

CITY OF LINCOLN CITY, OREGON

Title 17

Zoning Ordinance

This document was assembled by the Department of Land Conservation and Development in March, 2014, from individual files for each section of the City Zoning Ordinance that were downloaded from the City website. Each file was formatted in Word and compiled into a single document.

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Chapter 17.04 GENERAL PROVISIONS

17.04.010 Title.

This title shall be known and may be cited as the “zoning ordinance of Lincoln City, Oregon,” and shall be referred to herein as “this title.” (Ord. 84-2 § 1.010)

17.04.020 Purpose, policy and construction.

A. This title has been designed in accordance with the goals, policies and statements of intent of the adopted comprehensive plan for the city of Lincoln City and its environs. It is the general purpose of this title, therefore, to provide one of the principal means for the implementation of the comprehensive plan of Lincoln City.

B. In adopting the ordinance codified in this title, the city council is responding to the growth and development of Lincoln City and its attendant problems, and is anticipating that as future growth and urbanization continues, sensitive control will be required in order to preserve and enhance the amenities necessary to maintain and improve the prosperity and appearance of the community.

C. This title is designed to classify, designate and regulate the location and use of buildings, structures, agricultural, residential, commercial, industrial and other uses in appropriate places and, for said purposes, to divide the city into districts of such number, shape and area as be deemed best suited to carry out these regulations and provide for their enforcement; to encourage the most appropriate use of lands; to conserve and preserve natural resources; to conserve and stabilize the value of property; to provide adequate open space for light and air and prevention of fires; to prevent undue concentrations of population; to lessen congestion of streets; to facilitate adequate provisions for community utilities such as transportation, water, sewerage, schools, parks and other public requirements; and to promote the public health, safety and general welfare.

D. To further implement the comprehensive plan of Lincoln City, the ordinance codified in this title is adopted for the following special purposes:

1. To promote coordinated, sound development, taking into consideration the city’s natural environment, amenities, view and the appearance of its buildings and open spaces;
2. To achieve a balanced and efficient land use pattern, to protect and enhance real property values, to promote safe and uncongested traffic movement and to avoid uses and development which might be detrimental to the stability and livability of the city;
3. To encourage innovations in residential development and renewal so that the demand for housing may be met by a greater variety in the type and design of dwellings and by the conservation and more efficient and attractive use of open space;
4. To safeguard and enhance the appearance of the city through the advancement of effective land use, architectural design and site planning, which reflect improvements in the technology of urban development.

E. This title shall be construed most favorably to provide all the necessary authority to carry out the above purposes and policies. (Ord. 84-2 § 1.020)

17.04.030 Compliance.

Except as provided in Chapter 17.64 LCMC, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the city be changed, nor shall any condition of or upon real property be caused or maintained, after the effective date of the ordinance codified in this title, except in conformity with conditions prescribed for each of the several zones established hereunder.

It is unlawful for any person to erect, construct, establish, move into, alter, enlarge, use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this title contrary to the provisions of this title. Where this title imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this title shall control. (Ord. 84-2 § 1.030)

Chapter 17.08 DEFINITIONS

17.8.10 Definitions.

“Access” means the way or means by which pedestrians and vehicles enter and leave property.

“Accessory structure” or “accessory use” means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including any required off-street parking within 200 feet (measured in a straight line) of the building or use it is intended to serve.

“Alley” means a minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

“Alteration” means a change in construction or a change of occupancy. Where the term “alteration” is applied to a change of construction, it is intended to apply to any change, addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another or from one division of trade or use to another.

Alteration, Structural. “Structural alteration” means a change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams, or girders. In addition, any change in the external dimensions of the building shall be considered a structural alteration.

“Apartment” means any multifamily dwelling in which a dwelling unit is or dwelling units are rented, leased, let or hired out.

“Assisted living facility” means a facility which provides or coordinates a range of elderly or disabled person health care and daily living assistance services, available on a 24-hour basis in a residential setting comprised of one-family or single-family dwellings, duplex or two-family dwellings and multifamily dwellings or any combination thereof; provided, that at least one resident of each dwelling shall be an elderly or disabled person.

“Attached single-family housing development” means a development consisting of two or more structures comprised of attached single-family dwellings.

“Automobile service station” means an establishment where fuels, oils and accessories for motor vehicles are dispensed for sale at retail only, and where motor vehicle repair work and related service are secondary.

“Baby-sitting home” means a home occupation in which care is provided to no more than two children (under 15 years old) at one time during a part of the 24-hour day, with or without compensation. This does not include the home of the child.

“Basement” means a portion of a building, not deemed a story, which has more than one-half of its height (but not more than six feet) measured from finished floor to finished ceiling above the average grade of the adjoining ground.

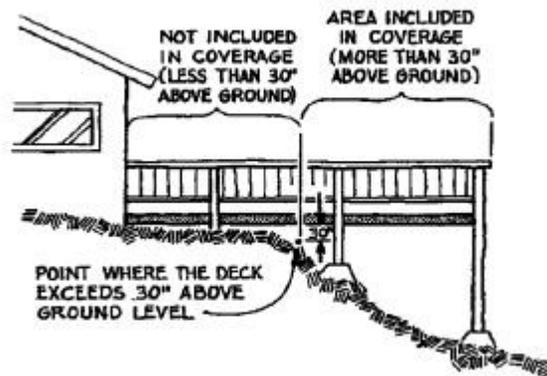
“Boarding, lodging or rooming house” means a building or portion thereof, other than a hotel, where meals and/or lodging are provided for compensation for five or more persons that are not temporary occupants.

“Boat house” means a facility attached to a floating device for the purpose of sheltering a boat or boats and generally enclosed on the sides and top, but which does not include a dwelling unit.

“Breakwater” means a structure to protect a harbor or beach from the force of waves.

“Building,” including accessory buildings, means a structure built for the support, shelter or enclosure of any persons, animals, chattels or property of any kind.

“Building coverage” means the percentage of the total lot or parcel covered by the footprint of all buildings, accessory buildings of greater than 200 square feet, decks, balconies, porches, and stairs. Uncovered decks, porches and stairs that are 30 inches or less from the ground shall not be included in the determination of building coverage.



“Building height” means the vertical distance from the average of the finished ground level at the center of all walls of the building to the highest point of the roof, exclusive of chimneys. (The City Charter of Lincoln City, Oregon, Section 5a(b), January 19, 1971.)

“Building line” means a horizontal line that coincides with the front side of the main building.

“Bulkhead” means a structure to retain earth or fill material which is located adjacent and parallel to the shoreline.

“Carnival” means an enterprise offering amusement and entertainment through the use of rides and exhibitions.

“Cellar” means a room or a group of rooms, usually under a building, which has more than one-half of its height measured from finished floor to finished ceiling below the average grade of the adjoining ground.

“City” means the city of Lincoln City, Oregon.

“Cold frame” means an unheated, outdoor structure consisting of a wooden or concrete frame and a top of glass or clear plastic, not more than 24 inches high, used for protecting seedlings and plants from the cold.

“Commercial building” means a building with more than 50 percent of its ground floor space used for commercial activities. Commercial buildings include, but are not limited to, stores, restaurants, hotels, motels, boarding, lodging or rooming houses, galleries, offices, mixed use buildings, fabrication shops, service stations, warehouses, and government buildings.

“Conditional use” means a use which is not permitted outright within the zoning district; but a permit for such use may be granted after a public hearing with the approval of the planning commission upon a finding that the use is provided for in this title and meets specified conditions.

“Condominium” means a form of ownership in which separate areas in a residential, commercial, or industrial building may be owned by individual owners. The individual owners may also jointly own an undivided interest in common areas such as recreation areas, parking areas, land or other facilities. “Convenience service retail uses” means establishments designed and intended to serve the daily or frequent trade or service needs of the surrounding population. Such establishments include grocery stores, variety stores, drug stores, coin-operated laundries, dry cleaning establishments, beauty and barber shops, and medical-dental and other professional offices. Specifically excluded are automobile service stations and drive-in restaurants.

“Court” means an open, unoccupied space, other than a yard, on the same lot with a building and bounded on two or more sides by such building.

“Day care center” means a land use in which care is provided to six or more children at any one time and/or by two or more unrelated persons during a part of the 24-hour day. Such day care centers shall have and maintain certification of approval from the Children’s Services Division as defined and stated in ORS Chapter 148, Child Welfare Services.

“Day care home” means a home occupation in which care is provided to no more than five children at any one time during a part of the 24-hour day, with or without compensation. The care is only to be provided by the residents of the dwelling unit in which the care is administered.

“Department” means the planning and community development department of Lincoln City.

“Development” has two definitions:

1. A piece of land that contains buildings, structures, and other modifications to the natural environment; or
2. The alteration of the natural environment through:
 - a. The construction or exterior alteration of any building or structure, whether above or below ground or water, and any grading, filling, dredging, draining, channelizing, cutting, topping, or excavation associated with such construction or modification.
 - b. The placing of permanent or temporary obstructions that interfere with the normal public use of the waters and lands subject to this code.
 - c. The division of land into two or more parcels, and the adjustment of property lines between parcels.

“Director” means the planning and community development director of Lincoln City and any person designated by the director to act in the director’s place.

“Dock” means a floating moorage facility constructed perpendicular or parallel to the shoreline.

“Domestic fowl” means mature female chickens (i.e., hens), but not roosters.

“Dormitory” means a room for sleeping purposes for more than four persons, which is rented.

“Drive-in restaurant” means a structure or portion thereof primarily so developed that its principal retail or service character is to provide short-order fast foods to patrons while in motor vehicles or while at a counter.

Dwelling, Attached Single-Family. "Attached single-family dwelling" means a dwelling which is located on that unit's individual lot, which is used as an independent dwelling unit, and which is attached to one or more dwelling units by common vertical walls.

Dwelling, Duplex or Two-Family. "Duplex or two-family dwelling" means a detached building designed and used as two independent dwelling units.

Dwelling, Multifamily. "Multifamily dwelling" means a building or portion thereof designed as three or more independent dwelling units, with each dwelling unit used as a dwelling unit for more than 30 days, but not including an attached single-family dwelling or a group of attached single-family dwellings.

Dwelling, One-Family or Single-Family. "One-family or single-family dwelling" means a detached building designed and used as one dwelling unit.

"Dwelling unit" means one or more rooms designed exclusively and used for occupancy by one family for living purposes and having only one cooking facility.

"Eco-roof," also called a "green roof," is a lightweight vegetated roof system consisting of waterproofing material, growing medium, and specially selected plants.

"Elderly housing" means housing in which at least 85 percent of the individual housing units in the elderly housing complex are either studio or one- or two-bedroom units, and which is:

1. Provided under any state or federal program that is specifically designed and operated to assist elderly persons as defined by the state or federal program; or
2. Is intended for and solely occupied by persons 62 years of age or older; or
3. Is intended and operated for occupancy by at least one person 55 years of age or older per unit and has significant facilities and services specifically designed to meet the physical or social needs of older persons, or if provision of such facilities and services is not practicable, such housing is necessary to provide important housing opportunities for older persons.

The city may impose the requirement of a covenant to run with the land for an elderly housing complex to ensure that, if such elderly housing complex is ever converted to a conventional apartment complex, additional off-street parking will be provided in accordance with any applicable parking ordinance requirements in effect at the time of the conversion.

"Emergency shelter" means a facility consisting of dwelling units, dormitories and/or yurts which provides necessary counseling services for 20 or fewer homeless persons for a period not to exceed 60 days per person and which includes associated cooking and sanitation facilities necessary to accommodate the maximum occupancy of the facility.

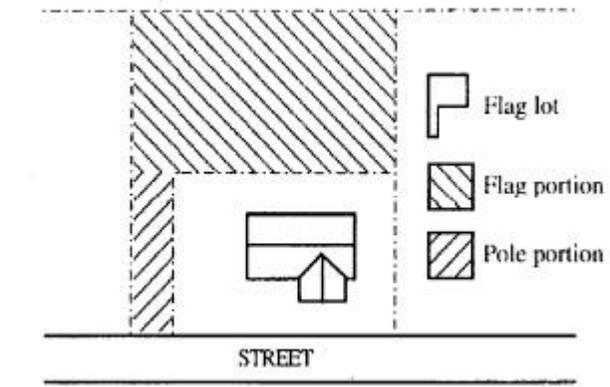
"Essential emergency communications and warning facilities" means a publicly owned and operated facility used for emergency communications or warning such as a police, fire, rescue, or ambulance radio transmitting, receiving, or relay station or antenna, a tsunami or fire warning siren, or other similar facility, that the city council has declared by resolution to be essential to the public safety.

"Family" means one person or two or more persons related by blood, marriage, legal adoption or guardianship, or a group of not more than five persons (excluding servants) all or part of whom are not related by blood, marriage, legal adoption or guardianship living together as a single housekeeping unit in a dwelling unit.

“Farm animals” means animals such as cattle, horses, sheep, and llamas.

Fence, Sight-Obscuring. “Sight-obscuring fence” means a fence, consisting of wood, metal or masonry, or an evergreen hedge or other evergreen planting, arranged in such a way as to obstruct vision.

Flag Lot. Located behind another lot, a “flag lot” has two distinct parts: the flag, which is the building site; and the pole, which connects the flag to the street, provides the only street frontage for the lot, and at any point is less than the minimum lot width for the zone (see illustration below).



“Floor area” means the sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

1. Attic space providing headroom of less than seven feet;
2. Basement or cellar;
3. Uncovered steps or fire escapes;
4. Private garages, carports or porches;
5. Accessory water towers or cooling towers;
6. Accessory off-street parking or loading spaces.

“Footprint” means the square footage of a building that rests, directly or indirectly, on the ground, including, for example, cantilevers, bay windows with floor space, and chimneys.

“Frontage” means all the property abutting on a street.

“Garden, community” means an area of land managed and maintained by a group of individuals to grow and harvest crops such as food crops and ornamental crops for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

“Garden, market” means an area of land managed and maintained by an individual or a group of individuals to grow and harvest crops such as food crops and ornamental crops to be sold for profit. Crops may be sold on site or off site.

“Garden, personal” means an area of land located on a lot developed with one or more residences and managed and maintained by an individual or a family to grow and harvest crops such as food crops and ornamental crops for personal or family use, consumption, or donation.

“Government buildings” means all buildings and structures used by the public that are constructed, purchased, leased or rented, in whole or in part, by the use of federal, state, county or municipal funds or funds of any political subdivision of the state.

Grade, Ground Level. “Ground level grade” means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

“Grazing” means the use of land for pasture of horses, cattle, sheep, goats and/or other domestic herbivorous animals, alone or in conjunction with agricultural pursuits.

“Greenhouse” means a building sheathed in glass, plastic, or fiberglass in which plants are cultivated.

“Groundcover” means plants that grow densely and close to the ground, covering large expanses, and deliberately planted to prevent weeds or soil erosion.

“Hardscape” means landscaping elements composed of permanent non-living materials, some of which are designed to sustain foot traffic and/or provide an extension of livable space to the outdoors. Examples include decks, patios, walkways, stairways, and gazebos; retaining walls, other stonework and decorative landscape art. Depending on the extent that the material prevents infiltration of storm water into the soil below, hardscape can be considered either impervious or pervious.

“High water line or mark” means the high water elevation as shown on the county assessor’s records, or as determined by the county surveyor, based upon the line where normal high water elevation results in a pronounced change in vegetation characteristics.

“Home occupation” means any lawful activity, not otherwise specifically provided for in this title, commonly carried on within a dwelling by a member or members of a family, no employee or other person being engaged in the same, and in which the activity is secondary to the use of the dwelling for living purposes. A home occupation is one that is conducted in such a manner as not to give the appearance of a business nor to infringe upon the right of neighboring residences to enjoy the peaceful occupancy of their homes.

“Hoop house” means a structure made of PVC piping or other material covered with translucent plastic and constructed in a half-round or hoop shape and not more than seven feet high or 20 feet long.

“Horticulture” means the cultivation of plants, garden crops, trees and/or nursery stock.

“Hotel” means a building or portion thereof designed or used for occupancy of individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

“Impervious surface/area” means any surface that does not allow for the infiltration of water directly into the underlying earth. Types of impervious surfaces include rooftops and eaves, asphalt and concrete parking lots other than those surfaced with pervious materials, driveways, roads, sidewalks and pedestrian plazas, and standing water. Note: Uncovered, slatted decks are considered pervious. Gravel surfaces are considered pervious unless they cover impervious surfaces or are compacted.

Institution, Educational. "Educational institution" means a college or university supported by public or private funds, tuitions, contributions or endowments, giving advanced academic instruction as approved by a recognized accrediting agency, including fraternity and sorority houses, excluding elementary and high schools, and trade and commercial schools.

"Junk yard" means any property where any person is engaged in breaking up, dismantling, sorting, storing, distributing, buying or selling of any scrap, waste materials or junk.

"Kennel" means a lot or premises on which four or more cats and/or dogs, more than four months of age, are kept for business purposes such as animal boarding, animal day care, commercial breeding, and the like.

"Landscaping" includes not only trees, grass, shrubs, flowers and garden areas, but also the arrangement of fountains, patios, decks, street furniture and ornamental concrete or stonework areas and artificial turf or carpeting, but excludes artificial plants, shrubs, bushes or flowers.

"Legislative" is a term applied to the making or giving of laws. In land use actions, it is the formulation of general policy that is applicable to the entire jurisdiction or a large part therein.

"Loading space" means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise or materials, and which space or berth abuts upon a street, alley or other appropriate means of access and egress.

"Lot" means a plot, parcel or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

"Lot area" means the total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads, and easements of access to other property.

Lot, Corner. "Corner lot" means a lot abutting on two or more streets, other than an alley, at their intersection.

"Lot depth" means the average horizontal distance between the front lot line and rear lot line.

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

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

Lot Line, Front. "Front lot line" means, for an interior lot, a line separating the lot from the street; and for a corner or through lot, a line separating either (but not both) frontages of the lot from the street.

Lot Line, Rear. "Rear lot line" means, for an interior lot, a line separating one lot from another on the opposite side of the lot from the front lot line; for corner lots, either (but not both) interior lot line separating one lot from another; and for an irregular or triangular-shaped lot, a straight line 10 feet in length that is parallel to and at the maximum distance from the front lot line.

Lot Line, Side. "Side lot line" means, for interior lots, a line separating one lot from the abutting lot or lots fronting on the same street; for corner lots, a line other than the front lot line separating the lot from the street or line separating the lot from the abutting lot along the same frontage.

Lot, Through. "Through lot" means an interior lot having frontage on two streets.

"Lot width" means the average horizontal distance between the side lot lines, ordinarily measured

parallel to the front lot line.

Lot, Zoning. A "zoning lot" is either:

1. A lot of record existing on the effective date of the zoning ordinance or any applicable subsequent amendment thereto; or
2. A tract of land, either not subdivided or consisting of two or more contiguous lots of record located within a single block in single ownership.

"Manufactured dwelling" means a manufactured home, mobile home, or residential trailer as those terms are defined in this title. "Manufactured dwelling" does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 through 455.450 or any unit identified as a recreational vehicle by the manufacturer.

"Manufactured home" means a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities that is intended for human occupancy, that is being used for residential purposes and that was constructed after June 15, 1976, in accordance with Federal Manufactured Housing Construction Safety Standards and Regulations in effect at the time of construction.

"Mixed use" means a development that includes a mix of commercial and residential uses that are planned and developed together on the same site or adjoining sites. The mix of uses may occur in the same building or in separate buildings.

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

"Mobile home park" means any place where four or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

"Motel" means one or more buildings designed or used by temporary occupants.

Motor Vehicle Repair, Major. "Major motor vehicle repair" means the general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service including body, frame or fender straightening or repair; overall painting or paint shop.

Motor Vehicle Repair, Minor. "Minor motor vehicle repair" means the replacement of parts for and motor service to passenger cars and trucks not exceeding one and one-half tons capacity, but not including any operation named under "Motor Vehicle Repair, Major."

"Nonconforming commercial site development" means characteristics of existing developed properties that do not meet standards specified in Chapter 17.74 LCMC, Commercial Design Standards, or design standards adopted for specific pearl districts, as applicable.

"Nonconforming structure" means a structure that was lawful at the time of construction, but that presently does not conform to the provisions of the zoning district in which it is situated. Any existing structure, including a sign or sign structure, for which zoning regulations now require a conditional use permit or other permit, shall be deemed to be nonconforming until such a permit is secured.

“Nonconforming use” means a use that was originally lawful, but no longer is a permitted use in the district in which it is situated. Any existing use for which zoning regulations now require a conditional use permit shall be deemed to be nonconforming until such a permit is secured.

“Order” is a term applied to the direction of public administrative officers in quasi-judicial land use proceedings.

“Ordinary low water line” means the line on the bank or shore to which the low water ordinarily recedes annually in season.

“Outdoor sales display” means the temporary or permanent outdoor display of items for direct sale, rental, or lease to the consumer.

“Outdoor storage area” means an area in which goods, junk, material, merchandise, vehicles, or other items are kept in the same place for more than 24 hours, other than as an outdoor sales display.

“Owner” means the person in whom is vested the ownership, dominion or title of property; proprietor; including an authorized agent of the owner.

“Perennial” means a landscape plant that persists for several years with new herbaceous growth from a part that lives over from one growing season to another.

“Person” means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

“Pier” means a fixed moorage facility constructed outward from the shoreline.

“Place of worship” means a special-purpose building that is architecturally designed and particularly adapted for the primary use of conducting religious services on a regular basis.

“Planned unit development” means a development in which the applicable subdivision and zoning restrictions apply to the development as a whole rather than to each individual lot. Under this procedure, detailed project plans must be approved by the planning commission.

“Planted area” means landscaped area that supports living vegetation. The area includes non-living groundcover (as defined in LCMC [17.52.100\(F\)\(2\)](#)) in between plantings and is intended to reduce soil erosion and beautify the area.

“Quasi-judicial” is a term applied to the action, discretion, etc., of public officers, who are required to investigate facts, or ascertain the existence of facts, and draw conclusions from them, as a basis for their official action, and to exercise discretion of judicial nature. In land use actions, it is the applying of policy to particular persons, places or circumstances.

“Recreation” means activities or pastimes offering diversion and relaxation to persons.

Recreational Facility, Private. “Private recreational facility” means a recreational facility under private ownership and operated by a profit or nonprofit organization, open to bona fide members, and providing one or more of the following types of recreation activity: tennis, handball, squash, volleyball and swimming.

“Recreational vehicle” means a vehicle with or without motive power that is designed for human occupancy and has a gross floor area not exceeding 400 square feet in the set-up mode and as further defined by rule by the Oregon Department of Consumer and Business Services Building Codes Division.

“Recreational vehicle park” means any place where two or more recreational vehicles are located within 250 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

“Residential home” means a residential treatment or training or an adult foster home licensed by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 through 443.825, a residential facility registered under ORS 443.480 through 443.500 or an adult foster home licensed under ORS 443.705 through 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

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

“Resort” means a place providing lodging and recreation to vacationers.

School, Commercial. “Commercial school” means a building or land where instruction is given to pupils in arts, crafts or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

School, Primary, Elementary, Junior High or High. “Primary, elementary, junior high or high school” includes public, private or parochial, but not nursery school, kindergarten or day nursery, except when operated in conjunction with a school.

“Screening” means the visual shielding of one structure or use from another structure or use by fences, walls, berms, or densely planted vegetation so as, on installation, to substantially, but not necessarily totally, eliminate visual impacts of the shielded structure or use on the other structure or use.

“Shoreline” means the boundary line between a body of water and land, measured on tidal waters at mean high water, and on non-tidal waterways at the ordinary high water mark.

“Sign” means an identification, description, illustration or device which is affixed to or represented, directly or indirectly, upon a building, structure or land and which directs attention to a product, place, activity, person, institution or business.

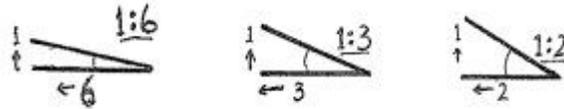
Sign, Advertising. “Advertising sign” means a sign which directs attention to a business, product, activity or service which is not necessarily conducted, sold or offered upon the premises where such sign is located.

“Significant aesthetic resource” means a site that is identified as a significant aesthetic resource in the comprehensive plan natural resource inventory.

“Silviculture” means the care and cultivation of forest trees; forestry.

“Site plan” means a plan, prepared to scale, showing accurately and completely all dimensions of the uses proposed for a specific parcel of land.

“Slope” means the ratio of vertical distance to horizontal distance on a surface, where a ratio of one vertical foot in change to two horizontal feet in change equals a 1:2 ratio. Example:



“Small animals” means animals commonly kept as household pets, other than animals such as aquarium fish, reptiles, hamsters, gerbils, or cage birds such as finches, canaries, and parakeets, and includes the following:

1. Cats (*Felis catus*);
2. Dogs (*Canis familiaris*) but not dog-wolf hybrids;
3. Rabbits (*Leporidae*);
4. Vietnamese, Chinese, or Asian potbelly pigs (*Sus scrofa bittatus*) but not any greater than 22 inches in height at the shoulder or more than 150 pounds in weight;
5. Miniature, pygmy, or dwarf goats, but not any greater than 24 inches in height at the shoulder or more than 100 pounds in weight, and not any that have not been dehorned, or any unneutered adult male goats.

Offspring of small animals that are less than five months of age are not considered “small animals” as that term is used in this title.

“Small solar energy system” means a system composed of a solar energy collector, an energy storage facility, and components for the distribution of transformed energy that may be attached to a residence or other structure. A small solar energy system may be a photovoltaic system to convert the sun’s energy to electricity or it may be a solar thermal system used to heat water.

“Small wind energy system” means a wind energy conversion system consisting of a wind turbine, a support structure, and associated control or conversion electronics and that has a rated capacity of not more than 10 kilowatts and that is intended to reduce on-site consumption of utility power.

“Story” means that portion of a building included between a floor and the ceiling above.

Story, Half. “Half story” means a story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

“Street” means the entire width between the right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms “road,” “highway,” “land,” “place,” “avenue,” “alley” and other similar designations.

“Structure” means something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.

“Temporary occupant” means any person that occupies any room or rooms for habitation for a continuous period not exceeding 30 days. This excludes any person who pays for lodging on a monthly basis.

Time-Share.

1. “Accommodation” means any apartment, condominium unit, cabin house, lodge, hotel or motel room or any other private or commercial structure that is situated on real property designed for residential use by one or more individuals.

