off-street parking area, lot or parcel improvement, or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established. All such improvements shall be properly bonded.

Public Right of Way. The area between boundary lines of a street, road, highway, vehicular access way, pedestrian way or bicycle way that is dedicated for use by the public.

Public Use. Including, but not limited to: parks, playgrounds, recreation areas, public open space, educational sites or governmental facilities.

Public Works Director. The City of Pendleton Public Works Director or his/her authorized agent.

Pygmy Goat. A genetically small and compact goat whose body circumference in relation to height and weight is proportionately greater than other breeds of goats; having a maximum height of not exceeding 23 inches for a Doe (female), 24 inches for a Buck (unneutered male), and 27 inches for a Wether (neutered male), with measurement taken at the highest part of the back at the base of the neck where the shoulder blades almost touch. It does not include Bucks (unneutered males) of more than six months of age.

Reasonably Direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

Replat. See [ORS 92.010](#).

Reservation. The setting aside of land for future public acquisition.

Recreational Equipment. Boats, boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motor homes, tent trailers, and the like.

Residential Facility. See [ORS 197.660-670](#).

Residential Home. See [ORS 197.660-670](#).

Road. See definition for Street.

Roadway. The portion of a public street right-of-way developed for vehicular traffic.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Sale or Sell. See [ORS 92.010](#).

Safe and Convenient Bicycle and Pedestrian Routes: Bicycle and pedestrian facilities and improvements which are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips. Further these routes must provide a reasonably direct route of travel between destinations such as a transit stop and a store, and the route must meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the optimum trip length of pedestrians is generally ¼ to ½ mile.

Same Ownership. Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Sanitary Landfills or Solid Waste Disposal Sites. Places or facilities for disposing of refuse on or beneath the land surface.

Screening. A strip of at least ten (10) feet in width, densely planted or having equivalent natural growth with shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year around dense screen of at least six (6) feet in height.

Setback. See Yard.

Sharrow. A combination of the words shared and arrow, typically consisting of a stenciled pattern applied to a road surface containing an image of a bicycle and two chevron arrows, placed in the travel lane to indicate that motor vehicles and bicyclists share the full lane.

Sidewalk. A walkway parallel to City and project streets.

Sidewalk section. That portion of the driveway approach lying between the back edge of the sidewalk and the apron plus the end slopes measured at the front edge of the sidewalk.

Site: The location of a significant event, prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of any existing building, structure, or object.

Solar Energy System. A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy.

Solar Skyspace. The space between a solar energy collector and the sun which must be kept free of obstructions that shade the collector to an extent which precludes its cost-effective operation.

Solar Skyspace Easement. An easement, covenant, condition, or other property interest which protects the solar skyspace of an actual, proposed, or designated solar energy collector by forbidding or limiting activities or land uses that interfere with access to solar energy.

Solid Waste Transfer Station. A place or facility the principal purpose of which is to provide a place where waste materials are taken from smaller collection vehicles and placed in larger transportation units for movement to disposal areas, such as landfills. Compaction, separation, recycling, and other activity incidental to solid waste management may be done at the station.

Solid Waste Treatment Facilities. A facility designed to change the physical, chemical, or biological character or composition of any solid waste. Does not include landfills or transfer stations.

Special District. Any district identified in ORS 198.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six (6') feet above ground level, such basement or cellar shall be considered a story.

Street. A public right-of-way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of land for forestry, mining or agricultural purposes.

Includes the terms "road," "highway," "lane," "place," "avenue," "alley," or other similar designations.

Street Tree. A tree or any part thereof located within a public right of way, or a tree planted on private property with branches, limbs, trunks or any part of the tree extending into the public right of way.

Streetscape: The physical parts and aesthetic qualities of a public right-of-way, including the roadway, gutter, tree lawn, sidewalk, retaining walls, landscaping and building setback.

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

Structure. That which is built or constructed.

Subdistrict. An area accurately defined as to boundaries and location on an official zoning map and designed to accommodate special development problems which might occur within any zone. It is used in combination with "underlying" or "parent" use zones.

Subdivide Land. See [ORS 92.010](#).

Subdivision. See [ORS 92.010](#).

Subdivision Plat. See [ORS 92.010](#).

Substantially developed. An area in which there are residential, industrial or commercial buildings completed to the extent that they are occupied for the purposes for which they were constructed.

Temporary Use. A short-term use not normally allowed in a given zoning district, which may be permitted by the City Council, on recommendation of the Planning Commission in accordance with Article 11 of this Ordinance.

Temporary Improvement. Improvements built and maintained by the developer during construction of a land division and prior to the release of the performance agreement or bond.

Through Lot. A lot having frontage on two parallel or approximately parallel streets other than alleys.

Tract. A continuous expanse of land.

Tree. Any self-supporting, woody plant of a species which normally, in the area, grows at maturity to an overall height of a minimum of fifteen (15') feet.

Townhouse. Two or more attached single-family dwellings, having common "party" walls, but with independent entrances and lot ownership.

Trailer. Any portable unit designed and built to be towed on its chassis, comprised of frame and wheels, and which does not fall within the definition of vacation trailer, mobile home or prefabricated house. This definition includes boat trailers, bunk trailers, portable school rooms, and industrial, commercial or public offices and accessory uses.

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

Utility Easement. See [ORS 92.010](#).

Vacation Trailer. A vehicle which is (1) built on a single chassis; (2) designed to be self-propelled or permanently towable; and (3) primarily designed as temporary living quarters for camping, travel or seasonal use; and (4) not considered a manufactured home pursuant to ORS 446 is considered a Vacation Trailer.

Vacation Trailer Park. A plot of ground upon which two or more vacation trailers are located, for temporary residential purposes, regardless of whether a charge is made for such accommodation.

Variance. A modification of the provisions of this Ordinance, so as to alleviate a hardship not anticipated by this Ordinance, and which hardship is unique to the land for which the variance is requested.

Vegetation. Any object of natural floral growth.

Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures.

Wetlands. Those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Withdrawal. The detachment, disconnection or exclusion of territory from an existing city or district.

Wrecking Yard. Any property devoted in whole or in part to the dismantling for salvage, demolition, storage or sale of obsolete or damaged vehicles, trailers, similar items or their parts.

Yard. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Ordinance.

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 the building.

Yard, Interior. A side or rear yard not abutting a public street.

Yard, Rear. A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building.

Yard, Side. A yard between the front and rear yards measured horizontally and at right angles to the side lot line from the nearest point of the building.

Zero Lot Line. An interior side or rear lot line that is also the location of a common or “party” wall separating attached single-family dwelling units.

Zone. An area accurately defined as to boundaries and location on an official zoning map and within which area only certain uses of land are permitted and within which other types of land uses are excluded, as set forth in this Ordinance.