2. “Time-share period” means a period of time when a purchaser of a time-sharing plan is entitled to possession and use of accommodations and facilities of the time-sharing plan.

3. “Time-share plan” means any arrangement, plan, scheme or device including exchange programs, whether by membership, agreement, share, tenancy-in-common, sale, lease, deed, rental agreement, license, right-to-use agreement or otherwise, whereby a purchaser, in exchange for consideration, receives a right-to-use accommodation and facilities for a period of time less than 30 days during any given year.

“Transitional area” means an area consisting of a lot, lots or parts of lots, within any residential district, having side lot lines abutting a boundary of a commercial or industrial zone, and extending not more than 100 feet from such boundary into the residential zone.

“Underlying zone” means the existing zone on the property at the time of application.

“Use” means the purpose or activity for which land or a building thereon is designed, arranged or intended or for which it is maintained, and shall include any manner or performance of such activity with respect to the performance requirements of this title.

“Use limitations” means regulations intended to limit or emphasize the desired nature and quality of uses permitted within a business or special district.

“Use regulations” means regulations which relate to a specific condition such as density or intensity or to building size, bulk or siting conditions occurring anywhere and for any type of building located within a given zoning district.

“Vacation rental dwelling” means a dwelling unit that is used, rented or occupied on a daily or weekly basis, or is available for use, rent, or occupancy on a daily or weekly basis, or is advertised, or listed by an agent, as available for use, rent, or occupancy on a daily or weekly basis.

“Vacationer” means any person enjoying a recess or leave of absence from their place of residence, the majority of whom are temporary occupants.

“Variance” is a term applied to the authorization after a public hearing for the construction or maintenance of a building or structure. The rationale for the use of a variance is to provide for administrative relief from the literal terms of a zoning code.

“Vermiculture” means worm composting in bins.

“Wharf” means a fixed moorage facility constructed parallel to the shoreline and usually attached continuously thereto.

“Wireless communications facilities” means facilities, including towers, providing licensed commercial wireless telecommunications services, including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR) paging, and similar services that are marketed to the general public.

“Yard” means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.

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

Yard, Rear. “Rear yard” means a yard between side lot lines or between a street side yard and opposite side lot line and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

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

Yard, Street Side. “Street side yard” means a yard adjacent to a street between the front yard and the rear lot line measured horizontally and at right angles from the side lot line to the nearest point of the building.

Yard, Transitional. “Transitional yard” means a yard that must be provided with landscaping and screening on a lot in a commercial district which adjoins a lot in a residential district. A transitional yard shall include any required yard or right-of-way setback. (Ord. 2012-06 § 5; Ord. 2011-09 § 2; Ord. 2011-03 §§ 1, 2; Ord. 2010-06 § 12; Ord. 2009-07 § 4; Ord. 2009-06 § 1; Ord. 2009-05 §§ 1 – 3; Ord. 2009-02 § 8; Ord. 2007-10 § 2; Ord. 2005-14 § 2; Ord. 2003-24 § 2; Ord. 2003-08 § 3; Ord. 2003-01 § 3; Ord. 2001-01 §§ 3, 4; Ord. 2000-11 § 9; Ord. 98-12 § 2; Ord. 98-11 § 6; Ord. 97-11 § 1; Ord. 97-8 § 1; Ord. 97-5 §§ 1, 2; Ord. 95-15 § 1; Ord. 92-28; Ord. 93-2 § 1; Ord. 92-8 § 1; Ord. 92-4 §§ 1 – 3; Ord. 91-4 § 1; Ord. 89-11 § 1; Ord. 84-2 § 1.040)

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Chapter 17.12
ZONING DISTRICTS ESTABLISHED

17.12.010 Classification of zones.

For the purpose of this title, the following zones are hereby established in the city.

Zone Description	Abbreviated Description
Residential, Single-family	R-1
Residential, Multifamily	R-M
Professional Campus	PC
Recreation Commercial	RC
General Commercial	GC
Nelscott Plan District	NP
Planned industrial	PI
Recreation-Residential	R-R
Park	P
Open Space	OS
Marine-Waterway	M-W
Taft Village Core	TVC
Natural Resource Overlay	NR
Oceanlake Plan District	OP

(Ord. 2010-05 § 1; Ord. 95-15 § 2; Ord. 92-3 § 1; Ord. 84-2 § 2.010)

17.12.020 Location of zones.

The boundaries for the zones listed in this title are indicated on a map entitled "Zoning Map of Lincoln City, Oregon," which is attached as Exhibit "A" to the ordinance codified in this title and is incorporated herein as though fully set forth. (Ord. 92-3 § 1; Ord. 84-2 § 2.020)

17.12.030 Boundaries of zones.

If a zone boundary as shown on the map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies; provided, that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary. (Ord. 92-3 § 1; Ord. 84-2 § 2.030)

17.12.040 Severability.

The provisions of this title are severable. If any section, clause or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this title. (Ord. 92-3 § 1; Ord. 84-2 § 2.040)

17.12.050 Zoning of annexed areas.

Areas annexed to the city will be classified with the underlying county zoning designation until rezoned by the city. (Ord. 92-3 § 1; Ord. 84-2 § 2.050)

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Chapter 17.16
SINGLE-FAMILY RESIDENTIAL (R-1) ZONE

17.16.010 Purpose.

To promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the zone. The R-1 zone is intended to provide primarily for single-family dwellings. (Ord. 2011-09 § 1; Ord. 95-15 § 3(1); Ord. 84-2 § 3.010(1))

17.16.020 Permitted uses.

The following uses are permitted:

- A. Single-family dwellings;
- B. Attached single-family dwelling, if attached to no more than one other single-family dwelling;
- C. Two-family and duplex dwellings when developed on a minimum 8,000-square-foot lot;
- D. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC [17.80.080](#);
- E. Public parks, playgrounds and other similar publicly owned recreation areas;
- F. Bed and breakfast accommodations, subject to the standards set forth in LCMC [17.80.060](#);
- G. Manufactured homes when developed in accordance with the standards set forth in LCMC [17.52.250](#);
- H. A mobile home used during construction of a permitted use for which a building permit has been issued, but not exceeding six months;
- I. Residential homes;
- J. Essential emergency communications and warning facilities.

(Ord. 2011-09 § 1; Ord. 2009-05 § 4; Ord. 2009-02 § 2; Ord. 2005-14 § 3; Ord. 2002-02 § 2; Ord. 95-15 § 3(2); Ord. 84-2 § 3.010(2))

17.16.030 Accessory uses.

The following accessory uses are permitted:

- A. Guest houses, not rented or otherwise conducted as a business and provided there are no cooking

facilities in the guest house;

B. Home occupations, subject to the provisions of LCMC [17.52.010](#);

C. Gardens and animals, subject to the provisions of LCMC [17.80.080](#);

D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use. (Ord. 2011-09 § 1; Ord. 2009-05 § 5; Ord. 95-15 § 3(3); Ord. 84-2 § 3.010(3))

17.16.040 Conditional uses.

The following conditional uses may be permitted subject to a receipt of a conditional use permit, and subject to the provisions of Chapter [17.60 LCMC](#):

A. Places of worship;

B. Public or private schools (kindergarten through 12th grade, educational institutions, nursery schools and day care centers);

C. Community meeting buildings, fraternal and social organizations, and recreation centers;

D. Public or private golf courses, except driving ranges or miniature courses operated as a business;

E. Mobile home parks submitted under the provisions of LCMC [17.80.040](#);

F. Temporary real estate offices in legally recorded subdivisions;

G. Cemeteries;

H. Utility substations, but not wireless communications facilities;

I. Radio or television transmitters or towers, but not wireless communications facilities;

J. Government buildings;

K. Hospitals, sanitariums, rest homes, nursing homes and assisted living facilities. (Ord. 2012-06 § 6; Ord. 2011-09 § 1; Ord. 2003-08 §§ 4, 5; Ord. 97-8 § 2; Ord. 95-15 § 3(4); Ord. 84-2 § 3.010(4))

17.16.050 Restrictions.

No development shall occur unless all city services are available, except as provided in LCMC [17.52.120\(A\)](#). (Ord. 2011-09 § 1; Ord. 95-15 § 3(5); Ord. 84-2 § 3.010(5))

17.16.060 Maximum building height.

The maximum building height shall be 35 feet, except as provided in LCMC [17.52.190](#) and [17.52.200](#). (Ord. 2011-09 § 1; Ord. 95-15 § 3(6); Ord. 84-2 § 3.010(6))

17.16.070 Lot requirements.

The map designations R-1-5, R-1-7.5 and R-1-10 create separate single-family residential zoning classifications as though separately listed in LCMC [17.12.010](#). Lot requirements for the zoning classifications designated on the zoning map shall be as follows:

REQUIRED MINIMUMS								
Zone	Lot Area	Lot Width	Lot Depth	Front Yard ⁽³⁾	Side Yard	Street Side Yard ⁽³⁾	Rear Yard	Maximum Lot Coverage ⁽⁵⁾
R-1-5	5,000 sq. ft.; 8,000 for duplex or two-family	50' detached; 35' attached	70'	5' ⁽¹⁾ 7-1/2' ⁽²⁾	5' ⁽¹⁾ 7-1/2' ⁽²⁾ or 0' for common wall of attached dwellings	5' ⁽¹⁾ 7-1/2' ⁽²⁾	5' ⁽¹⁾ 7-1/2' ⁽²⁾	35% ⁽⁴⁾
R-1-7.5	7,500 sq. ft.; 8,000 for duplex or two-family	70' detached; 35' attached	80'	same as above				35% ⁽⁴⁾
R-1-10	10,000 sq. ft.	80'	80'	same as above				35% ⁽⁴⁾

(1) For one-story structures.

(2) For structures more than one story.

(3) The front and street side yards shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade. On corner lots, the clear-vision area requirement of LCMC [17.52.060](#) and [17.52.070](#) shall apply.

(4) For existing lots between 3,000 sq. ft. and 4,000 sq. ft., maximum lot coverage shall be 40 percent. For existing lots less than 3,000 sq. ft., maximum lot coverage shall be 50 percent.

(5) Includes accessory buildings (garages and outbuildings).

(Ord. 2012-07 § 1; Ord. 2011-09 § 1; Ord. 2010-06 § 1; Ord. 95-15 § 3(7); Ord. 84-2 § 3.010(7))

Signs shall be permitted as set forth in Chapter [17.72 LCMC](#). (Ord. 2011-09 § 1; Ord. 95-15 § 3(8); Ord. 84-2 § 3.010(8))

17.16.090 Off-street parking and loading.

Off-street parking and loading shall be provided in accordance with Chapter [17.56 LCMC](#). (Ord. 2011-09 § 1; Ord. 95-15 § 3(9); Ord. 84-2 § 3.010(9))

17.16.100 Other required conditions.

All single-family dwellings (site-built, modular and manufactured homes) to be constructed or located in residential zones shall use at least two of the following design features to provide visual relief along the front of the home:

- A. Dormers;
- B. Gables;
- C. Recessed entries;
- D. Covered porch entries;
- E. Cupolas;
- F. Pillars or posts;
- G. Bay or bow windows;
- H. Eaves (minimum six-inch projection);
- I. Off-sets on building face or roof (minimum 16 inches).

(Ord. 2011-09 § 1; Ord. 2010-06 § 2; Ord. 95-15 § 3(10); Ord. 84-2 § 3.010(10))

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Chapter 17.20

MULTIPLE-FAMILY RESIDENTIAL (R-M) ZONE

17.20.010 Purpose.

This zoning district is designed to provide an environment suitable for higher density urban residential uses, and community services. (Ord. 90-11 § 1(1); Ord. 84-2 § 3.040(1))

17.20.020 Permitted uses.

The following uses are permitted:

A. Single-family dwellings, if developed under the standards set forth for single-family dwellings within the R-1 zone (except for the building coverage standards, which shall be as set out in LCMC [17.20.060\(D\)](#)), and two-family dwellings or duplexes;

B. Multiple-family dwellings and apartment houses;

C. Rooming and boarding houses;

D. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC [17.80.080](#);

E. A mobile home used during construction of a permitted use for which a building permit has been issued, but not exceeding six months;

F. Bed and breakfast accommodations, subject to the standards set forth in LCMC [17.80.060](#);

G. Manufactured homes when developed in accordance with the standards specified in LCMC [17.52.250](#);

H. Attached single-family dwellings, when developed in accordance with the standards specified in LCMC [17.52.260](#).

(Ord. 2010-06 § 3; Ord. 2009-05 § 6; Ord. 2005-14 § 4; Ord. 97-12 § 1; Ord. 95-15 § 4; Ord. 94-12 §§ 1, 2; Ord. 91-4 § 4; Ord. 90-11 § 1(2); Ord. 84-2 § 3.040(2)).

17.20.030 Accessory uses.

The following accessory uses are permitted:

A. Offices incidental and necessary to the conduct of a permitted use;

B. Off-street parking lots when appurtenant to a permitted use in the R-M zone, subject to the provisions of Chapter [17.56 LCMC](#);

C. Home occupations, subject to the provisions of LCMC [17.52.010\(E\)](#);

D. Gardens and animals, subject to the provisions of LCMC [17.80.080](#);

E. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use. (Ord. 2009-05 § 7; Ord. 92-8 § 4; Ord. 90-11 § 1(3); Ord. 84-2 § 3.040(3))

17.20.040 Conditional uses.

The following conditional uses may be permitted subject to a conditional use permit:

A. Time-share units, when developed subject to requirements and standards of this section;

B. Places of worship;

C. Public or private schools (kindergarten through 12th grade, educational institutions, nursery schools and day care centers);

D. Community meeting buildings, fraternal and social organizations and recreation centers, public parks, playgrounds and similar publicly owned recreational areas;

E. Public or private golf courses, except driving ranges or miniature courses operated as a business;

F. Mobile home parks submitted under the provisions of LCMC [17.80.040](#);

G. Temporary real estate offices in legally recorded subdivisions;

H. Cemeteries;

I. Utility substations, but not wireless communications facilities;

J. Radio and television transmitters or towers, but not wireless communications facilities;

K. Government buildings;

L. Hospitals, sanitariums, rest homes and nursing homes. (

Ord. 2012-06 § 7; Ord. 2009-02 § 3; Ord. 2003-08 §§ 6, 7; Ord. 95-15 §§ 5, 6; Ord. 90-11 § 1(4); Ord. 84-2 § 3.040(4))

17.20.050 Minimum lot area and density requirements.

The minimum lot area shall be 5,000 square feet for a single-family dwelling and a minimum of 8,000 square feet for a duplex. For each additional dwelling unit thereafter, the following standards shall apply:

A. Low Density. Where any portion of the parcel is in excess of 150 feet from a boundary line of a commercial zone, for each additional dwelling, the lot area shall be increased by 2,250 square feet.

B. High Density. Where any portion of the parcel is within 150 feet of the boundary of a commercial zone, for each additional dwelling unit, the lot area shall be increased by 1,200 square feet. (Ord. 90-11 § 1(5); Ord. 84-2 § 3.040(5))

17.20.060 Lot width, building coverage and yard requirements.

A. Lot Width. The minimum average lot width shall be at least 50 feet for single-family residences and duplexes; at least 60 feet for triplexes or greater number of dwelling units.

B. Front Yard. The minimum front yard shall be 20 feet.

C. Side and Rear Yard. The minimum side and rear yard shall be at least five feet, except that the street side yard shall be a minimum of 15 feet. The side and rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

D. Building Coverage. The maximum building coverage by buildings and structures shall not exceed 45 percent of the total lot area.

E. Special yards and distances between buildings shall be provided as follows:

1. The distance between any principal building and any accessory building shall be a minimum of 10 feet.

2. An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet in width.

3. Except for single-family dwellings on one lot, the distance between principal buildings shall be at least one-half the sum of the height of both buildings; provided, however, that in no case shall the distance be less than 15 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space.

4. For special yard requirements, see Chapter [17.52 LCMC, Supplementary Regulations and Exceptions](#). (Ord. 2010-06 § 4; Ord. 90-11 § 1(6); Ord. 84-2 § 3.040(6))

17.20.070 Maximum building height.

Maximum building height shall be 35 feet except as provided in LCMC [17.52.190](#) and [17.52.200](#). (Ord. 90-11 § 1(7); Ord. 84-2 § 3.040(7))

17.20.080 Signs.

Signs shall be permitted in accordance with the provisions of Chapter 17.72 LCMC. (Ord. 90-11 § 1 (8); Ord. 84-2 § 3.040(8))

17.20.090 Parking.

Off-street parking shall be provided in accordance with Chapter 17.56 LCMC. (Ord. 92-8 § 5; Ord. 90-11 § 1(9); Ord. 84-2 § 3.040(9))

17.20.100 Other required conditions.

A. Landscaping. Landscaping shall be provided in accordance with LCMC 17.52.100.

B. Recreation Area. A minimum of 250 square feet of recreation area shall be provided for each living unit. The recreation area must be exclusively for recreational use, must be for use by occupants and their guests, and must be accessible to occupants without their having to leave the property comprising the multifamily dwelling complex. The recreation area may be in one or more locations in the multifamily dwelling complex. Recreation buildings may be counted as recreation area. Recreation areas shall not be located in the required yard and shall not be considered as required landscape areas.

C. Storage Area. Storage space (for boats, campers, etc.) shall be provided on the apartment complex site at the rate of one 10-foot by 20-foot space in size for every four living units. Adequate maneuvering room shall be provided; storage space shall be fenced with a six-foot sight-obscuring fence and conform to standard setbacks.

D. Access Barrier. Each lot, with its buildings, other structures, and parking and loading areas, shall be physically separated from each adjoining highway or street by a curb or other suitable barrier against unchanneled motor vehicle ingress or egress. Such a barrier shall be located at the edge of, or within, the front yard or in side yards abutting streets unless suitable curbs and gutters are provided within the highway or street right-of-way. Except for the access ways permitted below, such barrier shall be continuous for the entire length of any lot line adjoining a street or highway.

E. Access Ways. Each lot shall have not more than two access ways to any one street or highway, which shall comply with the following requirements.

1. Width of Access Way. The width of any access way leading to or from a street or highway shall not exceed 36 feet nor be less than 15 feet in width at the right-of-way line. The alignment of access ways and curb return dimensions shall be determined through site plan review committee approval.

2. Spacing of Access Ways. At its intersection with the lot line, no part of any access way shall be nearer than 20 feet to any other access way on the same lot, nor shall any part of the access way be nearer than 10 feet to any side or rear property line and its intersection with a right-of-way line. Insofar as practicable, the use of common access ways by two or more permitted uses shall be encouraged in order to reduce the number or closeness of access points along the highways. The fronting of commercial uses upon a marginal service street and not directly upon a public highway is also encouraged.

3. Traffic Hazards. The location and number of access ways shall be so arranged that they will reduce the possibilities of traffic hazards as much as possible.

F. Restrictions. No development shall occur in the R-M zone unless all city services (sewer and water) are available to serve such development, except as provided in LCMC 17.52.120(A).

G. Design Features. All single-family units (site-built, modular and manufactured homes) to be constructed or located in the multifamily residential zone shall utilize at least two of the following design features to provide visual relief along the front of the home:

1. Dormers;

2. Gables;

3. Recessed entries;

4. Covered porch entries;

5. Cupolas;

6. Pillars or posts;

7. Bay or bow windows;

8. Eaves (minimum six-inch projection);

9. Off-sets on building face or roof (minimum 16 inches). (Ord. 98-13; Ord. 91-8 § 1; Ord. 91-4 § 5; Ord. 90-11 § 1(10); Ord. 84-2 § 3.040(10))

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Chapter 17.24
PROFESSIONAL CAMPUS (PC) ZONE

17.24.010 Purpose.

The professional campus zone (PC) is provided for the cohesive development of professional, institutional, office and special service uses in common areas within the community. (Ord. 84-2 § 3.050(1))

17.24.020 Uses permitted.

In a PC zone, the following are given as examples of those uses which meet the intent of this zone:

A. Offices, studios or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons and psychologists;

B. Offices of administrative, editorial, educational, utility, executive, financial, government, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations whose activities are such that few visitors, other than employees, have reason to come to the premises;

C. Hospitals and accessory uses such as pharmacies, and related health facilities, sanitariums, nursing homes, residential homes and assisted living facilities;

D. Public parks and recreation facilities;

E. Government buildings;

F. Elderly housing units developed under the standards and provisions of the low density section of the R-M zone;

G. Mixed use development;

H. Essential emergency communications and warning facilities.

(Ord. 2005-14 § 5; Ord. 2001-01 § 2; Ord. 91-44 § 1; Ord. 84-2 § 3.050(2))

17.24.030 Accessory uses.

The following accessory uses are permitted:

A. Off-street parking lots when appurtenant to a permitted use in the R-M zone, subject to the provisions of Chapter [17.56 LCMC](#);

B. Gardens and animals, subject to the provisions of LCMC [17.80.080](#);

C. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use. (Ord. 2009-05 § 8)

17.24.040 Conditional uses permitted.

In a PC zone, the following are given as examples of those uses which meet the intent of this zone on a conditional basis, subject to the provisions of Chapter [17.60 LCMC](#):

A. Theaters;

B. Utility substation;

C. Research and development establishments engaged in the development and assembly of electronic equipment, precision instruments or similar products, so long as the occupancy of such an establishment does not exceed one employee per 170 square feet of gross office, laboratory, processing or assembly floor area;

D. Public use of public utility;

E. Wireless communications facilities, subject to the provisions of LCMC [17.52.270](#). (Ord. 2003-08 § 8; Ord. 84-2 § 3.050(3). Formerly 17.24.030)

17.24.050 Yard requirements.

A. Front Yard. The minimum front yard shall be 20 feet.

B. Side and Rear Yard. The minimum side and rear yard shall be at least five feet, except that the street side yard shall be a minimum of 15 feet. The side and rear yards shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

C. For special yard requirements, see Chapter [17.52 LCMC](#), Supplementary Regulations and Exceptions. (Ord. 91-14 § 1; Ord. 84-2 § 3.050(4). Formerly 17.24.040)

17.24.060 Maximum building height.

Maximum building height shall be 45 feet, except as provided in LCMC [17.52.190](#) and [17.52.200](#). (Ord. 91-14 § 2; Ord. 91-8 § 2; Ord. 84-2 § 3.050(5). Formerly 17.24.050)

17.24.070 Signs.

Signs shall be permitted in accordance with the provisions of Chapter 17.72 LCMC. (Ord. 91-14 § 3; Ord. 84-2 § 3.050(6). Formerly 17.24.060)

17.24.080 Parking.

Off-street parking shall be provided in accordance with Chapter 17.56 LCMC. (Ord. 92-8 § 6; Ord. 91-14 § 3; Ord. 84-2 § 3.050(7). Formerly 17.24.070)

17.24.090 Other required conditions.

A. Landscaping. Landscaping shall be provided in accordance with LCMC 17.52.100.

B. Restrictions. No development shall occur in the PC zone unless all city services (sewer and water) are available to serve such development. (Ord. 91-14 § 3; Ord. 84-2 § 3.050(8). Formerly 17.24.080)

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Chapter 17.28

RECREATION-COMMERCIAL (RC) ZONE

17.28.010 Purpose.

The recreation-commercial zone (RC) is provided for those commercial uses having a definite relationship to the community's resort and recreation industry. Allowed herein are uses that provide food, lodging, recreational activities and services that have a resort rather than a carnival character. Residential multifamily housing is also permitted which meets demands for housing in areas of concentrated recreation services, including seasonal and retirement homes. (Ord. 84-2 § 3.060(1))

17.28.020 Uses permitted.

In an RC zone, the following are given as examples of those uses which meet the intent of this zone:

A. Motels and resorts;

B. Eating or drinking establishments;

C. Gift shops;

D. Convention centers;

E. Single-family dwellings and duplexes, if developed under the standards set forth for single-family dwellings within the R-1 zone;

F. Time-share units, when developed under the standards of LCMC [17.28.050](#);

G. Bed and breakfast accommodations;

H. Attached single-family dwellings, when developed in accordance with the standards specified in LCMC [17.52.260](#);

I. Manufactured homes when developed in accordance with the standards specified in LCMC [17.52.250](#);

J. Essential emergency communications and warning facilities;

K. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC [17.80.080](#);

L. Mixed-use development. (Ord. 2012-06 § 4; Ord. 2009-07 § 2; Ord. 2009-05 § 9; Ord. 2005-14 § 6; Ord. 95-15 § 7; Ord. 94-13 § 1; Ord. 94-12 § 3; Ord. 85-10; Ord. 84-2 § 3.060(2))

17.28.030 Accessory uses.

The following accessory uses are permitted:

A. Gardens and animals, subject to the provisions of LCMC [17.80.080](#);

B. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use. (Ord. 2009-05 § 10)

17.28.040 Conditional uses permitted.

In an RC zone, the following are given as examples of those uses that meet the intent of this zone on a conditional basis, subject to the provisions of Chapter [17.60](#) LCMC:

A. A use listed as a permitted use in this zone, with drive-in service facilities;

B. Public use or public utility;

C. Utility substation;

D. Outdoor commercial amusement establishments;

E. Recreational vehicle parks;

F. Multifamily dwellings developed under the standards of the R-M zone;

G. Wireless communications facilities, subject to the provisions of LCMC [17.52.270](#);

H. Emergency shelters.

(Ord. 2012-06 § 1; Ord. 2009-02 § 4; Ord. 2003-08 § 9; Ord. 97-11 § 2; Ord. 95-15 § 8; Ord. 89-11 § 5; Ord. 84-2 § 3.060(3). Formerly 17.28.030)

17.28.050 Yard requirements.

A. Front Yards. The minimum front yard shall be five feet.

B. Side and Rear Yard. The minimum side and rear yard shall be at least five feet, except that the street side yard shall be a minimum of five feet. The side and rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

C. For special yard requirements, see Chapter [17.52 LCMC](#), Supplementary Regulations and Exceptions. (Ord. 91-14 § 4; Ord. 84-2 § 3.060(4). Formerly 17.28.040)

17.28.060 Minimum lot area.

None required, except for motels and resorts which shall have a minimum lot area of 10,000 square feet. (Ord. 91-14 § 5; Ord. 91-8 § 3; Ord. 84-2 § 3.060(5). Formerly 17.28.050)

17.28.070 Maximum building height.

Maximum building height shall be 45 feet, except as provided in LCMC [17.52.190](#) and [17.52.200](#). (Ord. 91-14 § 6; Ord. 84-2 § 3.060(6). Formerly 17.28.060)

17.28.080 Signs.

Signs shall be permitted in accordance with the provisions of Chapter [17.72 LCMC](#). (Ord. 91-14 § 6; Ord. 84-2 § 3.060(7). Formerly 17.28.070)

17.28.090 Parking.

Off-street parking shall be provided in accordance with Chapter [17.56 LCMC](#). (Ord. 92-8 § 7; Ord. 91-14 § 6; Ord. 84-2 § 3.060(8). Formerly 17.28.080)

17.28.100 Other required conditions.

A. Landscaping. Landscaping shall be provided in accordance with LCMC [17.52.100](#).

B. No development shall occur in the RC zone unless all city services (sewer and water) are available to serve such development.

C. Design Features. All single-family units (site-built, modular and manufactured homes) to be constructed or located in the zone shall utilize at least two of the following design features to provide visual relief along the front of the home:

1. Dormers;

2. Gables;

3. Recessed entries;

4. Covered porch entries;

5. Cupolas;

6. Pillars or posts;

7. Bay or bow windows;

8. Eaves (minimum six-inch projection);

9. Off-sets on building face or roof (minimum 16 inches).

D. All commercial or mixed use buildings in the RC zone must conform to Chapter [17.74 LCMC, Commercial Design Standards](#).¹ (Ord. 2007-10 § 3; Ord. 94-13 § 2; Ord. 91-14 § 6; Ord. 84-2 § 3.060 (9). Formerly 17.28.090)

¹Code reviser's note: This subsection was added by Ord. 2007-10 as LCMC [17.28.090\(C\)](#). It has been editorially relettered to avoid duplication.

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Chapter 17.32

GENERAL COMMERCIAL (GC) ZONE

17.32.010 Purpose.

The general commercial zone (GC) is provided to accommodate a wide range of retail commercial uses including those which attract shoppers from a community or larger market area, as well as convenience service/retail uses and single-family residential dwelling units. Retail commercial uses are those that sell services and/or products to the ultimate consumer. Also permitted as conditional uses are low intensity fabrication uses and other limited service facilities as listed. (Ord. 84-2 § 3.070 (1))

17.32.020 Uses permitted.

In a GC zone, the following are given as examples of those uses that meet the intent of this zone:

A. Convenience service/retail use;

B. Eating and drinking establishments, excluding drive-in restaurants;

C. Carpet, rug, fabric and interior decorating shops including reupholstering, making of draperies and other similar articles which are conducted as part of, and secondary to, a retail sales operation;

D. Sporting goods stores;

E. Motels and resorts;

F. Building supply stores;

G. Public facilities;

H. Garden supplies and nursery;

I. Community meeting buildings, fraternal or social organizations;

J. Automotive parts and accessories;

K. Printing;

L. Carpenter, plumbing, cabinet, upholstery and sheet metal shops, if conducted wholly within an enclosed building;

M. Appliance sales and service;

N. Single-family dwellings and duplexes, if developed under the standards in the R-1 zone;

O. Mini-warehouses, if existing on or if site plan approval was applied for before June 9, 2008. Mini-warehouses in existence on or applied for before June 9, 2008, may be expanded within the boundaries of the lot or lots they occupied as of that date, subject to the standards applicable as of the date of application for expansion;

P. Time-share units, when developed under the standards of LCMC [17.28.050](#);

Q. Bed and breakfast accommodations;

R. Professional and business offices;

S. Art gallery and studio;

T. Physical therapy;

U. Equipment rental establishments;

V. Physical fitness center;

W. Manufactured homes when developed in accordance with the standards specified in LCMC [17.28.100\(C\)](#) and [17.52.250](#);

X. Veterinary clinics;

Y. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC [17.80.080](#);

Z. Mixed-use development;

AA. Essential emergency communications and warning facilities. (Ord. 2012-06 § 2; Ord. 2010-05 § 2; Ord. 2009-07 § 3; Ord. 2009-05 § 11; Ord. 2008-05 § 2; Ord. 2005-14 § 7; Ord. 95-26 § 1; Ord. 95-15 § 9; Ord. 94-13 § 3; Ord. 94-3 § 1; Ord. 90-22 § 1; Ord. 90-21 § 1; Ord. 90-12 § 1; Ord. 90-5 § 1; Ord. 85-10; Ord. 84-2 § 3.070(2))

17.32.030 Accessory uses.

The following accessory uses are permitted:

A. Gardens and animals, subject to the provisions of LCMC [17.80.080](#);

B. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use. (Ord. 2009-05 § 12)

17.32.040 Conditional uses permitted.

In a GC zone, the following are given as examples of those uses which meet the intent of this zone on a conditional basis, subject to the provisions of Chapter [17.60](#) LCMC:

A. A use listed in this zone with drive-in service facilities and including, but not limited to, drive-in restaurants, service stations, car washes and photo processing booths;

B. Places of worship;

C. Indoor commercial recreation establishments including theaters;

D. Passenger terminals;

E. Public utility;

F. Utility substation;

G. Outdoor commercial recreational establishments, such as swimming pool and miniature golf;

H. Automobile and trailer sales; provided, that any incidental repair activities shall be conducted and confined wholly within a building;

I. Light fabrication establishments entailing the assembly of electronic or precision equipment, the sewing of fabric or materials or similar activities;

J. Recreational vehicle parks;

K. Multifamily dwellings developed under the standards and provisions of the high density section of the R-M zone;

L. Motor vehicle repair facility;

M. Tire shops;

N. Kennels;

O. Aggregate sales and storage;

P. Manufactured dwelling sales and service;

Q. Mortuary;

R. Wireless communications facilities, subject to the provisions of LCMC [17.52.270](#);

S. Emergency shelters.

17.32.050 Yard requirements.

A. Front Yard. None, except when the front yard is abutting or across the street from a parcel in a residential zone and then the front yard shall be the front yard required in the contiguous residential zone. However, the provisions of LCMC [17.52.060](#) and [17.52.070](#) shall apply.

B. Side, Street Side and Rear Yard. None, except when the side, street side or rear yard is abutting or across the street from a parcel in a residential zone, and then the side, street side or rear yard shall be a minimum of 10 feet. The required side, street side or rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet. However, the provisions of LCMC [17.52.060](#) and [17.52.070](#) shall apply. (Ord. 92-19 § 1; Ord. 91-19 § 1; Ord. 91-14 § 7; Ord. 84-2 § 3.070(4). Formerly 17.32.040)

17.32.060 Minimum lot width.

Automobile service stations, drive-in restaurants and similar drive-in establishments shall have a minimum lot width of 100 feet. (Ord. 91-14 § 8; Ord. 91-8 § 4; Ord. 84-2 § 3.070(5). Formerly 17.32.050)

17.32.070 Maximum building height.

Maximum building height shall be 45 feet, except as provided in LCMC [17.52.190](#) and [17.52.200](#).

(Ord. 91-14 § 9; Ord. 84-2 § 3.070(6). Formerly 17.32.060)

17.32.080 Maximum building size.

A. No building or group of contiguous buildings shall exceed a footprint of 60,000 square feet. Notwithstanding this limitation, any building or group of contiguous buildings in lawful existence that exceeded this limitation on January 1, 2003, may expand its footprint, by not more than 10 percent of the footprint on January 1, 2003; provided, that the use of the building or combined contiguous buildings has not ceased for a period of six months or more ending at any time on or after January 1, 2003.

B. Notwithstanding the provisions of Chapter 17.64 LCMC, any building or group of contiguous buildings in lawful existence and that exceeded this limitation on January 1, 2003, may be rebuilt if destroyed by any cause to any extent up to its footprint immediately prior to its destruction.

C. Variances under Chapter 17.68 LCMC to the footprint limitation set out in this section shall not be allowed. (Ord. 2003-01 § 2; Ord. 84-2 § 3.070(7). Formerly 17.32.070)

17.32.090 Signs.

Signs shall be permitted in accordance with the provisions of Chapter 17.72 LCMC. (Ord. 2003-01 § 2; Ord. 91-14 § 9; Ord. 84-2 § 3.070(8). Formerly 17.32.080)

17.32.100 Parking.

Off-street parking shall be provided in accordance with Chapter 17.56 LCMC. (Ord. 2003-01 § 2; Ord. 92-8 § 8; Ord. 91-14 § 9; Ord. 84-2 § 3.070(9). Formerly 17.32.090)

17.32.110 Other required conditions.

A. Landscaping. Landscaping shall be provided in accordance with LCMC 17.52.100.

B. Outdoor Storage Areas. All outdoor storage areas shall be screened from ground level view from adjacent properties and from public streets.

C. Outdoor Sales Displays. Outdoor sales displays are allowed, but shall not be located in any yard, landscaped area, or off-street parking or loading area which is required by this title.

D. Restrictions. No development shall occur in the GC zone unless all city services (sewer and water) are available to serve such development.

E. All commercial or mixed use buildings in the GC zone must conform to Chapter 17.74 LCMC, Commercial Design Standards.¹ (Ord. 2007-10 § 4; Ord. 2003-01 § 2; Ord. 98-12 § 1; Ord. 91-14 § 9; Ord. 84-2 § 3.070(10). Formerly 17.32.100)

¹Code reviser's note: This subsection was added by Ord. 2007-10 as LCMC 17.32.100(C). It has been editorially relettered to avoid duplication.

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Chapter 17.34

NELSCOTT PLAN (NP) DISTRICT

Article I. Nelscott Plan District – General Provisions

17.34.005 Definitions.

Note: The following definitions are informational. Where conflicts occur between the definitions below and an adopted building code, the adopted building code shall apply. For terms that are not defined below and are not defined in the building code, the reviewing authority will use its discretion in selecting from professional source materials that are most relevant to the question at hand.

“Accessibility” means the locational and design characteristics of a use, structure, or facility that permit it to be reached by one with a disability, as prescribed under the Americans with Disabilities Act and associated building codes and guidelines.

“Accessory dwelling unit” means a dwelling unit either attached to a single-family or duplex primary dwelling unit or located on the same lot, having an independent primary means of access, visually subordinate to the primary dwelling, and having a total floor area of not more than 750 square feet.

“Alcove” means a recessed section of a building’s exterior wall; may provide weather protection, outdoor seating or other pedestrian amenities.

“Basement” means the lowest story of a building where 50 percent or more of the floor is located below the grade plane.

“Belt course” means a horizontal course in a masonry wall that is of a different color, texture, size, or material and which is compatible with the overall form and architectural composition.

“Bollard” means a post of metal, wood or masonry, or a combination thereof, that is used to separate or direct traffic (vehicles, pedestrians or both). Bollards may contain sidewalk or pathway lighting.

“Clerestory” means a window that extends from the ground floor of a building to near the top of an outside wall.

“Corbel” means a projection on a building out from a masonry wall, sometimes to support a load and sometimes for decorative effect.

“Cornice” means the exterior trim of a structure at the meeting of the roof and wall.

“Facade” means the front or principal face of a building; any side of a building that faces a street, way, or pedestrian space.

“False-front” means a front wall that extends beyond the side walls or rooftop of a building to create a more imposing facade. (See also “Parapet.”)

“Fenestration” means the arrangement and design of windows and doors in a building. “Grade” means the surface elevation of the ground.

“Guideline” means a recommended approach, parameter, example, and/or rationale for interpreting, applying, and/or modifying a standard through the site plan review process. For the purpose of site plan review, the photographs, illustrations, and diagrams contained in this chapter are intended to be used as guidelines, except where an illustration contains a specific dimensional requirement or is accompanied by the words “shall” or “must,” then the illustration is intended as a standard.

“Lintel” means a heavy horizontal beam of wood or stone over an opening of a door or window to support the weight above it.

“Medallion” means a small decorative detail used to accent a building’s exterior.

“Mezzanine” means an intermediate level between a ground floor and the upper story(ies) occupying a partial area of floor space.

“Parapet” means a low protective wall at the edge of a roof.

“Pedestrian-scale lighting” means lighting that is designed and located to illuminate a sidewalk, pathway or other area that is used principally by pedestrians. Bollards, wall-mounted lights and step lights are typical of pedestrian-scale lighting.

“Pedestrian space” means a public gathering space, such as a plaza, square, outdoor seating area, alcove, sculpture garden, or similar space, oriented to pedestrians and connecting one or more developments to the adjacent streetscape.

“Pediment” means a low-pitched gable over a portico, door or window; may be used to reduce the scale of a building facade.

“Pier” means a portion of a wall between windows, doors or other openings.

“Pilaster” means a shallow pier used to buttress a wall; or a rectangular column with a capital and base, projecting only slightly from a wall as an ornamental motif.

“Pocket park” means a small plaza or landscaped pedestrian space, typically less than one-quarter acre and not for recreational use.

“Portico” means a porch or entrance to a building consisting of a covered and often columned area; may be used to address building orientation standards where redeveloping a building to meet the front property line is not feasible.

“Public art” means artwork in the public realm, regardless of whether it is on public or private property, or whether it is acquired through public or private funding. Public art can be a sculpture, mural, manhole cover, paving pattern, lighting, seating, kiosk, gate, fountain, engraving, carving, fresco or similar artwork which is approved through

design review. In evaluating public art proposals, the reviewing authority may refer to guidelines and inventories prepared by the Arts Committee, the National Trust for Historic Preservation and/or other references it deems appropriate.

“Spandrel” means the blank space between windows and successive stories; or the area between the top of a column or pier and the apex of the arch springing from it.

“Split-barrel roof” means a rounded roof that resembles a barrel split in half and resting rounded side up.

“Standard” means a requirement for the purposes of design review approval. Dimensional requirements and provisions containing the words “shall,” “must,” “not permitted,” “prohibited,” “required/requirement,” or similar prescriptive or proscriptive terms indicate the presence of a standard.

“Streetscape” means the interface between development and a public street along the development’s street frontage; it typically includes storefronts, building entrances, weather protective canopies or awnings, pedestrian spaces such as plazas and curb extensions at intersections, a building front zone along the sidewalk where outdoor seating may occur, a through zone for pedestrians, a street furnishings zone for lights, trees, and other furnishings, and on-street parking where applicable.

“Transparency (windows)” means nonreflective glass with a visible transmittance rating of 0.50 or greater, per the National Fenestration Rating Council.

“Turret” means a small tower extending above a building.

“Wayfinding sign” means a directional sign that is part of an overall sign program for a district, neighborhood, or other city-recognized area as approved through design review. (Ord. 2011-11 § 1; Ord. 2008-18 § 4, Appx. A)

17.34.010 Purpose and overall guiding principles.

The Nelscott plan district (NPD) is established to provide for the integration of residential, commercial, and recreational uses in a well-planned, pedestrian-oriented, mixed use environment. The purpose of the district is to provide maximum flexibility in land use while protecting the unique character of Nelscott. Where a proposed development meets the design requirements of this chapter, the land use approvals process should be as predictable and efficient as possible while striving for excellence in design. The NPD land use and design standards in Articles II and III are intended to ensure that projects support the following objectives:

- Integration and functionality of land uses;
- Connecting Nelscott to the ocean;
- Respecting neighborhood transitions;
- Designing for the climate;

- Aesthetics and context-sensitive design;

- Balancing durability and affordability.

A. Integration and Functionality of Land Uses. Connections between building entrances, sidewalks and associated pedestrian areas should be made to encourage visual and physical integration with a strong sense of place. Due to the small parcel sizes and limited right-of-way widths within Nelscott, developments should maximize the opportunity to consolidate and share parking, for example, by sharing driveways. Where such connections are not practicable, site plans should maximize the opportunity to provide shared parking serving multiple developments.

B. Connecting Nelscott to the Ocean. Nelscott has a network of east-west streets and alleys providing visual and, in some cases, physical access to the beach. The area is defined by village-scale storefronts, beach cottages and hotels nestled between rolling hills, shore pines, and the ocean. While the city recognizes that it is not possible or practical to preserve all views of the ocean, new projects should be designed to take advantage of ocean views while maintaining view corridors from adjacent rights-of-way and pedestrian spaces to the greatest extent practicable.

C. Respecting Neighborhood Transitions. Developments on the edge of the Nelscott Plan District should be made compatible with abutting single-family residential uses outside the plan district – particularly the single-family dwellings and cottages to the north. The design standards for Nelscott are intended to address compatibility through height, mass, scale, materials, detailing, setbacks and other elements.

D. Designing for the Climate. Temperatures in Lincoln City vary widely and it can rain any day of the year. People like being outside and will often walk from place to place even when it's raining. Nelscott has many visitors in the summer and more people are making it their home, or second home.

Therefore, buildings should be designed to withstand high winds, as storms can generate winds of 100 miles per hour. Rooflines should not be overly complex and should have proper drainage for rainwater. Roofs should shed and drain water away from building openings, parking, refuse storage areas and other such areas. Commercial buildings should incorporate canopies, awnings, porticos or similar weather protection features. Pedestrian amenities such as plazas and outdoor seating areas should take advantage of southern exposures and be protected from the wind, to the greatest extent practical.

E. Sustainability. In order to reduce the environmental and energy effects of development, sustainable building practices are encouraged. Permeable pavements for driveways, walkways, and parking areas are encouraged, as is energy conservation in construction. Site designs should maximize the preservation of existing mature vegetation and should provide for on-site storm water quality treatment and management such as through providing bioswales or other natural water treatment features.

F. Aesthetics and Context-Sensitive Design. Nelscott's aesthetic is rooted in the area's eclectic mix of beach cottages, hotels, and the Nelscott Strip nestled between rolling hills, shore pines, and the ocean. The Nelscott Plan District encourages new development and redevelopment that honors the past while providing a contemporary interpretation of the area's architecture and history. The predominant building materials are painted or natural-stain wood siding (shingle, lap, or board-and-batten), masonry block, brick and stone. Detailing may include any of these materials, as well as limited use of metal or vinyl for canopies, building detailing (e.g., flashing, roof gutters, drains, etc.), signs, art, and other detailing.

While each project is unique, the Nelscott design standards (Article III) are intended to provide clear and consistent standards. The standards discourage overly thematic, “formula” architecture, or designs used by retailers, national chain stores, franchises and other companies with stores or offices in multiple locations; provided, that corporate logos, art and similar commercial speech are not restricted.

G. Balancing Durability and Affordability. Balancing durability and affordability means that the city is practical in administering its codes. Great design does not have to be expensive. Sound design principles, quality workmanship, long-lasting materials, and routine maintenance are all important. Historically, development in Nelscott has been characterized by relatively simple building forms with moderate detailing and ornamentation. Traditional materials such as wood, stone, and brick are preferred, but other materials such as architectural-grade composite boards, shingles and trim may be used when it is demonstrated that the material is durable and fits the overall composition of the proposed design. Project designs should respect the past, while being practical and durable for the future. (Ord. 2008-18 § 4(1)(A))

17.34.020 Nelscott district overlay zones.

The NP district consists of three subdistricts as shown on the Zoning Map in Exhibit A attached to the ordinance codified in this chapter.

A. Nelscott Business District (NBD). The intent of this zoning subdistrict is to encourage and enhance the traditional character of the Nelscott commercial core along Highway 101 and to concentrate the businesses in a pedestrian-friendly manner. The emphasis in this subdistrict is on providing retail, commercial, and personal services for the neighboring residents and visitors.

B. Nelscott Cottage Residential (NCR). The intent of this zoning subdistrict is to encourage and enhance the traditional character of the Nelscott residential areas located west of Highway 101. The emphasis in this subdistrict is on preserving and protecting the traditional cottage heritage in a family-friendly, pedestrian-oriented environment.

C. Nelscott Beachside Mixed Use (NBMU). The intent of this zoning subdistrict is to provide for a variety of small-scale beach-oriented commercial and residential uses in a family-friendly environment. (Ord. 2008-18 § 4(1)(B))

17.34.030 Applicability of municipal code regulations.

A. Applicability. The provisions of the Nelscott Plan District, in addition to all other applicable regulations of this title and other city ordinances, shall apply to all uses of land and development within the NP district.

B. Redevelopment and Remodels. Where an existing use or development is proposed to be modified through redevelopment or exterior remodeling, the standards shall apply only to that portion of the use or development that is to be modified; where more than 50 percent of the use or development is to be modified, the reviewing body may require the entire development to conform to the provisions of this chapter, as provided in subsection (E) of this section.

C. Burden of Proof. The applicant has the burden of proof of demonstrating conformity with the standards and

criteria of this chapter.

D. Ordinance Conflicts. Where conflicts occur between this chapter and other Lincoln City Municipal Code regulations, the provisions of this chapter shall apply.

E. Nonconforming Situations. Existing uses and/or developments that do not conform to the provisions of this chapter, but were established lawfully prior to the city adopting this chapter, shall be allowed to continue, as provided in Chapter 17.64 LCMC, Nonconforming Situations, except, however, that a nonconforming residence that is destroyed by any cause to an extent exceeding 50 percent of the appraised value as determined by the records of the county assessor for the year preceding destruction may be rebuilt within the same footprint. To the extent any such rebuilt residence is expanded, including a vertical expansion, the area of expansion must conform to the NP regulations. (Ord. 2008-18 § 4(1)(C))

17.34.040 Administration of design standards.

A. Site Plan Review. The design standards will be applied to commercial development (including mixed use and multifamily dwellings, but not including single-family or two-family dwellings) that must receive approval through the city's site plan review process during that process and prior to issuance of building permits. Single-family or two-family dwellings are subject to the design standards requirements relating to block layout and must receive approval through the building permit review process. The planning director may refer any site plan review application to the planning commission for a public hearing when:

1. The applicant has requested an adjustment or modification to one or more Nelscott code standard(s), as provided in subsection (C) of this section; or

2. The applicant requests a hearing; or

3. The planning director determines that the size or scale of the development (relative to its appearance, traffic generation, parking, or other characteristics) warrants a public hearing.

B. Design Standards Versus Guidelines. The code sections that follow provide intent statements, followed by standards and guidelines. Most sections contain objective standards and approval criteria; however, some criteria require the reviewing body to apply discretion. Where discretion is involved, the code provides guidelines to assist the reviewing body in evaluating a proposal. The following further explains the relationship between intent statements, standards and guidelines.

1. Intent statements are not applicable approval criteria, except requests for adjustments or variance must demonstrate how the proposal conforms to the code's intent.

2. Standards use the words "shall" or "must" and are mandatory.

3. Guidelines use the words "should," "may," "preferred," and "discouraged," and are advisory. Guidelines supplement the standards and provide examples of acceptable or unacceptable design. Guidelines also assist in reviewing requests for adjustments and variances and may serve as the basis for approval, denial, or approval with modifications in such instances.

4. Graphics are used to illustrate standards and guidelines. They are not intended to prescribe a particular design but serve as examples of acceptable or unacceptable design solutions.

5. Standards and guidelines both serve as approval criteria, but the reviewing body is afforded greater latitude in applying guidelines. Where the word "should" is used, the applicant must demonstrate

that the proposal is consistent with the guideline, or that applying an alternate design solution is consistent with the code's stated intent. Where a guideline conflicts with any code standard, the standard shall prevail.

6. In the case of a proposed variance or adjustment to a code standard, the applicant must demonstrate how the variance or adjustment results in equal or greater conformity to the intent of the code and all other applicable standards and guidelines.

7. Nullification of one standard or guideline by a court of competent jurisdiction shall not cause any other standard or guideline to be nullified.

C. Adjustments/Modifications to the Standards. The standards contained in this chapter may be adjusted or modified without the need for a variance if the applicant demonstrates that:

1. The chapter's guiding principles and the intent statement(s) under the applicable standard to be adjusted can be better met through a proposed alternative design solution; or

2. There are practical difficulties in meeting a standard based on the necessary characteristics of an allowed use. In such cases the design must provide other features that tend to meet the goal of the standard (such as a trellis with vines, a sculpture, or a pergola).

Where the code language suggests more than one way to meet a particular standard, the applicant is encouraged to be creative and propose the most appropriate design solution given the site's context and the purpose of the code. The decision-making body shall refer to the guiding principles in LCMC [17.34.010](#), the purpose in LCMC [17.34.070](#), and the intent under each standard in making its decision; the purpose, guiding principles and intent statements shall serve as the approval criteria for adjustments.

D. Incentives for Design Excellence. The city encourages excellence in design. Projects that provide superior pedestrian spaces, pedestrian amenities, public art, alleys, shared parking, or superior architecture may be rewarded, for example, with reduced off-street parking requirements, reduced lot sizes, increased allowable building coverage, and/or assistance from the city's urban renewal program. These "incentives" are in addition to the "adjustments" provided in subsection (C) of this section. In granting incentives, the hearing body shall find that the incentive results in a design that is superior to what is required under the base standard(s), and is consistent with one or more of the following guidelines:

1. Integration and Functionality of Land Uses. Mixed use projects combining upper-story residential uses with ground floor commercial or civic uses are preferred over single-use developments in the NBD and NBMU subdistricts.

2. Connecting Nelscott to the Ocean. Oceanfront projects that provide the public with physical beach access are preferred over those that provide only visual access or no access at all. Nonoceanfront projects should maintain views of the ocean from public rights-of-way where such views currently exist. Where a project results in diminished ocean views, the decision body may consider other mitigating circumstances in approving an incentive, such as the provision of pedestrian spaces (e.g., plaza) or public parking facilities in the vicinity that enable the public to more easily access the shoreline.

3. Respecting Neighborhood Transitions. Where an applicant requests an exception to the maximum building height standards abutting a residential zone, the project must incorporate mitigating design features, such as additional open space or buffering adjacent to residential uses. Applicants are encouraged to do neighborhood outreach prior to submitting site plans to the city for review. The applicant's efforts to engage the public (e.g., through a design charrette) prior to submitting a site plan application may influence the decision body in approving or denying incentives.

4. Designing for the Climate. Design elements that show special attention to the Nelscott climate, such as innovative rain protection features, wind protection features, and solar exposure features, are

encouraged. Projects going beyond basic wind and rain protection and taking advantage of solar exposure are preferred over projects that do not.

5. Sustainability. Incentives may be appropriate for projects incorporating green building practices, such as the preservation of existing mature vegetation, use of water quality treatment in parking lots, rooftops, and landscapes, use of renewable energy, and energy conservation in construction. Projects eligible for green certification through a nationally recognized program (e.g., Leadership Through Energy and Environmental Design (LEED) or similar program approved by the city) are preferred over those that do not meet such criteria.

6. Aesthetics and Context-Sensitive Design. Architecture that goes beyond base code requirements and achieves the vision contained in the Nelscott Redevelopment Plan is preferred over architecture that merely conforms to the base code requirements. For example, corner properties along Highway 101, particularly those in gateway locations, should incorporate a tower or other signature architectural feature. Oceanfront designs should be superior in both their street-fronting elevation as well as their ocean-fronting elevation.

7. Balancing Durability and Affordability. In granting incentives, preference may be given to projects providing affordable workforce housing or affordable commercial space to small businesses (except overnight accommodations). "Affordable housing" means households earning less than the area median income pay no more than 30 percent of their income toward housing costs. Where incentives are provided, the reviewing authority may require the applicant/owner to record deed restrictions or provide other assurances that the subject housing remains affordable for not less than 10 years. (Ord. 2010-06 § 5; Ord. 2008-18 § 4(1)(D))

Article II. Nelscott Land Use Standards

17.34.050 Permitted uses.

Table 17.34.050.A identifies the land uses allowed in the each of the three Nelscott subdistricts. Uses permitted subject to site plan review are identified with "P"; those that are allowed subject to conditional use permit are identified with "C"; prohibited uses are identified with "N." If a use is not listed, the planning commission may interpret the code and make a similar use ruling following the procedure for authorization of similar uses found in LCMC [17.52.020](#).

Table 17.34.050.A – Land Uses Allowed in Nelscott

Table II.A – Land Uses Allowed in Nelscott

Uses	Status of Use in District		
<i>Use Categories</i>	<i>Business District</i>	<i>Cottage Residential</i>	<i>Beachside Mixed Use</i>
Residential Categories			
Single-family dwelling	P	P	P
Attached single-family dwelling	P	N	P
Duplex or two-family dwelling (when developed on a minimum 7,000 square foot lot)	P	P	P
Accessory dwelling unit, accessory to single-family dwelling or duplex, subject to compliance with design guidelines	P	P	P
Accessory use of a single family dwelling as a vacation rental dwelling, subject to Section 17.80.050	N/A	P	N/A
Primary use of a single family dwelling as a vacation rental dwelling, subject to Section 17.80.050	P	N	P
Multiple-family dwellings	P	N	P
Mixed use <ul style="list-style-type: none"> - dwelling(s) above or abutting a ground floor commercial use - dwelling(s) below a ground floor commercial use fronting on Highway 101 	P	N	P
	P	N	P
Commercial Categories			

Table II.A – Land Uses Allowed in Nelscott			
Uses	Status of Use in District		
Use Categories	Business District	Cottage Residential	Beachside Mixed Use
Drive-Up/Drive-In/Drive-Through (drive-up windows, ATM's, similar uses/facilities)			
- lawfully existing as of June 1, 2008	P	N	N
- new or expanded use	N	N	N
Walk-up windows, ATMs, similar uses/facilities	P	N	P
Bed and Breakfast Inn, per Section 17.80.060	P	P	P
Educational Services, not a school (e.g., tutoring or similar services)	P	P	P
Entertainment, Major Event	P	N	P
Overnight Accommodations, except Bed & Breakfast Inns	P	N	P
Offices	P	N	P
Outdoor Recreation, Commercial	CU	N	CU
Surface Parking Lot, except for public facilities and parking as an accessory use	CU	CU	CU
Vehicle Servicing or Vehicle Repair	N	N	N
Retail Sales and Service, excluding Drive-Up	P	N	P
Retail Sales and Service, greater than 60,000 square feet	N	N	N
Self-Service Storage	N	N	N
Industrial Categories			

Table II.A – Land Uses Allowed in Nelscott

Uses	Status of Use in District		
<i>Use Categories</i>	<i>Business District</i>	<i>Cottage Residential</i>	<i>Beachside Mixed Use</i>
Industrial Service, excluding Drive-Up <ul style="list-style-type: none"> - fully enclosed (e.g., office) - not enclosed 	CU N	N N	N N
Manufacturing and Production in conjunction with an allowed commercial use <ul style="list-style-type: none"> - fully enclosed - not enclosed 	CU N	N N	N N
Warehouse and Freight Movement	N	N	N
Waste-Related, except as accessory to a primary permitted use	N	N	N
Wholesale Sales <ul style="list-style-type: none"> - fully enclosed - not enclosed 	CU N	N N	N N
<i>Institutional Categories</i>			
Basic Utilities	P	P	P
Colleges	CU	N	N
Government Use	P	CU	CU
Daycare, adult or child day care; does not include Family Daycare (16 or fewer children) under ORS 657A.440	CU	CU	CU
Nursing home, assisted living facility, hospital, rest home, sanitarium, and similar uses	CU	N	N

Table II.A – Land Uses Allowed in Nelscott			
Uses	Status of Use in District		
Use Categories	Business District	Cottage Residential	Beachside Mixed Use
Parks and Open Space			
- pedestrian amenities	P	P	P
- parks and recreation facilities	P	P	P
- other open space	P	P	P
Religious Institutions and Houses of Worship	CU	CU	CU
Schools	CU	CU	CU
Other Categories			
Accessory Structures (with a permitted use)	P	P	P
Radio Frequency Transmission Facilities such as mini-cell antennas and Wi-Fi antennas	CU	CU	CU
Stand-alone wireless communication facilities	N	N	N
Essential emergency communications facilities	P	P	P
Transportation Facilities (operation, maintenance, preservation, and construction in accordance with the City's Transportation System Plan)	P	P	P

17.34.060 General development standards.

Except as modified through the procedures in LCMC [17.34.040\(C\)](#) and (D), the development standards in [Table 17.34.060.B](#) apply to all Nelscott uses and development.

Standard	Business District	Cottage Residential	Beachside Mixed Use
<p>Minimum Lot Area* (square feet)</p> <p>*Development must conform to lot width, depth, yard setback and coverage standards.</p> <ul style="list-style-type: none"> - Detached single family dwelling - Attached single family dwelling - Other structures 	<p>3,750 sf</p> <p>3,750 sf</p> <p>3,750 sf</p>	<p>3,750 sf</p> <p>Not applicable</p> <p>3,750 sf</p>	<p>3,750 sf</p> <p>3,750 sf</p> <p>3,750 sf</p>
<p>Maximum Dwelling Unit Density</p> <ul style="list-style-type: none"> - Single-family dwelling - Duplex or two-family dwelling - Multiple-family dwelling⁵ 	<p>One unit per 3,750 sf</p> <p>Two units per 7,000 sf</p> <p>As in R-M zone (high density)</p>	<p>One unit per 3,750 sf</p> <p>Two units per 7,000 sf</p> <p>N/A</p>	<p>One unit per 3,750 sf</p> <p>Two units per 7,000 sf</p> <p>As in R-M zone (high density)</p>
<p>Minimum Lot Width</p> <p>Minimum Lot Depth</p>	<p>50 ft</p> <p>50 ft</p>	<p>35 ft</p> <p>50 ft</p>	<p>50 ft</p> <p>50 ft</p>
<p>Building/Structure Height</p> <p>Maximum Height (see exceptions in Section III. C.2)</p> <p>Minimum Height</p>	<p>45 ft</p> <p>18 ft</p>	<p>35 ft</p> <p>None</p>	<p>35 ft</p> <p>None</p>
<p><u>Fences, Retaining/Garden Walls</u></p> <p>Max. Height. – Front and Street Yards</p> <p>Max. Height. – Interior Side and Rear Yards</p>	<p>3.5 ft</p> <p>6 ft</p>	<p>3.5 ft</p> <p>6 ft</p>	<p>3.5 ft</p> <p>6 ft, except as may be prohibited in coastal zone</p>

Table II.B – Development Standards

Standard	Business District	Cottage Residential	Beachside Mixed Use
<p>Lot Coverage</p> <p>Maximum Lot Coverage (Footprint of building including projections such as balconies, cantilevers, etc.)</p>	90%	35%*	80%
<p>Min. Landscape Area (% site area), except does not apply to Single Family Dwellings. Landscape area may include plant areas and approved pedestrian spaces. Street trees and other street frontage landscaping included.</p>	10%	10% (may be reduced to 5% where at least one significant shore pine is preserved on site, subject to Site Plan review)	10% (may be reduced to 5% where at least one significant shore pine is preserved on site, subject to Site Plan review)

*For lawfully created, pre-existing lots between 3,000 and 4,000 square feet the maximum lot coverage is 40%. For lawfully created, pre-existing lots smaller than 3,000 square feet the maximum lot coverage is 50%.

Table II.B – Development Standards

Standard	Business District	Cottage Residential	Beachside Mixed Use
<p>Minimum Setbacks (feet): (See also, Section III (C) (2) (8) (b) Height Step-Back)</p> <p><u>Front, Street, Side, and Rear</u> property lines, except garage or carport, and subject to building code</p> <p><u>Garage/Carport Entry</u>, setback from street</p> <p><u>Alley or Walkway</u>, building setback from alley or walkway</p>	<p>0 ft, except as required for utility easements; single family dwellings subject to NCR standards</p> <p>20 ft</p> <p>5 ft</p>	<p>5 ft for one-story dwellings, 7.5 ft for more than one-story dwellings</p> <p>20 ft</p> <p>5 ft</p>	<p>10 ft; single-family dwellings subject to NCR standards</p> <p>20 ft</p> <p>Not Applicable</p>
<p>Build-To Line (feet): <u>New Buildings Only:</u> At least one primary building entrance shall be built no farther from the street right-of-way than the build-to line; except where a greater setback is required for a Planned Street Improvement, then the build-to line increases accordingly. The build-to line may also be increased through Site Plan Review when pedestrian amenities are provided between a primary building entrance and the street right-of-way.</p>	<p>10 ft</p>	<p>Not Applicable</p>	<p>Not Applicable</p>
<p>Special Setback for Planned Street Improvements</p>	<p>30 feet from the street centerline where the ultimate right-of-way width is 60 feet;</p> <p>24 feet from the street centerline where the ultimate right-of-way width is 48 feet;</p> <p>15 feet from the street centerline where the ultimate right-of-way width is 30 feet.</p>		

Article III. Nelscott Design Standards

17.34.070 Purpose.

The Nelscott design standards are intended to implement the vision for Nelscott, specifically to help ensure that new buildings and rehabilitated existing buildings convey an image consistent with local history and the Oregon coastal environment. The standards reflect the following values and objectives:

- Retain Nelscott's compact, walkable character and the traditional small-scale commercial development in the Highway 101 commercial area;
- Promote the formation of pedestrian-friendly facilities and structures;
- Encourage architectural variety, consistent with the eclectic character of Nelscott; provided, that new development creates a close, intimate human scale and architectural design addresses all four sides of a building;
- Encourage the use of contextually appropriate materials, textures and colors;
- Create vibrant pedestrian spaces (e.g., plazas, public art, cafe seating areas, etc.); pedestrian spaces should help identify Nelscott, create intrigue, and offer weather protection and comfort to pedestrians while adding value to the district;
- Break down large building masses and provide visual interest along the street;
- Balance rhythm and continuity – encourage creativity in the design of building elevations, rooflines and facade elements;
- Retain the small-scale beach cottage character of the interior residential area. (Ord. 2008-18 § 4(3) (A))

17.34.080 Block layout.

A. Intent. New development and redevelopment projects should reinforce the historic street grid of Nelscott. Commercial and mixed use buildings should be placed at or near the sidewalk edge and parking should be set back behind or beside such buildings. Parking should be provided on-street where shoulders are approved to accommodate parking spaces or bays. By maintaining the integrity of Nelscott's historic form, land is used efficiently, traffic is distributed evenly, and new development contributes to a cohesive, pedestrian-friendly district.

B. Standards.

1. Rights-of-Way.

a. New development and redevelopment projects that are projected to generate additional vehicle and/or pedestrian traffic may be required to dedicate rights-of-way and/or improve abutting streets and walkways.

b. Street and walkway right-of-way shall not be vacated, except where it is demonstrated that the development will improve the pedestrian environment.

2. Street Access.

a. New vehicle access to Highway 101 is discouraged. Access to Highway 101 and connecting streets is subject to the provisions of Lincoln City highway access standards. The city or ODOT may require vehicle access be provided from side streets, and existing highway approaches be consolidated as a condition of development approval.

b. The alignment of streets and walkways shall be maintained in new development to ensure connectivity from block to block. The city may require the extension and improvement of a walkway as a condition of development approval. Walkway extensions shall be 10 to 20 feet in width (consistent with the existing width of the walkway), subject to site plan review.

c. Walkways shall be contained in a public right-of-way or public access easement improved to city standards.

3. Buildings Abutting Interior Parking Areas. Where a block is planned to contain an interior parking area (i.e., served by an alley or shared access drive), buildings abutting the parking area shall provide entrance(s) opening onto it or be connected to the street by a continuous pedestrian walkway (e.g., between buildings). Buildings and development shall not be configured in a way that precludes public access to such public parking facilities. (See also LCMC [17.34.090](#) through [17.34.130](#).) (Ord. 2008-18 § 4(3)(B))

17.34.090 Buildings and structures.

A. Single-Family Dwellings and Duplexes.

1. Intent. The guidelines for single-family dwellings and duplexes are intended to help ensure that new buildings and rehabilitated dwellings convey an image consistent with local history and the Oregon coastal environment. Clear and basic building forms and quality design details are preferred.

2. Incentives.

a. Accessory Dwelling Units. A dwelling that complies with at least four of the five guidelines below is eligible for an accessory dwelling unit.

b. Building Coverage. A dwelling that complies with at least four of the five guidelines below is eligible for increased building coverage of 10 percent. For example, if a dwelling would be allowed 35 percent building coverage without compliance, with compliance it would be entitled to 45 percent building coverage.

3. Guidelines.

a. Roofs. Roofs should be pitched, not flat, and should include dormers, gables, and eave trim that enrich the visual quality of the community. High quality architectural embellishments are encouraged.

b. Facades. The facades are the fronts of the dwellings and convey the relationship of the building to the street and neighborhood. They include windows, doors, shutters, awnings, molding, porches, steps, stoops, and other design elements arranged to convey the character of the building. One- to two-story homes are encouraged. Porches are common in Nelscott and should be provided unless the configuration of the lot precludes it. High-quality exterior woodwork and attention to detail elements is encouraged. Garage entrances should not be a part of the primary building facade.

c. Chimneys. In Nelscott many buildings include unique chimneys of varying shapes that are sheathed with a range of materials including stone, brick, and wood shingles. Dwellings should include chimneys as design elements.

d. Texture and Materials. In Nelscott many homes use textures and materials that relate to elements of the local natural environment, such as river rock chimneys, wood shingled siding, brick, and exposed aggregate paving. Dwellings should make use of high-quality natural materials and should be sided with historic wood materials such as shingles, clapboard, bevel siding, or board-and-batten. Foundations should be faced with rock.

e. Landscape Materials. These include trees, shrubs, grasses, fences, walls, outdoor lighting, walkways and other hard surface gathering areas. Landscape materials add value to homes by enhancing the outdoor space and relate to the architecture of the building and surrounding areas. River rock and quarry stone are equally suitable for walls in Nelscott. Landscape materials should predominately incorporate native materials such as wood and rock and hardy native plantings. The front yard should consist primarily of landscaping, and should not be dominated by paved parking areas.

B. Multifamily Dwellings and Commercial Buildings in the Business District and Beachside Mixed Use District.

1. Intent. The Nelscott Strip, the eclectic group of buildings existing along Highway 101, is an iconic element of Nelscott's image. Commercial development and redevelopment along the highway should continue the pattern established in the existing Nelscott Strip. Therefore building design standards for the business district draw on the design elements characterizing the strip while allowing for design variety. In the Beachside mixed use area, the building design standards draw on the cottage-scale development that exists there now. It is not the city's intent to create an architectural theme or to freeze time. The design standards are not meant to halt progress or restrict property rights, but rather to ensure that new buildings and remodels fit within the context of their surroundings and support a compact, pedestrian-oriented district. In this way, the city can ensure that Nelscott retains its sense of place, vitality and economic base.

The key elements of the building design standards are:

- Eclectic coastal architecture, including commercial and mixed use development;
- Building height and articulated facades that create a sense of street enclosure at a human scale;
- Contextually appropriate materials, textures and colors;
- Storefront character (windows, pedestrian shelter, furnishings, etc.);
- Adaptable building styles that comfortably accommodate commercial and mixed land uses;

- A diversity of building facades and rooflines that fall into a consistent rhythm;
- Corner lots as focal points with vertical elements, furnishings and public art.

2. Standards.

a. Height. The maximum allowable height is 45 feet in the Nelscott Business District and 35 feet in the Nelscott Beachside Mixed Use District, except that in the Nelscott Beachside Mixed Use District buildings in existence on July 1, 2008, that exceed a height of 35 feet shall continue to be considered conforming and may be rebuilt if destroyed by any cause to an extent exceeding 50 percent of the appraised value (expansions of such buildings must conform to the 35-foot height limit). Chimneys, spires, towers, and other architectural projections exceeding the allowed height may be allowed through site plan review. To the extent they are permitted, building stories and projections exceeding 35 feet in height must be recessed behind the next lower building stories by not less than 10 feet, unless a lesser recess is allowed through site plan review on the basis of superior architectural design or as described in subsection (B)(2)(h)(ii) of this section.

b. Building Form.

i. Overall Form. Architectural designs shall address all four sides of a building. The predominant form abutting Highway 101 is a generally “flat” elevation on the lowest story with any recesses or projections (“articulations”) appearing subordinate to the dominant rectangular form. Upper stories generally are accommodated within gables and dormers (either gable or shed). New buildings should reflect the predominant form while expressing individuality, for example with vertical elements such as cupolas, turrets or towers on corner properties. New buildings should not mimic any other building in their form or detailing.

ii. Stepped Rooflines. Height shall vary from building to building to avoid a homogeneous appearance. This standard is met by using either stepped rooflines or slightly dissimilar overall height (i.e., building-to-building). Abrupt changes in height between buildings can be managed by having the taller building follow the horizontal lines of the shorter building along the first two floors and reference elements or detailing of the shorter building(s) on its upper stories. See also subsection (B)(2)(c) of this section.

iii. Roof Form. Side-facing gable roofs are the predominant roof form in the Highway 101 area, usually incorporating front-facing dormers, and this form shall be followed on new buildings. Shed roofs sloping to the rear are allowed as well. Mansard roofs, including false mansards (applied forms without windows), are discouraged and A-frame buildings and other nontraditional Nelscott forms are prohibited.

c. Storefront Character.

i. Fenestration (Windows and Doors).

(A) Applicability. The window transparency requirement does not apply to the auditorium portion of a theater (but does apply to the lobby and concession area), to the guestroom portion of a motel, hotel, or resort (but does apply to the lobby and other portions), or to multiple-family dwellings (but does apply to the

commercial parts of mixed use buildings incorporating multiple-family dwellings).

(B) Standard. Consistent with the desired storefront character, buildings shall provide large display windows, windowed doors and transom windows. The ground floor, street-facing elevation of all buildings shall contain at least 60 percent transparent windows, measured as a section extending the width of the street-facing elevation between the building base (or 30 inches above the sidewalk grade, whichever is less) and a plane 80 inches above the sidewalk grade. Upper floors may have less window area, but should follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices. Buildings without a street-facing elevation, such as those that are set back behind another building and those that are oriented to a pedestrian space (e.g., side plaza or court), shall meet the 60 percent transparency standard on all elevations abutting pedestrian spaces and on elevations containing a primary entrance.

d. Building Orientation. New buildings shall conform to the build-to line requirements in LCMC [17.34.060](#). Primary building entrances shall be oriented to a front yard or a side yard, consistent with the build-to line requirement.

e. Primary Entrances. Buildings shall have clearly defined primary entrances. Primary entrances for buildings fronting onto Highway 101 shall be oriented to the highway or a corner where the highway and a side street meet. Buildings on other streets shall have primary entrances oriented to a street, court or walkway. All primary entrances shall be covered for a depth of not less than five feet; either by recess, overhang, canopy, portico and/or awning extending at least five feet over the entrance. See also subsection (B)(2)(n) of this section, Pedestrian Shelters.

f. Secondary Entrances. Buildings with more than 90 feet of frontage on a street shall have a second entrance oriented to that street. Buildings adjacent to an internal parking area shall provide a secondary entrance in conformance with LCMC [17.34.080](#)(B)(3). (See also this section and LCMC [17.34.100](#), Streetscapes.)

g. Armature of the Block. Buildings fronting Highway 101 or Anchor Avenue shall give the impression of being individual, small-scale structures. This may be accomplished by providing a minimum six-foot separation between individual buildings, by a significant change in roofline combined with changes in cladding material and recessed entryways at the point of change, or by other means approved by the reviewing authority. Building separations shall contribute positively to the pedestrian environment, for example by providing a pedestrian space, a pedestrian access way to a parking facility, or an access to residences located on an upper building story or behind a commercial use.

h. Building Mass.

i. Traditional Building Pattern. Buildings shall incorporate offsets or divisions in the facade to express the traditional lot pattern and building width of Nelscott. Changes in facade material, window design, facade height or decorative details are examples of techniques that should be used. These variations should be expressed throughout the width of the structure such that the composition appears to be a collection of smaller buildings or storefronts.

ii. Height Step-Back. For properties fronting Highway 101, portions of a building exceeding two stories shall be set back on the street sides of each successive story of the building above the second story a minimum of 10 feet from the next immediate

lower story. The purpose of the height step-back is to maintain the appearance of a shorter building from the street and to provide for light filtering down to the street. Note: Height step-backs also apply along the east-west (numbered) streets for the purpose of protecting coastal views and solar access, per subsection (A) of this section. The planning and community development director may approve an adjustment waiving the above standard for a portion of a building incorporating a signature vertical element (e.g., clock tower) on a street corner, as recommended in subsection (B)(2)(l) of this section. Any projection exceeding 45 feet shall not contain habitable floor space.

iii. Street Level/Upper Floor. The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt courses, or similar detailing, materials and/or fenestration.

i. Accessibility. Accessibility shall be provided consistent with applicable building codes. Where wheelchair ramps are required, the ramp design shall incorporate materials and detailing similar to the base of the building.

j. Openings.

i. Ground Floor Windows. Ground floor elevations shall conform to subsection (B)(2)(c) (i) of this section. Decorative detailing and ornamentation around windows (e.g., sills, corbels, medallions, pediments, or similar features) is encouraged.

ii. Upper Floor Windows. Upper floor window orientation should be primarily vertical, or have a width that is no greater than the width of the ground floor windows.

iii. Projecting Windows, Display Cases. Where windows, flower boxes or display cases break the front plane of the building on its ground floor, such items shall not encroach into a required sidewalk clear zone. For durability and aesthetic reasons, display cases, when provided, shall be part of the building (not affixed to the exterior) and integrated into the building with trim or other detailing.

iv. Entrances. Ground level entrances shall be recessed behind the front facade not less than three feet and be at least partly transparent, except transparency is not required on entrances to residences. This standard may be met by providing a door with a window(s) or sidelights beside the door.

v. ATMs and Service Windows. Where ATMs or service windows are proposed on any street-facing elevation, they shall be visible from the street for security and have a canopy, awning, or other weather protection shelter.

vi. Corner Entrances. Buildings on corner lots should have corner entrances. Such entrances are not required to be recessed, but shall have an awning or canopy for weather protection. Where a corner entrance is not provided, the building plan shall provide for a corner plaza consistent with LCMC [17.34.110](#), or the building shall provide architectural features that honor the corner as a pedestrian space; such features may include but are not limited to an alcove with seating, public art (e.g., sculpture or fountain), a vertical building element such as a tower (e.g., clock tower), or other feature approved through site plan review. (See also LCMC [17.34.110](#), Pedestrian spaces.)

vii. Remodels. The scale and proportion of altered or added building elements, such as the size and relationship of new windows, doors, entrances, columns, weather

protection shelters, and other features shall be visually compatible with the overall composition of the building (i.e., including building materials, color, detailing, etc.).

k. Horizontal Rhythms.

i. Traditional Lot and Building Pattern. Street-facing elevations shall be articulated not less than once every 25 feet to maintain a pedestrian scale and to avoid blank walls. Other elevations may be articulated less frequently but should complement the overall building design. The approving authority may require detailing on a zero-lot-line elevation to reduce the apparent scale and avoid blank walls, i.e., until an abutting property develops.

ii. Horizontal Lines. New building designs and exterior remodels shall establish prominent horizontal lines and avoid blank walls. Examples of such horizontal lines include: base materials and detailing below a series of storefront windows, awning or canopy lines, belt courses between building stories, and cornice or parapet lines. It is not necessary for new lines to match existing lines.

iii. Ground Floor/Upper Floor Division. A clear visual division shall be maintained between the ground level floor and upper floors, for example, through the placement of windows, transoms, canopies, awnings, and signage. The majority of signage should be placed on the ground floor elevation (e.g., sign bands, canopy signs, or blade signs).

l. Vertical Lines. New construction or front elevation remodels should reflect a vertical orientation, either through breaks in volume or the use of surface details, to divide large walls and create a pedestrian scale. Building massing for corner properties on Highway 101 should accentuate the corner location with a vertical element. See also LCMC [17.34.080](#), Block layout.

m. Materials and Color.

i. Primary Materials. Exterior building materials shall predominately consist of painted or natural stain wood, stone, brick, rusticated concrete block (warm earth tones) or comparable cladding. Rough-hewn wood, timbers and metals may be used as accents but not as the primary exterior cladding. See also subsection (B)(2)(m)(ii) and (iii) of this section, Secondary Materials and Substitute Materials.

ii. Secondary Materials. Any of the primary materials listed in subsection (B)(2)(m)(i) of this section may also be used as secondary materials or accents. Metals such as copper, steel, iron, bronze and similar appearance metals may be used as trims or accents (e.g., flashing, weather protection features, ornamentation, etc.) when compatible with the overall building design, and subject to review and approval through site plan review.

iii. Substitute Materials. Substitute materials that are equal in appearance and durability to those in subsection (B)(2)(m)(i) of this section may be approved at the discretion of the reviewing authority through site plan review. The applicant will be required to provide specifications from the manufacturer.

iv. Color. Color schemes should be simple and coordinated over the entire building to establish a sense of overall composition. Color schemes should tie together signs, ornamentation, awnings, canopies and entrances. There shall be no more than one

base color for each 25 horizontal feet of the front elevation; one base color for the entire front elevation is preferred. Using only one or two accent colors is also preferred, except where precedent exists for using more than two colors with some architectural styles (e.g., arts and crafts). Natural wood finishes are appropriate for doors, window sashes and trim, signs, canopies and other architectural accents. Luminescent, sparkling, neon and "day-glow" colors are not allowed (e.g., outlining building), except that neon signs are allowed subject to applicable sign codes. Metals shall be brushed finish or painted in muted or earth tones to minimize glare.

v. Contemporary Designs. Materials that provide a contemporary interpretation of local architecture styles, including arts and crafts, art deco, and vernacular (beach cottage) styles are encouraged. Buildings that resemble suburban strip malls (e.g., picture windows extending to near grade level) and those that use highly reflective glass, clerestory windows and/or similar nontraditional features are discouraged.

vi. Restoration and Rehabilitation. Restoration and rehabilitation projects should incorporate original materials and design elements (e.g., previously covered over), to the extent practicable.

n. Pedestrian Shelters. Awnings, canopies, recesses or similar pedestrian shelters shall be provided along at least 60 percent of a building's ground floor elevation(s) where the building abuts a sidewalk, walkway, plaza, pedestrian access way, or outdoor seating area. Pedestrian shelters used to meet the above standard shall extend at least five feet over the pedestrian area, shed rain away from building entrance(s), be proportionate to the building in its dimensions, and not obscure the building's architectural details. If mezzanine or transom windows exist, the shelter shall be below such windows where feasible.

Exception: The reviewing authority may reduce the minimum shelter depth upon finding that existing right-of-way dimensions or building code requirements preclude a larger shelter.

o. Mechanical Equipment.

i. Screening. When mechanical equipment, such as utility vaults, air compressors, generators, private antennas, private satellite dishes, or similar equipment, is adjacent to a street, sidewalk or pedestrian space, it shall be screened from view on all streets. Where such equipment is installed on a side or rear building elevation and is adjacent to a walkway, access way, or pedestrian space, its appearance shall be minimized or screened using materials and/or colors that are similar to those used on the subject building. Standpipes, meters, vaults and similar equipment should not be placed on a front elevation when other alternative locations exist; such equipment shall be placed on a side or rear elevation when practicable.

ii. Rooftops. Rooftop mechanical units shall not be visible from any street and shall not exceed the allowable building height.

iii. Ground-Mounted Units. Ground-mounted mechanical units shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings. Hedges may also be used as screens where there is adequate sunlight and irrigation to ensure their successful growth. (Ord. 2010-06 § 5; Ord. 2008-18 § 4(3)(C))

17.34.100 Streetscapes.

A. Intent. The relationship between the local street system, Highway 101 and adjoining properties is important from both a transportation planning and a land use perspective. The Oregon Department of Transportation (ODOT) is the permitting authority for all access onto Highway 101. As the permitting agency for land use, the city works cooperatively with ODOT to manage development adjacent to the highway. The city's design standards are intended to implement the community's vision of a cohesive streetscape, with on-street parking, wide sidewalks, weather protection (pedestrian) shelters, benches, pedestrian-scaled lighting, public art, opportunities for cafe seating, and other amenities. A safe, inviting and comfortable pedestrian environment benefits businesses, highway users and the community as a whole.

B. Standards. In addition to standards for block layout, alleys and parking lot access provided in LCMC [17.34.080](#), the following provisions apply to all new development:

1. Transportation Plan Conformity. New development shall conform to the policies, standards, specifications and design details (e.g., street sections) contained in the city's transportation system plan (TSP) and the requirements of this chapter, specifically LCMC [17.34.080](#), Block layout, and [17.34.110](#), Pedestrian spaces. When streetscape improvements are required of new development, such improvements shall conform to the TSP.

2. Local Streets. LCMC [17.34.080](#) provides standards for local street improvements.

3. Pedestrian Amenities. LCMC [17.34.110](#) provides standards for pedestrian spaces and pedestrian amenities. Additionally, the Nelscott Redevelopment Plan provides specifications for street furnishings such as benches, trash receptacles, wayfinding signs, and streetlights. (Ord. 2008-18 § 4(3)(D))

17.34.110 Pedestrian spaces.

A. Intent. The increased development intensity, mixture of uses, pedestrian activity, close building orientation and minimal private open space envisioned for Nelscott require that pedestrian space be provided along building frontages and in breaks between buildings. Pedestrian spaces, such as plazas, extra-wide sidewalks, outdoor seating areas, pedestrian access ways between buildings, alcoves and pocket parks, provide visual relief, pedestrian resting areas and opportunities for socialization. Pedestrian spaces do not have to be publicly owned or maintained. Public or private, they are as important as building design and central parking to the success of Nelscott. Therefore, the city requires that all new developments and redevelopment projects contribute their proportionate share of pedestrian space.

B. Standards.

1. Pedestrian Space Standard. At least three percent of every development site, except for residential developments (but including mixed use developments), shall be designated and improved as pedestrian space. The highest priority locations for pedestrian space are those areas with the highest pedestrian activity (e.g., street corners and mid-block pedestrian access ways) that have a western or southern exposure (within 45 degrees of true south or west). Where no such area exists, then pedestrian space should be provided as an extended sidewalk or walkway connecting multiple developments.

2. Dimensions. All pedestrian spaces shall have dimensions of not less than eight feet across and have a surface area of not less than 64 square feet.

3. Public Access. Such areas shall abut a public right-of-way or otherwise be connected to and

visible from a public right-of-way by a sidewalk or pedestrian access way; access ways shall be identifiable with a change in paving materials (e.g., pavers inlaid in concrete or a change in pavement scoring patterns and/or texture). Where a right-of-way connection is not possible, the owner shall be required to provide a public access way easement to the pedestrian space. Pedestrian spaces shall not be gated or closed to public access, unless otherwise required by the city.

4. Pedestrian Amenities Required. Where pedestrian space is required, it shall contain pedestrian amenities such as plaza space, extra-wide sidewalks (e.g., outdoor cafe space), benches, public art, pedestrian-scale lighting, wayfinding signs (as approved by the city) or similar pedestrian areas in an amount equal to or greater than one-half of one percent of the estimated construction cost of the subject building(s). Where a pedestrian space adjoins a building entrance it should incorporate a canopy, awning, pergola, portico, or similar weather protection feature. Pedestrian amenities such as seating, planters, public art and pedestrian lighting (e.g., antique lamps or bollard lights) at street corners or pedestrian access ways may be counted in fulfilling the one-half of one percent requirement. Cost estimates for pedestrian amenity improvements shall be prepared by a licensed architect, landscape architect, or other qualified professional, and shall be subject to review and approval by the administrator.

5. Mechanical Equipment and Garbage Storage Areas. Mechanical equipment and garbage storage areas are not permitted within pedestrian space(s). Such facilities shall be screened completely from view and set back 20 feet or more from a pedestrian space for aesthetic reasons and to minimize odors and noise. (Ord. 2008-18 § 4(3)(E))

17.34.120 Off-street parking and circulation.

A. Intent. Parking is to be provided to meet the anticipated normal demand. Where areas of surface parking exist, such areas shall be oriented behind or to the side of buildings. Off-street parking and loading for uses within the Nelscott Plan District are to be provided in accordance with Chapter [17.56](#) LCMC except as provided below.

B. Standards. In addition to the standards of Chapter [17.56](#) LCMC and the standards for block layout, alleys and parking lot access provided in LCMC [17.34.080](#), the following provisions apply to all new development:

1. Drive-Up and Drive-Through Uses. New drive-up/drive-through facilities (e.g., windows, ATMs, etc.) are not permitted. Where applicable, the reviewing authority may approve the relocation and improvement of existing drive-up facilities, subject to a conditional use permit.

2. On-Street Parking. Existing or required paved, standard-sized parking spaces that abut a parcel and that are located in a public street may be counted toward the required parking for commercial development on that parcel. For parcels fronting on Highway 101, the number of on-street parking spaces for standard-sized vehicles within 200 feet of a parcel may be counted toward the required number of parking spaces for commercial or mixed uses.

3. Off-Street Parking. There is no minimum off-street parking requirement for the commercial component of any mixed use building within 400 feet of a public parking facility; all other uses shall conform to the minimum parking standards of the municipal code except that required off-street parking spaces may be located on another parcel not more than 400 feet from the parcel they are intended to serve. Where new surface parking is planned, it shall be limited to parallel on-street parking spaces, parking bays abutting the street, and/or parking areas located behind

or to the side of a building.

4. Parking Lot Design. Surface parking areas shall be divided into bays of not more than 12 parking spaces per bay. The minimum dimensions for landscape areas are four feet in width and 24 square feet in area. Additionally, where a parking area or access drive abuts a street or pedestrian access way, a landscape screen of not less than four feet in width and four feet in height shall be provided. Alternatively, the screen may be reduced to two feet in width where a masonry, wrought iron, brick or similar architectural-grade wall is also provided, subject to site plan review. Landscaping shall be provided in conformance with LCMC 17.34.140. The planning commission may allow a greater number of consecutive parking spaces where the development preserves and protects one or more existing mature trees or exceeds the minimum pedestrian space requirement in LCMC 17.34.110. The commission shall use its discretion in adjusting the standard; provided, that more credit may be awarded to projects that preserve the largest or most visible trees as viewed from public rights-of-way.

5. Redevelopment of Surface Parking Lots. Site plans for properties adjacent to city-owned parking lots should allow for conversion of such lots to structured parking in the future. Site plans should also allow for the conversion of nonconforming, front yard parking lots to new building sites or pedestrian spaces as properties redevelop. Where a proposed project would construct underground parking, the review authority may adjust building coverage, setbacks, or other development standards to facilitate provision of public-private parking spaces.

6. Parking in Front of Buildings. Due to the pedestrian orientation of Nelscott, surface parking is not allowed between any new building and the street to which it is oriented. Where such parking currently exists, the owner may be required to install landscaping or other buffering between the parking area and the sidewalk with future redevelopment.

7. Service and Loading Areas. The visual, traffic, odor and noise impacts of service and loading areas, relative to streets, pedestrian spaces, pedestrian access ways and adjacent residences, shall be minimized. Service areas and loading docks/bays shall be accessed from an alley and screened using architectural elements that are compatible with adjacent building(s). Where no alley exists, service areas shall be accessed from streets other than Highway 101.

8. Exception for Commercial Vacation Rental Dwellings. A vacation rental dwelling in the NBMU or NBD subdistricts that (a) is in a building that existed on October 1, 2008, or pursuant to LCMC 17.34.040(E), replaces, with no increase in the number of bedrooms, such a building that was destroyed by calamity (e.g., fire, flood, earthquake), and (b) is on a lot that is too small to accommodate the number of parking spaces required by LCMC 17.80.050, need only provide the number of parking spaces that, as determined by the planning and community development director, reasonably can be accommodated on the lot. (Ord. 2010-06 § 5; Ord. 2008-18 § 4(3)(F))

17.34.130 Pedestrian access.

A. Intent. In new development, the pedestrian circulation system shall provide a direct, convenient and comfortable means of accessing individual uses and connecting to other parts of Nelscott. The pedestrian system includes sidewalks, pathways, mid-block access ways, and the ocean beach.

B. Standards. To ensure safe, direct and convenient pedestrian circulation, all developments shall provide a continuous pedestrian system conforming to city standards. (Ord. 2008-18 § 4(3)(G))

17.34.140 Landscaping.

A. Intent. Nelscott is identifiable, in part, by its shore pines and other coastal vegetation. While it is inevitable that some existing trees will be removed with new development, native vegetation should be preserved where practicable or otherwise replanted in required landscape areas. Trees and hedges serve as windbreaks and visual screens in an area that is otherwise being exposed to high winds. Grassy swales capture and cleanse surface water runoff before it infiltrates into the ground or seeps onto the beach. Mature vegetation also enhances real estate values. For these reasons, as well for aesthetic reasons, the city requires that all new developments and redevelopment projects attempt to save mature vegetation that is not within building envelopes and provide landscaping in surface parking areas, as buffers between uses, within street planter strips, and to soften the appearance of large building elevations.

B. Standards.

1. Mature Landscaping. Site plans shall incorporate existing, mature vegetation that is not within building envelopes and not within areas that are required to be graded or excavated (e.g., for utilities, foundations, and driveways) into the project's landscape design to the greatest extent practicable. Where mature tree removal is unavoidable (e.g., a tree's location precludes reasonable development consistent with prescribed building envelopes, required building orientation, or public improvement requirements), mitigation shall be required as per subsection (B)(3)(g) of this section.

2. Volume Landscaping and Screening. Large trees and/or shrub planting may be required in quantities exceeding the base requirements of this code to mitigate adjustments to other standards or the loss of mature trees as described under subsection (B)(1) of this section.

3. Minimum Landscape Standards.

a. All off-street parking and vehicular use areas (including driveways and loading docks) shall have perimeter landscaping of not less than four feet in depth, and interior landscaping covering at least 10 percent of the entire vehicular use area. The planning commission authority may reduce the minimum landscape area to not less than five percent where the development preserves and protects one or more existing mature trees. The commission shall use its discretion in awarding credit; provided, that more credit may be awarded to projects that preserve the largest or most visible trees as viewed from public rights-of-way including the beach. Areas with preserved trees are counted toward the required parking lot landscaping.

b. Each separate landscape area shall be a minimum of 24 square feet with a minimum dimension of at least four feet and shall contain at least one tree. All remaining land in the landscape area shall be covered by a combination of shrubs, ground cover plants or other city-approved nonvegetative ground cover.

c. All required buffer strips, screens, and other required landscape areas shall be planted at a density to ensure the intended buffering or screening intent is met; in no case shall a landscape area have less than one tree per 200 square feet of surface or less than one shrub per 50 square feet of area.

d. Required trees and shrubs shall be noninvasive species that are known to thrive in the northern Oregon coastal environment.

e. The following guidelines apply:

i. Vegetation native to the Pacific Northwest coast is encouraged.

ii. Turf and grass is discouraged, except in residential developments and in water treatment swales. Species should be those contained in the Lincoln City tree planting guide and list of recommended species, or species recommended by a licensed nurseryman as being suitable for the local climate, as approved by the planning director.

f. Trees shall be at least two inch caliper at time of planting.

g. When tree mitigation is required the number of mitigation trees required shall be equal to at least one-half total number required to achieve the number of inches of mature tree(s) removed (diameter measured at four feet above grade). For instance, if a 12-inch diameter tree is removed, then two three-inch trees of the same or comparable species shall be planted.

h. Irrigation systems shall be provided for all planted areas for a period of at least two years, or until it is demonstrated that new plants have become naturalized.

i. Shrubs shall be at least a three-gallon size when planted.

j. If hedges are planted for screening, plants shall be at least of an initial size so that the required screening will be achieved within two years.

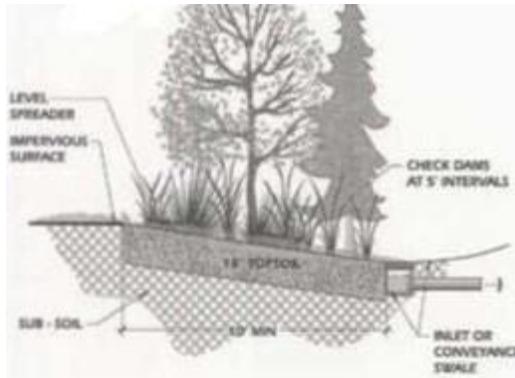
k. Trees shall be planted so that encroachment below eight feet into a public right-of-way can be prevented without long-term detriment to the subject tree.

l. Landscaping shall preserve an adequate line of sight around vehicle accesses.

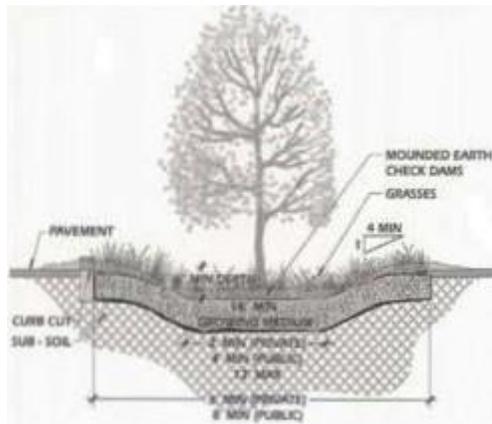
m. All landscaping materials shall be in vigorous and healthy growing condition and shall be installed according to common planting procedures, with consideration given to soil condition. The property owner is responsible for maintaining and replacing, as necessary, all approved landscape plants on his property and those within abutting rights-of-way (e.g., street trees).

4. Parking Area Landscaping. Surface parking areas shall contain landscaping as described under LCMC [17.34.120](#).

5. Water Quality. Where a surface parking area incorporates water quality filters/swales and porous paving materials, such as pavers set in sand, concrete blocks allowing grass to grow through, and/or porous concrete (e.g., particularly along walkways and in parking areas that are used infrequently), the reviewing authority may allow additional building (lot) coverage, consistent with the standards in Table 17.34.060.B. Porous paving may also be used for small areas, such as the first four feet of a parking lot's perimeter, where it would help reduce or slow surface water runoff. (Recommended: Figure 17.34.140.)



V-elited Filter



Grassy Swale

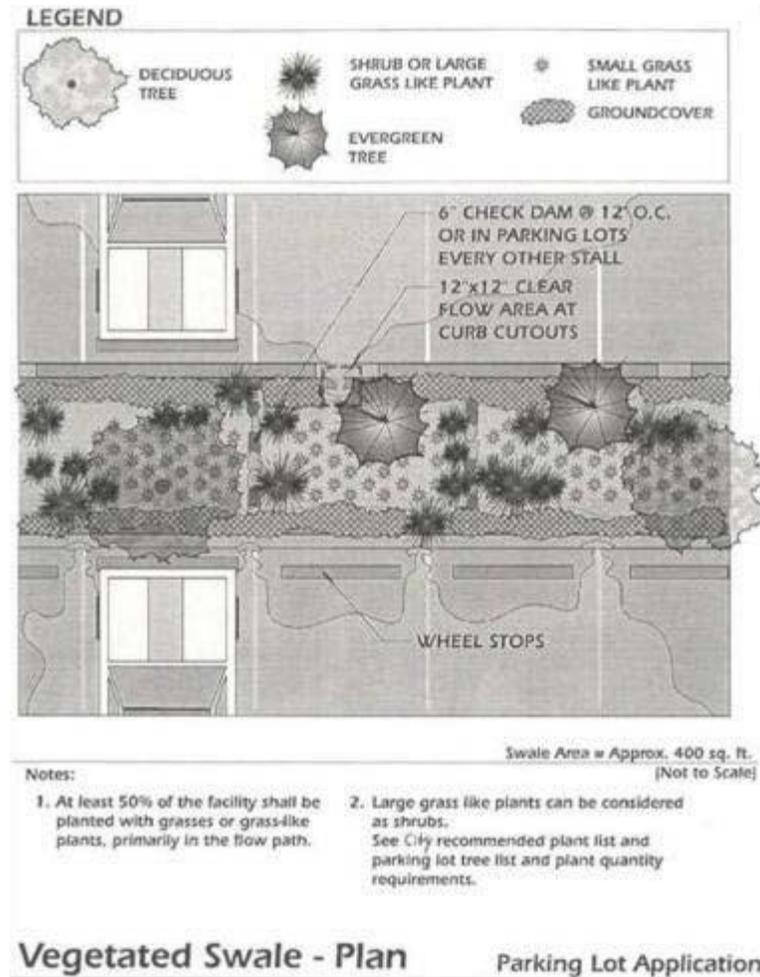


Figure 17.34.140: Typical parking lot landscape concepts, incorporating water quality features.
(Ord. 2008-18 § 4(3)(H))

17.34.150 Signs.

A. Intent. The number, size, configuration, placement, color, materials and illumination of signs all play a part in shaping the built environment. Signs in Nelscott should function primarily as cues for pedestrian wayfinding and business identification. Business identification does not require that owners maximize the size or number of signs. The highway streetscape has built-in traffic calming features that, together with the building design standards, will enable motorists and pedestrians to notice signs at a relatively small scale. Signs designed to a "highway scale" are not necessary and are discouraged through the following standards.

B. Standards. Signs shall not be installed without a sign permit. Where a sign permit is required as part of a larger project, the sign package shall be reviewed with the site plan under the applicable provisions of Chapter 17.72 LCMC and the following guidelines and standards. Where a sign permit is requested apart from any other development application, it shall be processed administratively

under the applicable provisions of the Lincoln City Municipal Code and the following guidelines and standards.

1. Building Signs. Building-mounted signs shall be positioned to emphasize established architectural elements such as entrances, windows, gables, etc. Signs should appear to fit within “frames” created by components of the facade design. Signs should not obscure building details. An individual building shall have no more than six building-mounted signs totaling not more than 48 square feet.

2. Freestanding Signs. New freestanding signs shall not exceed six feet in height, except that signs suspended from an awning, canopy or similar architectural feature may be approved subject to applicable building codes. Portable signs shall conform to LCMC [17.72.060\(A\)\(4\)](#).

3. Contextual Design. Signs should complement Nelscott’s natural surroundings. For example, signs engraved or sculpted from metal or wood (natural or painted wood) are preferred over those that are predominately made of plastic, Plexiglas, or similar reflective materials. Pictographic symbols are encouraged, as they often communicate more than text and add visual interest to the street. Fluorescent (e.g., day-glow), sparkling, reflective, or similar colors or finishes are not permitted. Banner signs, streamers, moving signs, video or animated signs, flashing signs, and similar sign types are considered a nuisance and traffic safety hazard and are therefore not permitted.

4. Pedestrian Signs. Pedestrian-scale signs, such as blade signs, wood cutout signs, door signs and permanent stylized window signs (allowing at least 50 percent transparency throughout the window) are encouraged. Such signs are exempt from the overall sign area limitations.

5. Directory Signs. Directory signs for buildings with multiple tenants should be designed to allow for new business names to be added or replaced easily.

6. Illuminated Signs. When signs are to be illuminated, external light sources shall be used. Light sources shall be placed close to and directed onto the sign they are intended to illuminate, and shielded to minimize glare into the street or onto adjacent properties. Where possible, lights should be incorporated into the sign bracket. Lights placed below any sign (up-lighting) shall be cut off to minimize spillover into the night sky. Lights in canisters and backlit signs, except for those existing prior to the effective date of the ordinance codified in this chapter, are prohibited. See also LCMC [17.34.160](#), Exterior lighting.





Figure 17.34.150: Examples of encouraged sign types (from top, left to right: mural, blade, wood cutout, hanging sign).

(Ord. 2008-18 § 4(3)(l))

17.34.160 Exterior lighting.

A. Intent. The number, size, design and placement of lights all contribute to creating a safe and aesthetically pleasing development. Excessive lighting contributes to light pollution, glare and light trespass, and it diminishes views of the night sky. Lights in Nelscott should function primarily as tools for pedestrian wayfinding and business visibility. Business visibility does not require that owners fully illuminate their building and parking areas.

B. Standards. Outdoor light fixtures shall not be installed without site plan review approval. Where a light fixture is required as part of a larger project, the lighting package shall be reviewed under the following guidelines and standards. Where an outdoor light fixture is to be installed apart from any other development application, it shall be processed administratively. Outdoor lighting that does not conform to current standards, but conformed to city standards prior to the effective date of the ordinance codified in this chapter are allowed to continue as nonconforming until such time that the light fixture and/or building is remodeled or replaced.

1. Contextual Design. Exterior lights shall be designed to fit their particular location and function. They should be simple in character and similar in color and intensity to those used traditionally. High-pressure sodium lights are appropriate, except where good color rendition is required; enhanced color rendition high-pressure sodium lamps, or more uniform spectrum lamps, may also be used.

a. Pedestrian ways and entrances that are not otherwise illuminated by building-mounted lights or streetlights shall be illuminated using bollards, step lights, or other low-profile fixtures that are appropriate for walkways and plazas. Illumination between one to two foot-candles for such areas is required.

b. Building-mounted lights should complement the building background in style; using lights to draw attention to (wash) architectural elements is permitted; provided, that unshielded, high intensity light sources and sources that direct light upward without cut-offs are not permitted. (See subsection (B)(2) of this section.)

c. Antique-style lights are preferred over recessed can lights and globe fixtures. Contemporary light fixtures that draw on historic elements or provide a new interpretation of

a historic style are encouraged.

d. Maximum initial luminance of outdoor sales areas, storage areas and service station canopies and similar areas shall not exceed 20 foot-candles, except as otherwise approved by the planning director.

e. Maximum initial luminance of parking lots shall not exceed four foot-candles, except as otherwise approved by the planning director.

2. Impacts of Lighting. The visual impacts of site and architectural lighting, such as overspray of lights onto adjacent residential properties and lights shining into the night sky, shall be avoided.

a. Light poles shall not exceed a height of 20 feet.

b. Only shielded lights are permitted. Shielding should be integral to the light fixture and direct light downward. Exception: Up-lighting of official flags may be allowed; provided, that the luminance level is minimized.

c. Lighting associated with service areas, parking lots and parking structures, as well as streetlights, shall be shielded or provide cut-offs to avoid glare, light pollution (night sky) and light spillover onto residential properties. Luminance at the property line, or no more than five feet over the property line, shall be zero.

d. The planning director may require the installation and use of timers or activity switches to prevent unnecessary sources of light by controlling the length of time that exterior lights are in use late at night.

e. Lights used to wash a building elevation (including any signs) shall not wash more than 75 percent of the facade. Interior lights (e.g., store displays, etc.) are exempt.

f. Uplighting is prohibited. Where lighting is used to wash an exterior wall, the use of recessed eave lighting is preferred. The maximum illumination limits for wall washing are one foot-candle for dark-colored surfaces and one-half foot-candle for light-colored surfaces.

g. The manufacturer's data or measurement shall be provided to demonstrate conformance with the standards set out in subsection (B)(1) of this section. Photometric plans are required with site plan review applications, unless waived by the planning director.





Figure 17.34.160: Examples of acceptable lights.

(Ord. 2008-18 § 4(3)(J))

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Chapter 17.36
PLANNED INDUSTRIAL (PI) ZONE

17.36.010 Purpose.

The planned industrial (PI) zone is provided to accommodate light industrial manufacturing, wholesale and warehousing commercial uses. (Ord. 84-2 § 3.080(1))

17.36.020 Uses permitted.

In a PI zone, the following are given as examples of those uses which meet the intent of this zone:

A. Any production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products, and business offices accessory thereto, similar in character and nature to the following activities with the standards provided for this zone:

1. Dry cleaning and laundry plants;
2. Electrical and household equipment repair shops;
3. Printing, lithography and publishing plants;
4. Sign fabrication and painting;
5. Automobile, truck or trailer sales and repairs;
6. Building material sales and storage;
7. Heating, plumbing and air conditioning supplies and equipment fabrication;
8. Carpenter, cabinet or upholstery shops;
9. General contractor;
10. Machine parts and tool manufacture, including warehouse and other storage establishments and facilities;

B. Any business or commercial establishments including warehouse and other storage establishments and facilities which provide supplies and/or services to industrial or manufacturing customers, or which provide sales and services primarily at wholesale, so long as such establishments are maintained with the standards listed below;

C. Frozen food locker;

D. Garden supplies and equipment, and greenhouses and nurseries;

E. Automobile, truck, trailer or motorcycle repair;

F. Kennels;

G. Mini-warehouses;

H. Manufactured dwelling sales and service;

I. Essential emergency communications and warning facilities. (Ord. 2005-14 § 8; Ord. 92-4 § 5; Ord. 90-5 § 2; Ord. 84-2 § 3.080(2))

17.36.030 Conditional uses permitted.

In a PI zone, the following are given as examples of those uses which meet the intent of this zone on a conditional basis, subject to the provisions of Chapter [17.60 LCMC](#):

A. Retail establishments other than those listed as permitted uses above which sell goods and services primarily to employees of industrial or wholesale commercial establishments located in the zone;

B. Utility substation;

C. Automobile car wash;

D. Automobile wrecking;

E. Aggregate sales and storage;

F. Wireless communications facilities, subject to the provisions of [LCMC 17.52.270](#);

G. Emergency shelters. (Ord. 2003-08 § 11; Ord. 97-11 § 4; Ord. 92-4 § 6; Ord. 84-2 § 3.080(3))

17.36.040 Yard requirements.

A. Front Yard. The minimum front yard shall be five feet.

B. Side, Street Side and Rear Yard. The minimum side, street side and rear yard shall be at least five feet. The side and rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

C. For special yard requirements, see Chapter [17.52 LCMC](#), Supplementary Regulations and Exceptions. (Ord. 91-19 § 2; Ord. 91-14 § 10; Ord. 91-8 § 5; Ord. 84-2 § 3.080(4))

17.36.050 Maximum building height.

Maximum building height shall be 45 feet, except as provided in LCMC [17.52.190](#) and [17.52.200](#).
(Ord. 91-14 § 11; Ord. 84-2 § 3.080(5))

17.36.060 Signs.

Signs shall be permitted in accordance with the provisions of Chapter [17.72](#) LCMC. (Ord. 91-14 § 12; Ord. 84-2 § 3.080(6))

17.36.070 Parking.

Off-street parking shall be provided in accordance with Chapter [17.56](#) LCMC. (Ord. 92-8 § 9; Ord. 91-14 § 12; Ord. 84-2 § 3.080(7))

17.36.080 Other required conditions.

A. Landscaping. Landscaping shall be provided in accordance with LCMC [17.52.100](#).

B. All operations, activities and storage may be maintained outside a building in a side or rear yard; provided, that such storage is separated from all public streets and other property by a sight-obscuring fence, wall or vegetative hedge at least six feet in height.

C. Properties to be used for surface mining shall be enclosed on the boundaries by a sight-obscuring fence, wall or vegetative hedge at least six feet in height, except for reasonable areas of ingress and egress.

D. Restrictions. No development shall occur in the PI zone unless all city services (sewer and water) are available to serve such development. (Ord. 91-14 § 12; Ord. 84-2 § 3.080(8))

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Chapter 17.42
PARK (P) ZONE

17.42.010 Purpose.

The purpose of the park (P) zone is to provide designated areas for parks and recreational facilities in the city. (Ord. 2002-01 § 3; Ord. 84-2 § 3.095(1))

17.42.020 Permitted uses.

The following uses are permitted in the park (P) zone:

- A. Public parks, playgrounds, recreational buildings and facilities;
- B. Public athletic fields and facilities including but not limited to baseball/softball/soccer fields, basketball courts, volleyball courts, swimming pools, and gymnasiums;
- C. Public community centers and auditoriums;
- D. Concession stands with approval of the parks director in conjunction with recreational activities sponsored by the city;
- E. Special events as approved by the city manager;
- F. Vendors holding permits as approved by the planning and community development director in accordance with the standards set forth in Chapter [5.28 LCMC](#);
- G. Uses permitted in the open space zone;
- H. Public parking for park use;
- I. Such other uses as the planning and community development director determines to be in accordance with the primary purpose of the park zone;
- J. Essential emergency communications and warning facilities;
- K. Community gardens. (Ord. 2009-05 § 18; Ord. 2005-14 § 10; Ord. 2002-01 § 3; Ord. 84-2 § 3.095 (2))

17.42.030 Conditional uses.

The following uses may be permitted subject to a receipt of a conditional use permit, and subject to the provisions of Chapter [17.60 LCMC](#):

- A. Open-air farmers' markets or outdoor rummage sales.
- B. Public utilities.

C. Docks or boat launching facilities.

D. Commercial uses other than concession stands.

E. Campgrounds. (Ord. 2002-01 § 3; Ord. 84-2 § 3.095(3))

17.42.040 Prohibited uses.

A. Industrial uses.

B. Any use not listed as a permitted or conditionally permitted use. (Ord. 2002-01 § 3; Ord. 84-2 § 3.095(4))

17.42.050 Development standards.

A. Yard Requirements. Yard requirements will be those set forth in LCMC [17.32.040](#) unless the planning and community development director makes a finding that imposing said yard requirements will negatively impact the surrounding property owners.

B. Height. Maximum building height is 45 feet.

C. Minimum Lot Size. None. (Ord. 2002-01 § 3; Ord. 84-2 § 3.095(5))

17.42.060 Other requirements.

A. Parking. Parking facilities must be provided in accordance with Chapter [17.56](#) LCMC. The planning and community development director may make exceptions to the requirements set forth in LCMC [17.56.110](#)(D), (F) and (G) only when a finding can be made that the exception meets the purpose of the park zone and will not impose a public safety hazard.

B. Signs. No signs shall be permitted except for interpretive signs of less than 20 square feet, directional and place signs. Internally illuminated signs are prohibited.

C. Landscaping. Landscaping must be provided in accordance with LCMC [17.52.100](#). The planning and community development director may make exceptions to the landscaping requirements only when a finding can be made that the exception meets the purpose of the park zone and will not impose a public safety hazard.

D. Outside Storage. Outside storage areas must be screened from ground level view from adjacent properties and from public streets. (Ord. 2002-01 § 3; Ord. 84-2 § 3.095(6))

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Chapter 17.43
OPEN SPACE (OS) ZONE

17.43.010 Purpose.

The primary purposes of the open space zone are to preserve open space for future generations, maintain water quality in lakes and streams, provide educational opportunities, protect significant and sensitive natural resource areas and enhance the city's scenic beauty. The open space zone is intended to ensure that designated lands remain in their natural state, including reclaimed areas, by protecting such areas from development and preserving open space. The secondary purpose includes uses such as passive recreational activities such as nature walks and educational activities.

Areas designated within the open space zone include lands having valuable wildlife habitat, exceptional aesthetic or flood control value, wetlands, riparian areas and areas with significant environmental constraints. Protecting sensitive natural areas is important for maintaining water quality and aquatic habitat, preserving wildlife habitat and sensitive plant communities, and providing flood control. (Ord. 2002-03 § 3; Ord. 84-2 § 3.096(1))

17.43.020 Permitted uses.

The following uses are permitted in the open space (OS) zone:

A. Passive recreational activities such as hiking, biking on designated trails, birdwatching, picnicking, nature walks and other similar uses.

B. Development and maintenance of trails, including pedestrian footbridges, in accordance with standards set forth in the parks master plan with a maximum width of eight feet.

C. Educational activities and ecological research projects only if the planning and community director finds the use to be in accordance with the primary purposes of the open space zone.

D. Natural resource restoration and enhancement projects.

E. Interpretive displays.

F. Removal of timber, rocks or other materials in established public use areas for purposes of public safety.

G. Such other uses as the parks director determines to be in accordance with the primary purpose of the open space zone. (Ord. 2002-03 § 3; Ord. 84-2 § 3.096(2))

17.43.030 Conditional uses.

The following uses may be permitted in the open space (OS) zone subject to a receipt of a conditional use permit, and subject to the provisions of Chapter [17.60 LCMC](#) and the primary purpose of the open space zone:

A. Public facilities limited to a nature center and single-stall, unisexed, handicapped accessible restrooms.

B. Public driveways and parking areas for uses permitted in this zone.

C. Public utilities and drainage facilities. (Ord. 2002-03 § 3; Ord. 84-2 § 3.096(3))

17.43.040 Development standards.

A. Yard Requirements. Yard requirements will be those set forth in LCMC [17.16.070](#) unless the planning and community development director determines that imposing said yard requirements will negatively impact the resource value.

B. Height. Maximum building height is 18 feet.

C. Vegetation Removal. Native vegetation may not be removed except for the area occupied by permitted uses or required for clear vision per LCMC [17.52.060](#). (Ord. 2002-03 § 3; Ord. 84-2 § 3.096(4))

17.43.050 Other requirements.

A. Parking. Parking facilities must be provided in accordance with Chapter [17.56 LCMC](#) except for LCMC [17.56.110\(D\)](#), (F) and (G).

B. Signs. No signs shall be permitted except for directional signs, and place and interpretive signs of less than 20 square feet. No illuminated signs are permitted. (Ord. 2002-03 § 3; Ord. 84-2 § 3.096(5))

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Chapter 17.44

MARINE WATERWAY (M-W) ZONE

17.44.010 Purpose.

The marine waterway zone (M-W) is provided to accommodate those marine uses which have a definite relationship either to the community's recreation industry or to the marine life of Devils Lake. (Ord. 84-2 § 3.100(1))

17.44.020 Uses permitted outright.

In an M-W zone the following are given as examples of those uses which meet the intent of this zone:

- A. Wildlife or marine life sanctuary or preserve;
- B. Marine life raising or production area;
- C. Marine recreation activities such as fishing and boating;
- D. Navigation activities;
- E. Essential emergency communications and warning facilities. (Ord. 2005-14 § 11; Ord. 84-2 § 3.100 (2))

17.44.030 Conditional uses permitted.

In an M-W zone, the following are given as examples of those uses which meet the intent of this zone on a conditional basis, subject to the provisions of Chapter [17.60 LCMC](#):

- A. Governmental structure or use;
- B. Park or similar public recreation area;
- C. Public utility facility;
- D. Any use permitted in the M-W zone involving filling, dredging, draining, disposal of dredging spoils, and similar activities;
- E. Any use permitted in the M-W zone involving construction, addition or reconstruction of piers, docks, bulkheads, boat houses or similar facilities;
- F. Nonresident structure used in connection with the raising or production of marine life. (Ord. 84-2 § 3.100(3))

17.44.040 Standards.

In an M-W zone, the applicable provisions of this title shall apply. The standards for conditional uses shall be as follows:

A. Standards for Uses Involving Filling, Dredging, Drainage, Disposal of Dredging Spoils, and Similar Activities or Construction of Wharfs, Bulkheads or Similar Devices.

1. Evidence shall be provided that the applicant has complied with, or fully intends to comply with, all standards of the Department of Environmental Quality, the Division of State Lands, and all other agencies having interests or ordinances applicable to the property in question.

2. The activity shall not represent a source of water pollution to any nearby tidelands, marshlands, rivers, streams or other waterways used for the raising, production or preservation of marine life or other natural resources.

3. Any filling or dredging activity shall not substantially alter the course of any channel or the natural movement of any waters, result in increased flood hazards, or cause the formation of appreciable bottom or sludge deposits deleterious to marine life.

4. Any fill or dredging spoil area shall be deposited behind a watertight berm to avoid any sloughing and to stabilize the area.

5. If a fill is proposed of which any portion falls below mean higher high water or mean high water plus six feet, whichever is highest, and which is adjacent to or having potential access to a navigable waterway, the developer shall designate on the plan a portion of the parcel to remain unfilled for possible off-channel moorage or similar use. The size of the area to remain unfilled shall be determined on the basis of the need generated by proposed or anticipated uses on the fill, and shall be not less than 20 percent of that portion of the parcel lying below the highest above-mentioned elevation. The location and design of the unfilled portion shall be approved by the planning department.

6. Applications for a permit for filling, dredging or similar activities shall include:

a. The source of the applicant's right to fill or dredge;

b. The purpose of the proposed operation;

c. The legal description of the area where the operation will take place;

d. The depth to which dredging or filling is to take place and the proposed angle of slope;

e. The manner in which material will be dredged or used for fill and the type of material to be used;

f. The method to be used to stabilize the dredge or fill area;

g. A map showing the plan of dredging or filling and the uses proposed for the area;

h. The time when the project is scheduled to begin and to be completed.

In taking action, the planning department may consult any state, federal or local agency it feels appropriate for consultation and advice.

B. Standards for Uses Involving Construction, Addition or Reconstruction of a Pier, Dock, Boat House or Similar Facility.

1. Evidence shall be provided that the applicant has complied with, or fully intends to comply with, all standards of the Department of Environmental Quality, the Division of State Lands, and all other agencies having interests or ordinances applicable to the property in question.

2. The facility or any use related to it shall not allow any water pollution to occur to any nearby tidelands, marshlands, rivers, streams or other waterways used for the raising, production or preservation of marine life or other natural resources.

3. The facility shall not substantially alter the course of any channel or the natural movement of any waters or result in increased flood hazards, or the formation of appreciable bottom or sludge deposits deleterious to marine life, and shall meet all of the following requirements:

a. No dock, pier or similar facility shall extend into any watercourse more than 25 feet from ordinary low water line nor 50 feet from ordinary high water line, unless it can be shown that such extension is necessary and will not increase flood hazards or create other problems such as the deterioration or destruction of marine life or wildlife habitat as a result of the extension.

b. No dock, pier or similar facility shall extend into the navigable channel any distance greater than required for safe moorage and shall be designed so as to minimize potential flood hazard and loss of navigable waterway area.

c. No pier, dock or similar facility shall extend into any watercourse more than five percent of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side.

4. No plumbing facilities for the handling of domestic or industrial waste shall be part of the facility unless approved by the city manager or design.

5. Application for a permit for a pier, dock, bulkhead, boat house, or similar facility shall include:

a. The source of the applicant's right to construct the facility;

b. The purpose of the facility;

c. The legal description of the area where the facility will be located;

d. A map and drawings, showing the plan for construction of the facility. Such plan shall include a vicinity map drawn to scale showing location and design of similar facilities and other development within 250 feet of the parcel upon which the improvement is proposed;

e. The time when the project is scheduled to begin and to be completed.

6. Plans for a pier, dock, boat house, or similar facility shall meet the following requirements:

a. In new subdivisions considered by the planning commission following the adoption of the ordinance codified in this title, docks having less than 10 moorage spaces will be approved

only in the instance that no other public or private means of launching or moorage is available or can be developed within 1,000 feet of the site in question.

b. Facilities being proposed in areas where it is likely that additional similar structures will be desired shall be designed to be combined into joint facilities whenever possible.

c. The design of moorages must provide sheer logs or similar devices for fending debris. Such improvements need not be maintained during periods where there is no danger of flood water.

d. Docks shall have the long dimension running parallel to the channel unless future development will result in pier construction or moorages being connected, necessitating facility design perpendicular to the channel. The width of those portions of such facilities shall be the minimum dimension required to provide safe access and moorage.

e. One dock shall not be closer to another dock than the length of the shorter structure or 25 feet, whichever distance is greater. (Ord. 2010-05 § 3; Ord. 84-2 § 3.100(4))

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Chapter 17.45

TAFT VILLAGE CORE (TVC) ZONE

17.45.010 Purpose.

The purpose of the Taft Village core (TVC) zone is to provide for a wide variety of uses, including retail, professional office, service-oriented businesses, single-family and multifamily residences and combinations of the above in mixed use developments within a core area of the village of Taft where concentrations of a variety of uses will encourage a pedestrian-oriented pattern of development that is different from the patterns found between Lincoln City's village nodes. (Ord. 2000-09 § 3; Ord. 84-2 § 3.105(1))

17.45.020 Application.

The TVC zone constitutes the primary zoning provisions (development standards) for the core area of the village of Taft. The requirements of this chapter are in addition to other requirements of this title. If there is a conflict between the regulations provided in other chapters of this title and this chapter, the regulations provided in this chapter shall prevail. Where direction is not provided in this chapter, provisions in other chapters of this title shall prevail. (Ord. 2000-09 § 3; Ord. 84-2 § 3.105(2))

17.45.30 Definitions.

For purposes of the TVC zone, the following definitions shall apply:

"Automated teller machine (ATM)" means a pedestrian-oriented machine used by bank and financial patrons for conducting transactions including deposits, withdrawals, and fund transfer, without contact with financial institution personnel.

"Building facade" means the entire building front including the parapet.

"Building facade – primary" means the side of a building that faces the street and has a main pedestrian entrance from the street.

"Building footprint" means the ground surface area above which a building, including cantilevered parts of the building, is located.

"Building orientation" means the manner in which the building is positioned on a lot and its architectural features relate to surrounding structures, spaces, and landscapes.

“Development incentives” means discretionary measures provided to applicants of new development by the city of Lincoln City or the urban renewal agency to encourage improvements with a pedestrian orientation.

“Edge treatment” means the design treatment of the setback between a building facade and an adjacent street.

“Floor area – gross” means the total area of all floors in a structure, or on a specified level of a structure, as measured from the outside surface of exterior walls or the centerline of common walls. It excludes any crawl space, area used exclusively for vehicle parking or loading, breezeway, attic without floor, and an open porch, colonnade, deck, balcony, or terrace.

“Joint use parking” means the sharing of parking areas by two or more uses, structures, or parcels of land to satisfy parking requirements, reduce the amount of land dedicated to vehicular parking, and increase the amount of land available for new development, plazas, or other uses.

“Mixed use” means a development that includes a mix of commercial and residential uses that are planned and developed together on the same site or adjoining sites. The mix of uses may occur in the same building or in separate buildings.

“Monument sign” means a freestanding sign that is permanently affixed at grade and has a monolithic or columnar line and which maintains essentially the same contour from grade to top.

“New development” means any construction, or alteration of an existing structure or land use, or establishment of a land use, after December 31, 2000.

“Outdoor sales” means the outdoor retail sales of merchandise associated with an adjacent existing commercial establishment.

“Pedestrian orientation” means any physical structure or place with design qualities and elements that contribute to an active, inviting and pleasant place for pedestrians, including but not limited to:

1. Street furniture;
2. Design amenities related to the street level such as awnings, pedestrian connections, colonnades, and arcades;
3. Visibility into buildings at the street level;

4. Highly articulated facades at the street level with interesting uses of material, color, and architectural detailing;

5. Continuity of the sidewalk with a minimum of intrusions into pedestrian right-of-way;

6. Continuity of building facades along the street with few interruptions in the progression of buildings and stores;

7. Pedestrian-oriented signs; and

8. Landscaping.

“Pedestrian-oriented sign” means a sign with design qualities and elements that are oriented and scaled to the pedestrian rather than the motorist.

“Plaza” means a public or private area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are pedestrian areas typically provided with amenities such as seating, fountains, art, and landscaping. The paving or surface materials of plazas must comply with Americans with Disabilities Act requirements.

“Pole sign” means any sign which is supported by one or more uprights, poles or braces in or upon the ground which are not a part of any building or enclosed within the exterior walls of any building and are separated therefrom by a distance of at least six inches.

“Setback” means the distance by which a structure or parking area must be separated from a lot line or other structure.

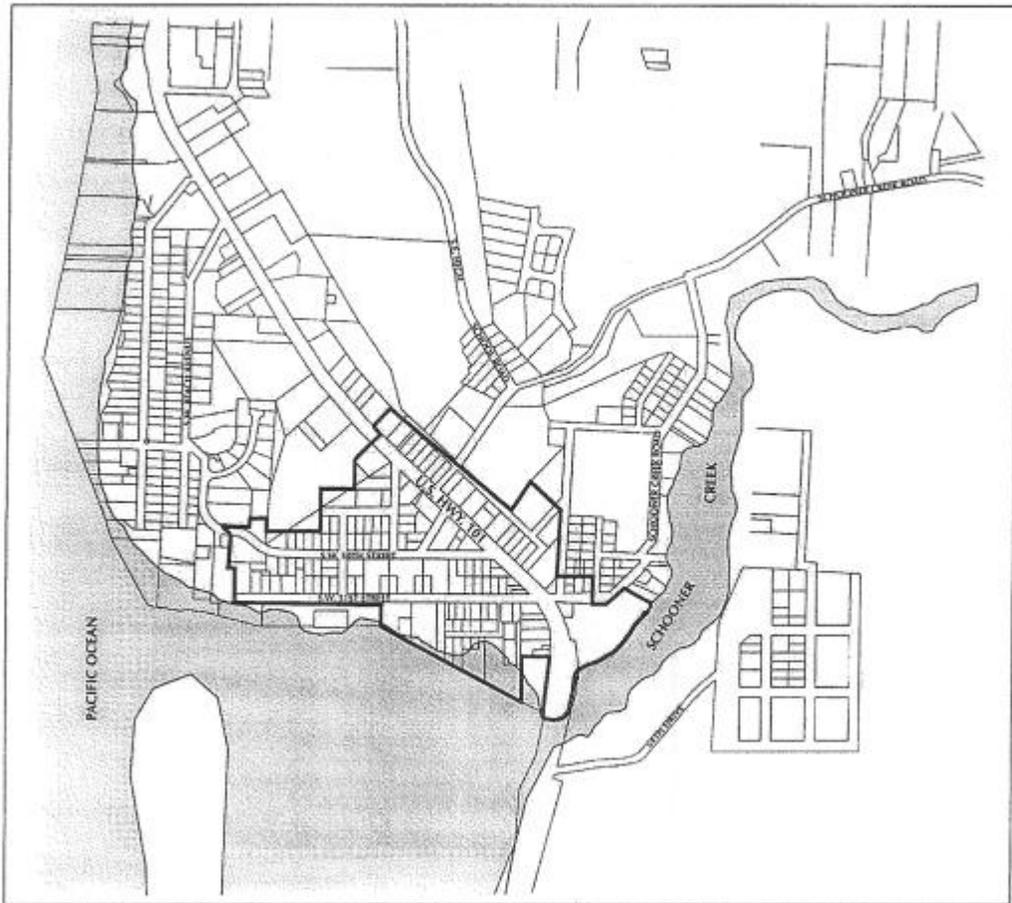
“Sidewalk cafe” is any group of tables and chairs, and its authorized decorative and accessory devices, situated and maintained upon the public sidewalk or along the private porches, plazas, and arcades for use in connection with the consumption of food and beverage sold to the public from or in an adjoining indoor restaurant or delicatessen.

“Story” means that portion of a building included between the surface of any floor and the surface of the next floor above or, if there is no floor above, the space between the floor and the ceiling.

“Structured parking” means a structure established for the short-term storage of operative vehicles for patrons. Structured parking can be constructed as an accessory to another primary use or uses that require the provision of off-street parking.

“Taft Village core” means the area depicted graphically below and generally defined by the Fleet

Avenue alignment at Highway 101 (north), Schooner Creek bridge and Siletz Bay (south), Inlet Avenue (east), and the west end of SW 51st Street (west).



Taft Village Core

(Ord. 2008-21 § 3; Ord. 2000-09 § 3; Ord. 84-2 § 3.105(3))

17.45.40 Land use activities.

This section contains a matrix that establishes which land uses are permitted (P), conditionally permitted (C), or expressly prohibited (-) within the TVC zone. A conditionally permitted use requires approval of a use permit by the planning commission in compliance with applicable provisions of Chapter 17.60 LCMC. If a particular use is not listed, the planning director shall be responsible to make a use determination to decide if the proposed use is similar to a listed use. Unless a proposed use is determined to be similar to a listed permitted or conditionally permitted use, it is a prohibited use. A permitted or conditionally permitted use may be subject to site plan review in accordance with LCMC 17.52.240.

TVC Land Use Activity P or C

A. Administrative and Professional Offices

Commercial establishments where the administrative, clerical and managerial functions of a business or industry are conducted or where members of a profession conduct their practice. Examples include accounting, medicine, physical therapy, veterinary with no kennels, engineering, real estate. P

B. Automotive Related Uses

Commercial establishments which provide parts, repair and service for motor vehicles:

1. Auto parts/supplies sales – No installations P
2. Auto parts/supplies sales – With installations –
3. Car washes –
4. Fuel/service stations –
5. Vehicle (car, RV and truck) sales/leasing –

C. Boarding and Lodging Facilities¹

Commercial establishments which provide boarding and lodging facilities:

1. Bed and breakfast accommodations P
2. Condominiums with 10 units or less and with nightly rentals² C
3. Hotels/motels with 10 units or less P
4. Recreational vehicle parks –
5. Time-share units C

D. Eating/Drinking Establishments

Commercial establishments which serve prepared food or beverages for consumption on or off the premises:

1. Night clubs/bars/lounges/micro-brew pubs P
2. Restaurants – without drive-throughs (including cafes, coffee shops, family restaurants, etc.) P
3. Restaurants – with drive-throughs –
4. Restaurants – with walk-up windows (with or without seating) P
5. Sidewalk cafes C
6. Wine tasting P

E. Entertainment/Recreation Establishments

Commercial establishments which provide participant/spectator amusement, entertainment or sport, primarily for financial gain. Examples include auditoriums, theaters, museums. Game arcades are limited to five games/machines when located as an auxiliary use in an otherwise permitted use.

- | | |
|---|---|
| 1. Auditoriums, convention centers, movie theaters, museums | C |
| 2. Miscellaneous indoor establishments (i.e., pool halls, billiard parlors, game arcades) | C |
| 3. Miscellaneous outdoor establishments (i.e., amphitheater, swimming/aquatics facility) | C |

F. Financial

Commercial establishments that engage in monetary transactions not directly related to the sale of a product/service. Examples include: banks, savings and loan, etc.

- | | |
|---|---|
| 1. Financial land use, with no ATMs | P |
| 2. Financial land use, with interior ATMs | P |
| 3. Financial land use, with exterior ATMs | C |
| 4. Interior ATMs, as an accessory to another permitted or conditionally permitted use | C |
| 5. Exterior ATMs, as an accessory to another permitted or conditionally permitted use | - |

G. Mixed Use

Developments that contain office/retail/service establishments and residential uses, either within the same structure or on the same parcel.

H. Personal Service

Commercial establishments which provide services of a personal nature. Examples include: barber/beauty/nail shops, tailor shops, dance school/karate studio, dry cleaners/laundromat, health/athletic clubs, travel agent, therapeutic massage.

I. Residential

- | | |
|---|---|
| Single-family dwellings, in accordance with Chapter 17.16 LCMC | P |
| 2. Attached single-family dwellings, in accordance with LCMC 17.52.260 | P |
| 3. Two-family and duplexes, in accordance with Chapter 17.16 LCMC | P |
| 4. Multifamily dwelling units, with edge treatment B, in accordance with R-M zone standards | C |

5. Multifamily dwelling units, with edge treatment A or C, in accordance with R-M zone standards	P
6. Accessory dwelling units, in accordance with LCMC 17.45.060(D)	P
7. Manufactured homes, in accordance with Chapter 17.16 LCMC and LCMC 17.52.250	P
J. Retail Commercial	
Commercial establishments which sell merchandise generally needed/desired by the residents, employees and visitors of/to the community. Examples include: packaged food, liquor, grocery, drugs, video rental, general merchandise, gift shops, sporting goods, building materials, garden supplies/nurseries, antiques/second hand stores, convenience stores, but exclude mini-warehouses.	P
K. Service Commercial	
Commercial establishments which provide business, repair and miscellaneous services. Examples include: printing/publishing, laboratories, catering, interior design, miscellaneous repairs (indoor only).	P
L. Other Uses	
1. Ambulance service	C
2. Art gallery and studio	P
3. Places of worship	C
4. Clubs, lodges, meeting halls	C
5. Home occupations	P
6. Handicraft-type industries with on-site sales (i.e., crafts, saddles)	P
7. Parks/playgrounds/community gardens	C
8. Police/fire facilities	C
9. Public facilities/public parking lots	P
10. Public/private schools, business/trade schools, in accordance with LCMC 17.80.010	C
11. Public utility or utility substation	C
12. Essential emergency communications and warning facilities	P

13. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080	P
14. Gardens and animals, accessory to a permitted use and subject to the provisions of LCMC 17.80.080	P

1 A cap of 212 units in boarding and lodging facilities are permitted in the TVC zone, not including bed and breakfast accommodations and other boarding and lodging facilities with 10 units or less.

2 A minimum of 50 percent of the ground-level gross floor area of new hotels/motels and condominiums with nightly rentals shall be comprised of eating/drinking establishments, entertainment/recreation establishments, or retail commercial uses.

(Ord. 2012-06 § 9; Ord. 2009-05 § 16; Ord. 2009-02 § 6; Ord. 2005-14 § 12; Ord. 2000-09 § 3; Ord. 84-2 § 3.105(4))

17.45.050 Site development standards.

This section establishes development standards for projects in the TVC zone.

A. Development standards for single-family residential uses shall be in accordance with Chapter [17.16](#) LCMC, except as modified in this section.

B. Development standards for multiple-family residential uses and duplexes shall be in accordance with Chapter [17.20](#) LCMC, except as modified in this section.

C. Maximum building height is 38 feet (subject to the exceptions contained in LCMC [17.52.200](#), e.g., chimneys, spires, towers, etc.). Buildings must have a gable, hipped gable, hipped, or shed roofline. Buildings of more than two stories shall be set back on the street sides of each successive story of the building (above the second story) a minimum of 10 feet from the building face of the next immediate lower story.

D. Setbacks shall be provided consistent with the edge treatments contained in Table 17.45.050-1 and Figure 17.45.050-A.

E. For parking areas adjacent to a public right-of-way, a minimum 10-foot landscaped setback from face of curb shall be provided.

F. Weather protection structures, e.g., canopies, porches, arcades, and colonnades, must be provided to the curb line within the existing street right-of-way along street frontages designated for

edge treatment A. (Figure 17.45.050-A)

G. Public facilities are exempt from site development standards.

H. All development with edge treatment A shall incorporate mixed use. See Figure 17.45.050-A.

I. A minimum of 50 percent of the ground-level gross floor area of new hotels/motels and condominiums with nightly rentals shall be comprised of eating/drinking establishments, entertainment/recreation establishments, or retail commercial uses.

J. If a hotel, motel, condominium, or other lodging facility in the TVC zone is destroyed by any cause to an extent exceeding 50 percent of the appraised value as determined by the records of the county assessor for the year preceding destruction, such lodging facility may be rebuilt with the same or fewer number of rooms, Chapter [17.64](#) LCMC to the contrary notwithstanding.

K. A cap of 212 units in boarding and lodging facilities are permitted in the TVC zone, not including bed and breakfast accommodations and other boarding and lodging facilities with 10 units or less.

Table 17.45.050-1

		Edge Treatments		
		A – Street Adjacent Adjacent	B – Semi-Street	C – Setback from Street
Description		Street Adjacent – Pedestrian Orientation. This edge treatment requires placing the front elevation or landscaping of new development on the front property line and at the sidewalk edge to create a strong relationship between buildings and the street, excluding architectural	Semi-Street Adjacent – Landscaped Perimeters. This edge treatment requires landscaped setbacks of a minimum five feet between buildings and streets, interrupted only by pedestrian areas, plazas, and sidewalks.	Setback from Street – Limited Parking. This edge treatment requires one bay of parking (one to two rows plus aisle) between the street and new development, with landscaped parkway or street trees accenting the sidewalk edge.
General		Highway 101, 51st Street, Fleet Avenue, and portions of local streets. Refer to Figure 17.45.050-A for	Cottage commercial and residential environments. Refer to Figure 17.45.050-A for specific edge condition locations.	
Areas of Applicability		<ul style="list-style-type: none"> • Avoid setbacks from the sidewalk edge. • Create continuous pedestrian activity in an uninterrupted sequence by minimizing gaps 	<ul style="list-style-type: none"> • Create pedestrian connections between buildings. • Use landscaped setbacks to create “outdoor rooms” with plazas and gardens. • Parking absent from front yards and landscaped setbacks 	Along east edge of Inlet Avenue only. Refer to Figure 17.45.050-A for specific edge condition locations.

Key Details

- Create pedestrian linkages from the public sidewalk to building perimeter and entries.
- Provide vehicular access and pedestrian connections to adjoining parcels whenever possible.
- Provide accent landscaping and enhanced paving at vehicular entries. Create pedestrian connections to parking lots at the rear or sides of buildings. Use building indentations to create small pedestrian plazas along the street wall.

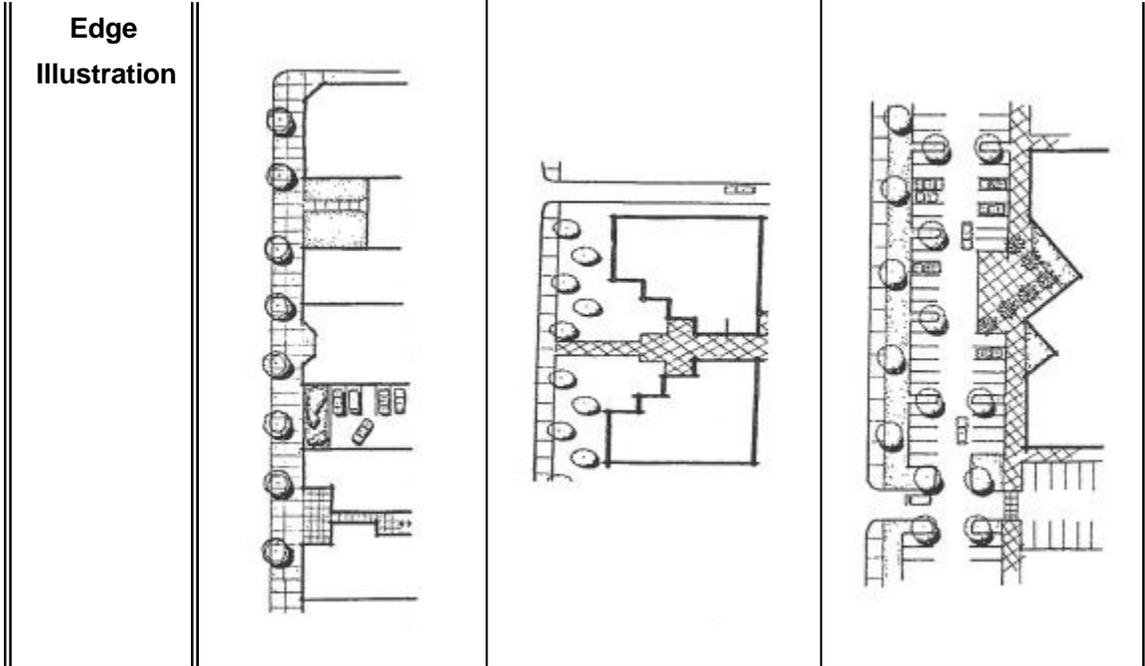
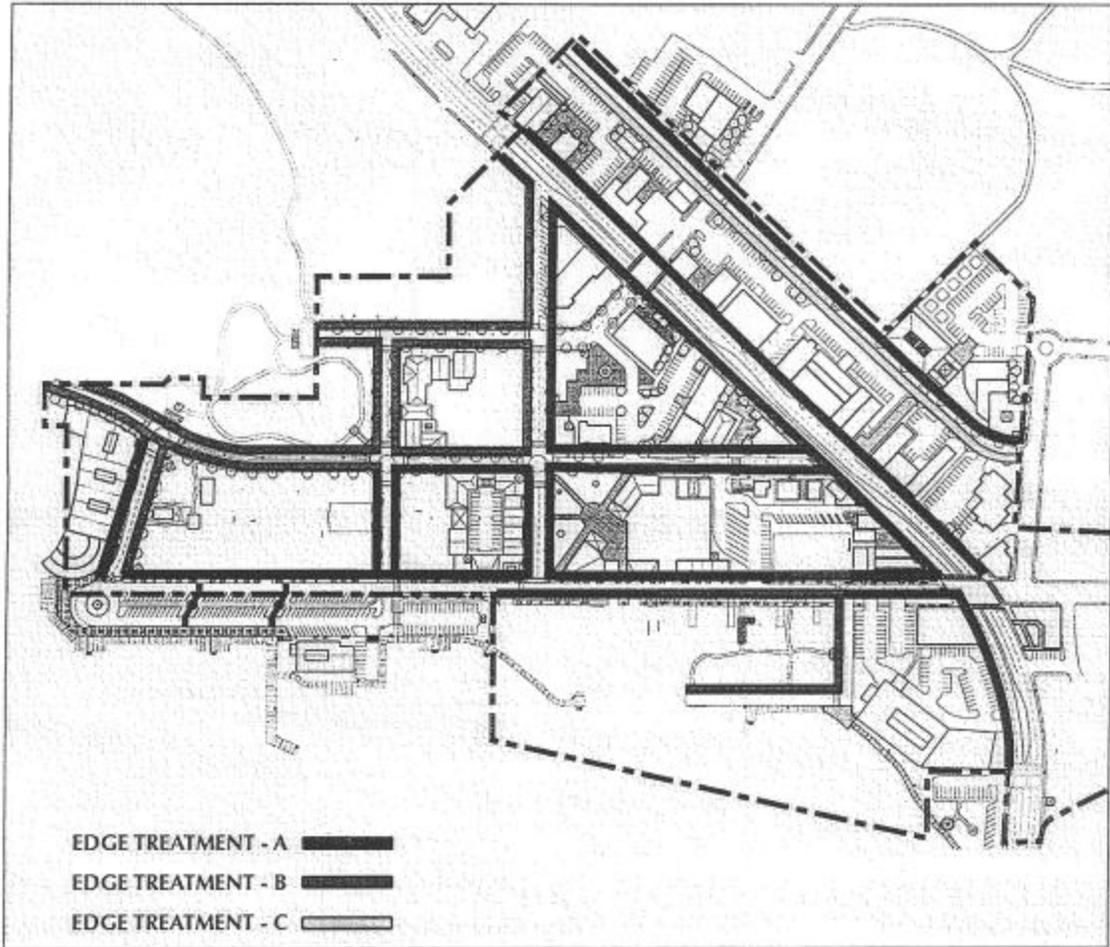


Figure 17.45.050-A



(Ord. 2000-09 § 3; Ord. 84-2 § 3.105(5))

17.45.060 General preferences, requirements and standards.

The following general preferences, requirements and standards apply to new development in the TVC zone.

A. Preferences. This subsection (A) is intended to promote compatible and enhanced site and building design throughout the village of Taft core area. This process provides a means for property owners to implement both the comprehensive plan and the village of Taft redevelopment plan related to Taft's physical development and to the preservation of its unique character. This subsection (A) is not intended to create standards, approval criteria or legally enforceable requirements.

In reviewing projects/improvements subject to any approval, the planning director shall refer to appropriate design guidelines in the village of Taft redevelopment plan (or any others that may be adopted by the city) in order to provide guidance to applicants seeking to comply with the requirements of the village of Taft redevelopment plan and the TVC zone.

The design theme poster contained in Figure 17.45.060-A, Parts I, II, and III, is to be used by property owners, developers, architects, landscape architects and designers in the planning and design of projects in the village of Taft. The design guidance provided by the poster communicates the Lincoln City community and city's desired qualities and characteristics of development and are intended to promote quality design that is compatible with Taft's unique character and its vision for the future.

Figure 17.45.060-A, Part I

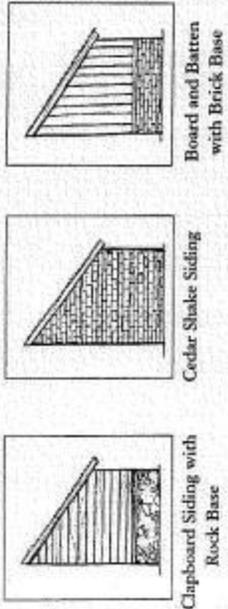
Buildings throughout Taft should be built to respect and relate to the scale of people. One-story and two-story building heights are optimal; heights greater than two stories should be stepped back away from sidewalks and streets to preserve view corridors and maintain a human scale.

Building form — including rooflines — should respond to the general design and nature of other buildings along the street to create a cohesive and quality image. Throughout Taft, a mix of buildings with flat/parapet wall, shed, gable, and hip rooflines are desired.

<p>One-Story Building</p>	<p>Flat Roofline with Parapet Wall</p>	
<p>Two-Story Building</p>	<p>Hipped Gable Roofline</p>	
<p>Three-Story Building</p>	<p>Gable Roofline</p>	
<p>Hipped Roofline</p>		
<p>Shed Roofline</p>		

Figure 17.45.060-A, Part II

Buildings should pay tribute to the history of Taft and the Oregon Coast by incorporating architectural details and building materials found locally and in the region. Materials and design details used for new buildings and rehabilitated buildings in Taft should reflect craftsmanship and should integrate finishes that convey a natural appearance.

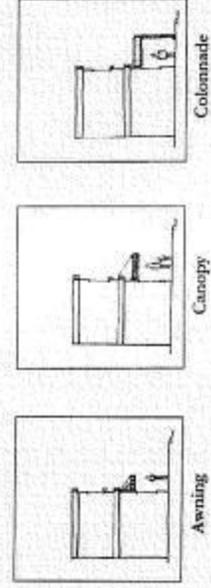


Clapboard Siding with Rock Base

Cedar Shake Siding

Board and Batten with Brick Base

Buildings in Taft should be inviting to pedestrians and provide them with protection from the weather. Open storefronts, windows, awnings, porches, canopies, and colonnades should be incorporated generously throughout Taft, and should have strong design relationships with the form of buildings.



Awning

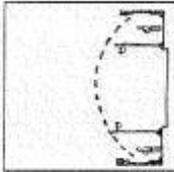
Canopy

Colonnade

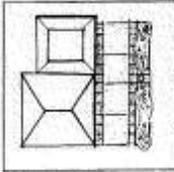


People enjoy walking and spending time in communities when there are interesting things to see and do. Buildings in Taft should foster a pedestrian-friendly atmosphere by being seamlessly linked together by landscaped sidewalks and walkways, plazas, pocket parks, courtyards, midblock passages, entry courts, and trails.

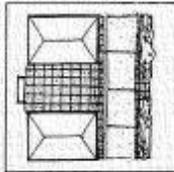
Buildings and sites in Taft should integrate design features that provide pedestrians with points of conversation, rest, education, information, and visual interest. Sitting areas, gardens, window displays, nighttime lighting, outdoor eating areas, public art, historical markers, fountains, creative signs, and other amenities are ingredients to making Taft more pedestrian-friendly.



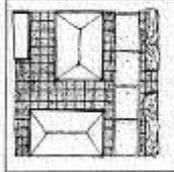
Buildings and Street Create Outdoor Rooms



Sidewalk Environment

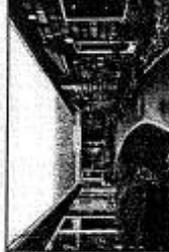


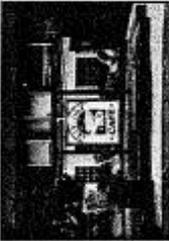
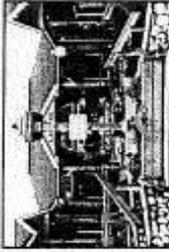
Plaza Adjacent to Buildings



Midblock Passages Between Buildings






B. New Commercial/Mixed Use. New commercial buildings and mixed use buildings shall comply with the following pedestrian-oriented design standards and location and development criteria:

1. For building facades that face an abutting street, a minimum of 50 percent of the ground floor facade shall include windows and/or doors. The building facade shall be designed so a blank wall without a window or doorway is no greater than 20 feet in length.

2. A minimum of 50 percent of the lot frontage abutting a street shall be occupied by a building facade. For lots with three or more street frontages, this standard shall apply to two lot frontages.

3. Residential units must not be located on street level.

4. Public facilities are exempt from the mixed use requirement.

C. New Multifamily and Attached Single-Family Residential.

1. These standards do not apply to mixed use development in which residential uses are located above commercial uses.

2. Building Orientation. New multifamily and attached single-family dwellings shall meet the following standards:

a. Each ground floor unit located along a street shall include a covered or recessed entry, or porch, oriented to the street.

b. Units along a street shall be oriented with building fronts parallel to the street.

3. New Multifamily and Attached Single-Family Parking, Site Access, and Circulation. Parking areas or driveways adjacent to any street frontage shall not occupy more than the greater of: 25 percent of the street frontage; or 20 feet, if a two-way driveway. If garages are oriented to front on a street, the following standards shall be met:

a. Only single-car garage doors are permitted;

b. Garage doors must be recessed at least three feet behind the front facade.

D. Accessory Dwelling Units. Accessory dwelling units must meet the following criteria:

1. Density. One accessory dwelling unit may be allowed as an accessory use to a single-family dwelling on any residential lot that meets the minimum lot size requirement.

2. Unit Size. An accessory dwelling unit must not exceed 750 square feet.

3. Off-Street Parking. If paved, on-street parking is available abutting the lot, no off-street parking will be required for an accessory dwelling unit. If such on-street parking is not available, one off-street parking space must be provided on the lot for the accessory dwelling unit in addition to the parking required for the single-family dwelling.

E. Outdoor Sales. All commercial uses, including repair, service and storage, shall be conducted within a completely enclosed building or be completely screened from view from off the subject site, except that the outdoor sales display of merchandise in conjunction with antique shops, flower shops, art galleries, beach equipment shops, kite shops, and similar specialty and craft businesses is permitted in the TVC zone subject to the following provisions:

1. Outdoor sales displays may be allowed upon the public sidewalk; provided, that a minimum width of four feet is maintained clear of any obstructions and the city grants a right-of-way incursion permit;

2. No additional signs or other advertising devices (temporary or permanent) shall be used in conjunction with outdoor sales displays except those allowed in compliance with this title;

3. The outdoor sales display of merchandise shall only occur during times when the associated establishment is also open for business; and

4. Only merchandise normally available at the associated business may be displayed outdoors.

F. Installation of Public Improvements. Project developers are responsible for providing public improvements in compliance with city standards at the time of development, in accordance with LCMC [17.52.230](#). For the purposes of this requirement, development shall also include the expansion of existing structures by 50 percent or more of the gross floor area.

G. Undergrounding of On-Site Utilities. All new development shall provide underground utilities service installation or connections in compliance with LCMC [17.52.120\(B\)](#). For the purposes of this requirement, development shall also include the expansion of existing structures by 50 percent or more of the gross floor area.

H. Landscaping. In parking areas adjacent to public right-of-way, landscaping shall provide a two-and-one-half-foot to three-foot-high screen across the entire parking frontage except for driveways. Landscape screening may include a combination of low hedgerow plantings, landscaped berms or low decorative masonry walls. The minimum width of a landscaped area required for screening purposes shall be five feet. In addition, landscaping shall be provided in accordance with Table 17.45.050-1 and Figure 17.45.050-A, and LCMC [17.52.100](#), with the following exceptions:

1. Pedestrian plazas may be used to meet up to 50 percent of the lot area landscaping requirement.

2. Landscaping requirements may be reduced by 50 percent for lots under 10,000 square feet, where a primary building front is located adjacent to the right-of-way or adjacent to a pedestrian plaza that itself is adjacent to the right-of-way, and on-site parking within a surface lot is not provided.

3. Properties with structured or garage parking of more than 50 spaces are eligible for a 50 percent reduction of landscaping requirements.

4. Street trees and landscaping located in public right-of-way are exempted from the provisions of LCMC [17.52.100](#).

I. Mechanical Equipment. No mechanical equipment, vents, ducts, HVAC equipment, transformers, or dish antennas shall be visible from ground level from any adjacent parcel, or any public street or right-of-way. This shall be accomplished through the extension of the main structure or roof, or screening in a manner that is architecturally integrated with the main structure. Plantings may be used to screen mechanical equipment at ground level; provided, that the plantings achieve full screening upon installation.

J. Business Address Required. Each business or structure (as appropriate) shall provide its address in numbers a minimum of six inches in height. The address shall be placed on the building, awning valance, or canopy in a manner to be clearly visible from the adjacent street, alley, and sidewalk. The preferred locations are above the main pedestrian entrance and at rear or side entrances.

K. Sidewalk Cafes. Sidewalk cafes on public sidewalks can enhance the pedestrian ambiance of Taft and are encouraged. The purpose of this subsection is to set out the conditions and requirements under which a sidewalk cafe may be permitted to operate on a public sidewalk within the TVC zone.

1. Conditional Use Permit Required. A conditional use permit is required for all sidewalk cafes in accordance with Chapter [17.60](#) LCMC. Notwithstanding the requirements of Chapter [17.60](#) LCMC, the planning director may grant a conditional use permit for a sidewalk cafe. The planning director may require an applicant for a permit to obtain the permit from the planning commission.

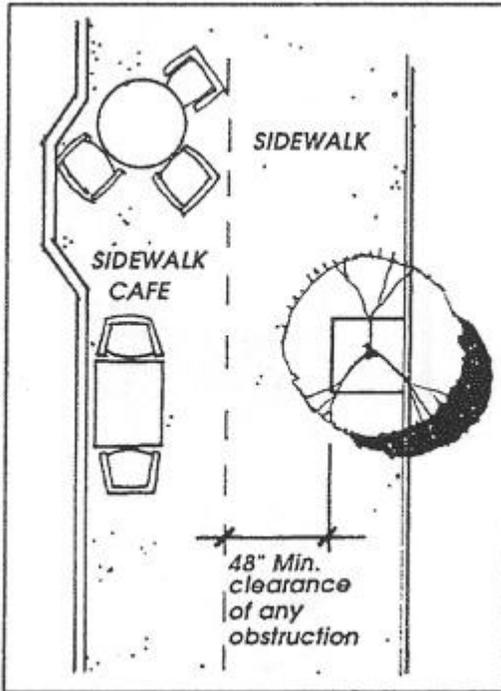
2. ODOT Right-of-Way. The Oregon Department of Transportation (ODOT) may require a separate permit for sidewalk cafes located adjacent to Highway 101 within the ODOT right-of-way.

3. Limitations and Requirements. A sidewalk cafe may be permitted in the TVC zone subject to the sidewalk cafe being situated adjacent to an indoor restaurant or delicatessen as specified below, and the sidewalk cafe's operation is incidental to and a part of the operation of such adjacent indoor restaurant or delicatessen.

a. A sidewalk cafe may be located on the public sidewalk immediately adjacent to and abutting the indoor restaurant or delicatessen which operates the cafe; provided, that the area in which the sidewalk cafe is located extends no farther along the sidewalk's length than the actual sidewalk frontage of the operating indoor restaurant or delicatessen and all other applicable provisions of this section are fulfilled.

b. An indoor restaurant or delicatessen may be permitted to operate only one sidewalk cafe and each sidewalk cafe shall be confined to a single location on the sidewalk.

c. A sidewalk cafe may be permitted only where the sidewalk or porch is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed cafe, consistent with the Americans with Disabilities Act. There shall be a minimum 48-inch clear distance free of all obstructions, in order to allow adequate pedestrian movement.



d. All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be movable. Umbrellas must be secured with a minimum base of not less than 60 pounds. Outdoor heaters, amplified music, or speakers shall be reviewed at the time of application for a conditional use permit.

e. No additional signing shall be allowed on or above public sidewalk at any outdoor cafe except for the name of the establishment on an awning or umbrella valance.

f. A sidewalk cafe may serve only food and beverages prepared or stocked for sale at the adjoining indoor restaurant or delicatessen.

g. The service of beer or wine, or both, must be solely for on-premises consumption by customers and must be expressly authorized as part of a conditional use permit approval.

h. The area in which the sidewalk cafe is authorized is identified in a manner, as approved by the planning director, which will clearly separate and delineate it from the areas of the sidewalk that will remain open to pedestrian traffic.

i. Outdoor preparation of food and busing facilities are prohibited at sidewalk cafes. All exterior surfaces within the cafe shall be easily cleaned and shall be kept clean at all times by the permittee.

j. Trash and refuse storage for the sidewalk cafe shall not be permitted within the outdoor dining area or on adjacent sidewalk areas and the permittee shall remove all trash and litter as they accumulate. The permittee shall be responsible for maintaining the outdoor dining area, including the sidewalk surface and furniture and adjacent areas, in a clean and safe condition.

k. Hours of operation shall be no greater than those of the indoor restaurant or delicatessen.

l. The city shall have the right to prohibit the operation of a sidewalk cafe at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades, repairs to the street or sidewalk, or emergencies occurring in the area. To the extent possible, the permittee will be given prior written notice of any time period during which the city will prohibit the operation of the sidewalk cafe.

m. No off-street parking is required for a sidewalk cafe.

4. Approval Authority. For purposes of a sidewalk cafe conditional use permit, the planning director may exercise the authority of the planning commission under Chapter [17.60 LCMC](#).

5. Findings and Conditions. In connection with approval of a conditional use permit, the planning director shall make findings that the proposed operation meets the limitations of this section. The planning director may impose such conditions in granting approval as deemed necessary to assure that the proposed operation will meet the operating requirements and conditions set forth in this section and to assure that the general public health, safety and welfare will be protected.

6. Term and Renewal. The planning director may approve a conditional use permit for a sidewalk cafe for a maximum period of one year in accordance with Chapter [17.60 LCMC](#). Thereafter, the planning director, if an extension application is filed prior to any expiration date of the conditional use permit, may extend the permit for additional periods, with the same or modified conditions of approval, not to exceed one year for each extension, following his/her review and approval of the sidewalk cafe's operations. Alternatively, the planning director may decide not to extend the permit. The planning director must find that the conditions of the permit have not been violated in order to extend the permit.

7. Revocation. A conditional use permit may be revoked by the planning commission, following notice to the permittee and a public hearing, upon a finding that any of the following are true:

- a. That one or more conditions of the permit have been violated;
- b. That one or more conditions of this section have been violated;
- c. That the sidewalk cafe is being operated in a manner which constitutes a nuisance; or
- d. That the operation of the sidewalk cafe unduly impedes or restricts the movement of pedestrians past the sidewalk cafe.

L. *Repealed by Ord. 2008-21.* (Ord. 2008-21 § 2; Ord. 2000-09 § 3; Ord. 84-2 § 3.105(6))

17.45.070 Signs.

Signs are allowed within the TVC zone in compliance with the provisions of Chapter [17.72 LCMC](#), except that:

A. Freestanding pole signs and internally illuminated signs are prohibited.

B. Sign Area.

1. Attached Signs. The total cumulative square footage allowable for attached signs per commercial establishment in the TVC zone is 32 square feet. There is no limit to the number of attached signs.

2. Freestanding Signs. The total cumulative square footage allowable for freestanding signs per commercial establishment in the TVC zone is 32 square feet. The maximum number of freestanding signs is one per lot. The maximum height is six feet.

C. Sign Area Bonus. For commercial establishments that do not have an on-site freestanding sign, the maximum allowable sign area for attached signs can be increased to 64 square feet.

D. Pedestrian-Oriented Sign Bonus. The planning director shall have authority to grant additional pedestrian-oriented signs up to a total of 12 square feet for all such signs. The maximum size for any one pedestrian sign shall be six square feet. Pedestrian-oriented signs include: window signs, small wall-mounted or projecting signs located not more than 10 feet above grade, signs placed on awning valances, and signs suspended under canopies and awnings. Signs that are suspended above pedestrian walkways shall provide a minimum of seven and one-half feet of clearance. (Ord. 2000-09 § 3; Ord. 84-2 § 3.105(7))

17.45.080 Parking.

Off-street parking and loading for uses within the TVC zone shall be provided in accordance with Chapter [17.56 LCMC](#) with the following modifications:

A. Fractional Spaces. Any use requiring less than a full parking space shall be deemed not to require that space.

B. On-Street Parking. Existing or required paved parking spaces, for standard-sized vehicles in a public street or alley that abuts a parcel, are eligible to meet part or all of the parking requirements for the development on that parcel. For parcels fronting on Highway 101, the number of on-street parking spaces for standard-sized vehicles within 200 feet of a parcel, or the number that will be within 200 feet upon completion of planned street/parking improvements, whichever is greater, may be counted toward the required number of parking spaces for commercial or mixed uses.

C. Off-Street Parking Reduction. For parcels with mixed use development, the number of off-street parking spaces required by Chapter [17.56](#) LCMC shall be reduced by the greater of the number of spaces listed below. To be eligible for the parking space reduction, the property owner shall pay an in-lieu parking fee in accordance with subsection (H) of this section.

1. Four spaces; or

2. If the parcel is within 400 feet of a public parking lot or garage, 10 spaces or 25 percent of the otherwise required number of spaces, whichever is greater.

D. Residential Parking. For multifamily dwellings, duplexes, and attached single-family dwellings, one and one-half parking spaces shall be required per dwelling unit.

E. Structured Parking. A 10 percent reduction in required parking spaces shall be allowed for all new development if 50 percent or more of required off-street parking is located within a parking structure.

F. Location of Parking.

1. Required parking spaces for commercial or mixed uses shall be located on the same parcel or another parcel not further than 400 feet from the parcel they are intended to serve.

2. With the exception of one-family and two-family dwellings, parking areas shall not be located between a primary building facade and the street, except for Inlet Avenue.

G. Joint-Use Parking. Joint-use parking standards are based on the assumption that patrons will use a single parking space for more than one destination in the TVC and that one parking space will be open and available for short-term parking to serve many different uses which may have different peak hours. Subject to the limitations set out in this subsection, joint-use parking may be provided in accordance with LCMC [17.56.060](#).

1. Eligible Development. The following categories of development shall be eligible to use joint-use parking standards to meet parking requirements:

a. Commercial or mixed use new construction on sites of less than 20,000 square feet in size;

b. New construction on sites greater than 20,000 square feet in size for retail commercial, restaurants, community centers, museums, and movie theaters; and

c. Additions to existing buildings, rehabilitation of existing buildings, or changes in use or occupancy in existing buildings.

2. Ineligible Development. The following types of uses are not eligible to use joint-use parking standards:

a. New or existing residential uses; and

b. New construction of hotel or office uses on sites greater than 20,000 square feet in size.

H. In-Lieu Parking Fee. In the TVC zone, in lieu of providing some or all of the off-street parking spaces as required, such parking requirements may be satisfied by payment to the city of a fee for each parking space not provided on site. The amount of the in-lieu fee shall be prescribed by the city council. The fee may include ongoing annual fee payments for purposes of providing funds to support operating and maintenance expenses of the parking facilities. The funds shall be retained by the city and shall be used exclusively for the purpose of acquiring, developing, maintaining, and operating public off-street parking facilities in the TVC zone. (Ord. 2000-09 § 3; Ord. 84-2 § 3.105(8))

17.45.090 Development incentives.

In order to achieve the type and quality of development and revitalization envisioned for Taft, certain development incentives may be allowed to encourage developers and property owners to participate in the various programs described below. Incentive bonuses may be granted at the discretion of the planning director and nothing contained herein shall obligate the planning director to provide any of the following bonuses or give an applicant any right to any of the following bonuses.

A. Pedestrian Amenities Incentive. Within the TVC zone, it is desirable to encourage the provision of pedestrian amenities, which include linkages between adjacent uses, public plazas and other pedestrian-oriented areas that encourage interaction between people and vitality to bayside environment.

1. Incentive Bonuses. For projects meeting the requirements for pedestrian linkage, public plazas or weather protection, the following development bonuses may be available:

a. Required parking may be reduced by 10 percent; provided, that a finding can be made that adequate parking will be available to the project.

b. Area of permitted signs may be increased by a maximum of 10 percent; provided, that a finding can be made that the increased sign area does not detract from the beautification and pedestrian-oriented objectives for Taft.

c. Through the development agreement process, the planning director may consider other incentive bonuses, such as reductions in processing fees, in-lieu fees, low interest loans or utility connection fees. The extent of such bonuses may vary on a case-by-case basis between the project applicant and the planning director.

For projects meeting all three requirements (pedestrian linkage, public plazas and weather protection) the above development bonuses plus up to one additional dwelling unit for each 5,000 square feet of lot size may be available.

2. Requirements for Incentive Bonuses.

a. Pedestrian Linkage. In order to qualify for the pedestrian linkage bonus, a proposed project must meet all of the following requirements, unless otherwise determined by the planning director:

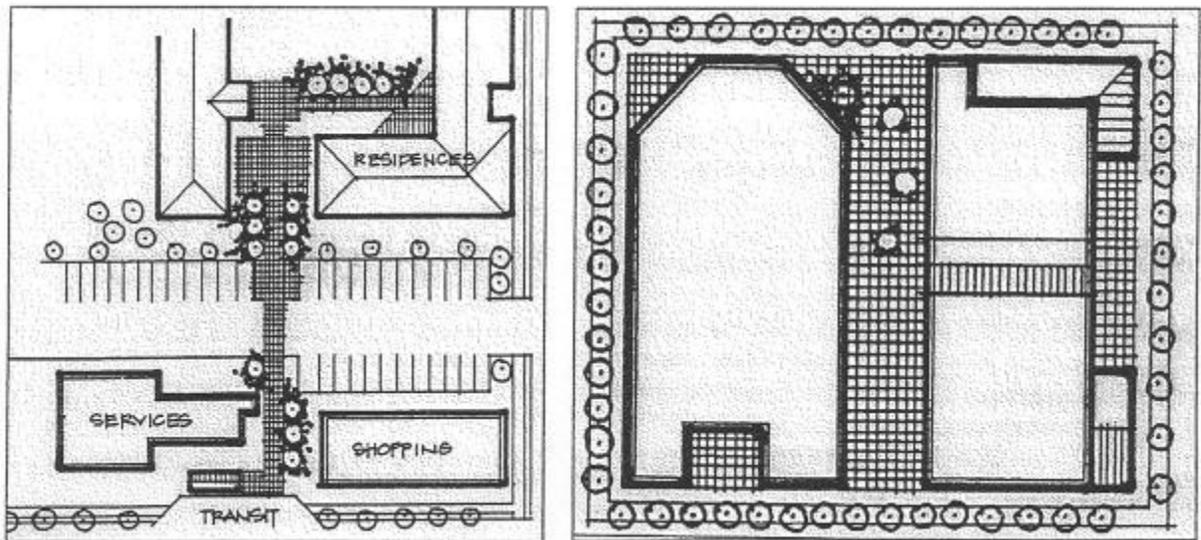
i. Pedestrian linkages and pathways that run between buildings shall be a minimum of 10 feet in width; linkages and pathways longer than 50 feet shall be an average of 20 feet wide.

ii. Pedestrian linkages shall be designed to be an integral part of the overall project and shall be configured to provide straightforward access from the development to adjacent land uses. The incorporation of plazas into the design of pedestrian linkages is highly encouraged.

iii. Business entrances are encouraged to front onto a pedestrian linkage or pathway. If it is deemed that a ground floor business entrance cannot front onto a pedestrian linkage or pathway, a minimum of one display window per business shall be provided facing onto the pathway or linkage.

iv. The pedestrian linkage or pathway shall incorporate landscape features, lighting, shade, textured paving, or other design elements to enhance the overall pedestrian environment and provide a high level of security, attractiveness, and convenience.

v. The property owner shall be responsible for maintenance and other liabilities of the pedestrian linkages.



Pedestrian Linkages

b. Public Plaza. In order to qualify for the public plaza incentive bonus, a proposed project must meet all of the following requirements. Where inconsistent setbacks occur along the street, plazas shall be considered to compensate for the broken building edge.

i. Plazas shall be designed with unimpeded lines of sight to and from the public sidewalk and pedestrian linkages.

ii. Physical access shall be provided from the public sidewalk to plazas, via pedestrian linkages.

iii. Visual features, such as public art or a fountain, shall be incorporated in plazas to attract pedestrians.

iv. Shade trees or other elements providing relief from the sun, rain, and wind shall be incorporated within plazas. Landscaping shall provide special interest through unique foliage, color, and seasonal changes in plant habit, scent, or floral display.

v. Special paving and street furniture per the Taft streetscape furniture palette, as provided in Figure 17.45.090-A, shall be used in plazas to complement the streetscape elements in the public right-of-way.

vi. The property owner shall be responsible for maintenance and other liabilities of the public plazas.

c. Weather Protection. In order to qualify for incentive bonuses, a weather protection structure shall be provided along all street frontages designed for edge treatment A. Weather protection structures shall be reviewed and approved by the planning director, city engineer and all affected public utility agencies. The weather protection structure shall incorporate the following design features:

i. The structure, e.g., canopies, porches, porticos, arcades, colonnades, verandas, balconies, building cantilevers, and building second stories, shall provide weather protection between the building face and curb line either within the existing public right-of-way or sidewalk easement.

ii. A minimum 10-foot clearance must be achieved between the bottom of the weather protection structure and the ground below.

iii. All-weather protection structure support features such as columns, posts, pillars, etc., must be located so as to align with the existing curb line. A minimum 10-foot separation shall be achieved between support features. In addition, a sidewalk with a minimum width of five feet shall be achieved between the building face and back of curb.

iv. Where existing weather protection structures exist on adjacent properties, proposed protection structures shall be fully attached and integrated with the existing structure so as to achieve continuous weather protection along the street frontage.

v. The design of the weather protection structure and materials utilized shall generally comply with the design theme guidelines adopted for the Taft Village core and will include property owner input into alternative designs.



Figure 17.45.090-A

(Ord. 2000-09 § 3; Ord. 84-2 § 3.105(9))

17.45.100 Nonconforming uses and structures.

A. Continuation of Nonconforming Use. A use lawfully occupying a structure or site on November 6, 2000, that does not conform to the regulations for the Taft Village core zone shall be deemed to be a nonconforming use and may be continued, subject to the following regulations:

1. Routine maintenance and repairs may be performed on structures or sites the use of which is nonconforming.

2. Structures or sites, the use of which is nonconforming, may be altered, renovated, enlarged, replaced, or moved if, and only if:

a. As to any added area, at least the entire added area will be used for a use that conforms to the regulations for the Taft Village core zone; and

b. The area continuing to be used for the nonconforming use is not more than the area lawfully used for the nonconforming use immediately prior to the alteration, renovation,

enlargement, replacement, or movement.

B. Continuation of Nonconforming Structure. A structure lawfully occupying a site on November 6, 2000, that does not conform to the regulations for the Taft Village core zone shall be deemed to be a nonconforming structure and may be continued or replaced, subject to the following regulations:

1. Routine maintenance and repairs may be performed on nonconforming structures.

2. Nonconforming structures may be altered, renovated, enlarged, replaced, or moved if, and only if, the alteration, renovation, enlargement, replacement, or movement does not cause the ultimate structure to further violate the regulation or regulations under which the structure was nonconforming.

C. Applicability of Chapter [17.64](#) LCMC (Nonconforming Uses). LCMC [17.64.020\(A\)](#) and [17.64.030\(A\)](#) shall not apply to nonconforming uses and structures in the Taft Village core zone. Except as so limited, Chapter [17.64](#) LCMC shall apply to nonconforming uses and structures in the Taft Village core zone. (Ord. 2010-05 § 4; Ord. 2000-09 § 3; Ord. 84-2 § 3.105(10))

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Chapter 17.46 NATURAL RESOURCE OVERLAY (NR) ZONE

17.46.010 Purpose.

The purpose of the natural resources overlay zone (NR) is to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal shorelands, natural resources, and scenic areas, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources, recreation and aesthetics. (Ord. 2000-11 § 6; Ord. 84-2 § 3.111(1))

17.46.020 Definitions.

For the purposes of this chapter, the following words are defined as follows:

“Buildable area” means the area of a lot or parcel exclusive of all applicable setbacks or areas within restrictive overlay zones.

“Goal 17 planning area” means all lands west of the Oregon Coast Highway (Highway 101), all lands within 500 feet of the ordinary high water mark of Devils Lake or Spring Lake, and all lands within 1,000 feet of the mean higher high water elevation of the Schooner Creek, Drift Creek, and Siletz Bay estuaries.

“Native riparian vegetation” means plants historically found in wet and streamside areas of the Pacific Northwest. “Flora of the Pacific Northwest” (1973) by Hitchcock and Cronquist is a primary reference for native plant determinations.

“Ordinary high water mark” means a line delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, such as a clear, natural line impressed upon the bank, shelving, changes in the character of the soil, change from predominantly aquatic to predominantly terrestrial vegetation, or the presence of organic litter or debris.

“Qualified professional” means an individual who has proven expertise and experience in a given natural resource field. A qualified professional conducting a wetland delineation must have the delineation approved by the Oregon Division of State Lands.

“Responsible party” means the property owner and any party acting on behalf of or for the benefit of the property owner including construction contractors and subcontractors.

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

“Riparian area, significant” means a riparian area that is shown as significant on the significant natural resources maps in the comprehensive plan.

“Significant natural resource” means wetlands, riparian areas, and wildlife areas within the urban growth boundary and shown on the significant natural resources maps in the comprehensive plan.

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

“Water area” means the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding artificial farm ponds.

“Water-dependent use” means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, or energy production, or as a source of water.

“Water-oriented use” means a use whose attraction to the public is enhanced by a view of or access to coastal waters.

“Water-related use” means a use which is not a water-dependent use, but which provides goods or services that are directly associated with a water-dependent use or waterway use, and which, if not located adjacent to water, would result in a loss of quality in the goods or services offered, affecting a significant proportion of the public.

“Wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are mapped in the city’s Local Wetland Inventory (January 12, 1996).

“Wetland, significant” means a wetland shown on the significant natural resources maps in the comprehensive plan.

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

"Wildlife area, significant" means a wildlife area shown on the significant natural resources maps in the comprehensive plan. Where a significant wildlife area includes a significant riparian area, the extent of the significant wildlife area is the same as the extent of the significant riparian area. (Ord. 2004-05 § 3; Ord. 2000-11 § 6; Ord. 84-2 § 3.111(2))

17.46.030 Application.

A. The natural resource overlay zone consists of the land identified in the city comprehensive plan as "significant natural resource areas," including significant riparian areas, significant wetlands, and significant wildlife areas.

B. These provisions are to be applied in conjunction with the provisions of the underlying zone. Where the provisions of the NR overlay zone conflict with those of the underlying zone, the more restrictive provisions must be applied.

C. Limitation on Extent of Significant Riparian Areas. The significant riparian area extends a certain distance upland from the ordinary high water mark and includes everything within the area between the ordinary high water mark and the upper edge of the significant riparian area, to a maximum distance of 50 feet. If the area of transition extends less than 50 feet from the ordinary high water mark, then the significant riparian area will be less than 50 feet in width. The significant riparian area may be more than 50 feet if the significant riparian area is adjacent to a significant wetland, in which case the maximum 50-foot distance is to be measured from the upland edge of the wetland. If it is necessary, for purposes of an application, to determine the extent of a significant riparian area, the property owner is responsible for having a qualified professional conduct a delineation to determine the significant riparian area boundaries. (Ord. 2004-05 § 3; Ord. 2000-11 § 6; Ord. 84-2 § 3.111(3))

17.46.040 Uses allowed.

A. By Underlying Zoning. Except as limited below, the uses allowed in the natural resource overlay zone are the same as, and only, those allowed by the underlying zoning.

B. In the Natural Resource Overlay Zone. All development is excluded from the natural resource overlay zone, with the following exceptions:

1. Structures and uses for which the natural resource exclusion has been reduced through the provisions of LCMC [17.46.060](#).

2. The following uses are allowed outright:

a. Uses not involving a structure and which do not impede vegetation growth, result in removal of vegetation, alter hydrology, introduce sediment, lead to erosion, or involve ground disturbance or impervious surfaces.

b. Mowing of lawns existing on the effective date of the ordinance codified in this chapter (but not expansion of lawns into significant natural resources), and other cutting necessary for hazard prevention.

c. Pedestrian footbridge, provided installation and maintenance do not disturb the natural resource function and do not involve removal of riparian vegetation, require development below the ordinary high water mark, or result in sedimentation or erosion.

d. Riparian restoration activities limited to the planting of native riparian vegetation and the removal of non-native understory species. Removal of non-native understory species must be accompanied by replanting with native riparian vegetation or maintenance of remaining vegetation such that bare soil is not exposed and non-native species are not allowed to establish themselves.

e. Trimming and pruning of willows and similar vegetation in a way that does not reduce the survivability or root strength of the vegetation.

3. The following uses are allowed subject to compliance with the following activity standards. Failure to comply with the activity standards may result in fines and mandatory mitigation requirements.

a. Activity Standards.

i. For in-water work the responsible party must follow the Oregon Department of Fish and Wildlife guidelines for in-water work.

ii. The responsible party may not remove native vegetation except for that in the space occupied by the use.

iii. Within six months of vegetation removal, the responsible party must replant areas from which vegetation is removed with native vegetation at densities at least equaling those of the removed vegetation, unless vegetation would not allow the use to function.

iv. The responsible party must keep sediment from entering the water area.

v. The responsible party must obtain all required federal and state permits (e.g., U.S. Army Corps of Engineers permit, Oregon Water Resources Department permit, Division of State Lands fill/removal permit).

b. Uses.

i. Replacement drainage facilities, utility facilities, domestic and irrigation water pumps, and minor facilities authorized by the Oregon Water Resources Department (such as stream gauges).

ii. Vegetation removal for maintenance of existing bridges, roads, clear-vision areas as described in LCMC [17.52.060](#), drainage facilities, domestic or irrigation pumps, utility facilities, and facilities approved by the Oregon Water Resources Department; provided, that trees are not trimmed in a manner that causes them to die (unless complete removal of the tree is necessary to avoid imminent hazard to the use).

iii. Replacement of a stream crossing (bridge or culvert) or expansion of an existing land transportation facility within an existing right-of-way, provided all applicable Oregon Department of Fish and Wildlife fish passage guidelines are followed.

iv. Dock or moorage.

v. Water-dependent uses, where permitted in the underlying zone. (Ord. 2004-05 § 3; Ord. 2000-11 § 6; Ord. 84-2 § 3.111(4))

17.46.050 Natural resources development review.

A. A property owner must apply for a natural resources development (NRD) review prior to the commencement of any development on property within the NR overlay zone. For purposes of this section, "development" means any construction, alteration of landforms, or removal of vegetation. If the NR overlay zone applies to a portion of a parcel, an NRD review is required only for that portion of a development located inside the NR overlay zone. No development may take place until the director completes the NRD review and authorizes the development.

B. The director will review all reports submitted, including but not limited to delineations and environmental reviews, to determine if the development complies with the requirements of this chapter. Within 10 days of the filing of the reports, the director must prepare a written statement with findings authorizing, denying, or conditionally approving the development. Findings must be consistent with the provisions of this chapter, the comprehensive plan and statewide planning goals.

C. The written statement of the director must be published in the next available edition of the newspaper. Notices of the action must be mailed to all property owners within 250 feet of the exterior boundary of the property where the development is to take place. Required notices must be mailed by regular first class mail and must be postmarked no later than the date of publication in the newspaper. The director also must mail a notice of the action to the following public agencies, as

appropriate: the Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U.S. Fish and Wildlife Service, Environmental Protection Agency, and U.S. Army Corps of Engineers.

D. All permit applications for development on parcels located within or adjacent to the NR overlay zone must identify the location of each significant natural resource area on the site plan. The director must review all development permit applications to verify compliance with the requirements of the NR overlay zone. Development permit applications not in compliance with the requirements of the NR overlay zone must be denied.

E. Emergency Waivers. The director may waive the NRD review if he or she determines that there is an immediate threat to life or property. Emergency waivers must be conditioned on the property owner applying for NRD review for all work performed under the emergency authorization within five days of issuance of the waiver. Emergency waivers must be further conditioned on the property owner, if the application for NRD review is not approved, restoring the site to its original condition within 30 days of final action on the NRD review. Waivers must be in writing and a record of waivers must be kept on file at the department. (Ord. 2000-11 § 6; Ord. 84-2 § 3.111(5))

17.46.060 Natural resources development variance.

A. A variance must be granted per the provisions of Chapter [17.68 LCMC](#) for all permitted uses not specified in LCMC [17.46.040](#), prior to any development occurring within the natural resource overlay zone. The planning commission must determine that the variance request meets all the following criteria in addition to those found in LCMC [17.68.020](#):

1. Strict adherence to the natural resource overlay zone standards would effectively preclude a use of the lot or parcel that reasonably could be expected to occur in the zone, and that the property owner would be precluded a substantial property right enjoyed by the majority of the landowners in the vicinity; and

2. The variance requested, of the possible variances necessary to create a buildable area outside of the natural resource overlay zone, has the least impact to the natural resource functions; and

3. The proposed development, including actions to mitigate impacts to natural resource functions, can be accommodated without substantial negative impact to the applicable natural resource functions.

B. Development Guidelines. Variances for proposed development within the natural resource overlay zone will be considered only when the following development guidelines are met:

1. The yard setback opposite the natural resource area may be reduced by up to one-half of the standard setback, but not to less than three feet.

2. The allowed reduction must be the minimum necessary to site the proposed use. At most, exclusions may be reduced to create a buildable area of no more than 1,750 square feet. (Ord. 2004-05 § 3; Ord. 84-2 § 3.111(6))

17.46.070 Existing structures and uses.

Existing structures and uses that are not allowed in the natural resource overlay zone may be continued at the size and intensity at which they were legally established. These existing structures and uses may be expanded in area or intensity within the significant natural resource only with approval under LCMC [17.46.060](#). Expansion (in size or intensity) of structures or uses where the expansion occurs entirely outside of the significant natural resource is allowed to the extent allowed by the underlying zoning. (Ord. 2004-05 § 3; Ord. 2000-11 § 6; Ord. 84-2 § 3.111(7))

17.46.080 Lot creation.

Any lot or parcel created must contain sufficient building area outside the natural resource overlay zone to allow for development without requiring reduction of the natural resource area. Lots or parcels created or modified after the effective date of the ordinance codified in this chapter so as to no longer contain sufficient buildable area outside the natural resource overlay zone to allow for development without requiring reduction of the natural resource area are not eligible for the small lot exclusion reduction or variance provided for in LCMC [17.46.060](#). (Ord. 2004-05 § 3; Ord. 2000-11 § 6; Ord. 84-2 § 3.111(8))

17.46.090 Claims of map error.

A responsible party may request to be excused from compliance with the requirements of this chapter if the proposed development area was mapped as a significant natural resource in error. If the request is approved, then the significant natural resources map will be amended to remove the proposed development area from the map. In the case of wetlands, the claim of map error must be confirmed by the Oregon Division of State Lands. (Ord. 2000-11 § 6; Ord. 84-2 § 3.111(9))

17.46.100 Plan amendment option (ESEE).

Any owner of property on which development otherwise would be limited by the natural resource overlay zone may apply for a quasi-judicial comprehensive plan amendment. The amendment must be based on a specific development proposal. The effect of the amendment would be to remove the natural resource overlay zone from all or a portion of the property. The applicant must demonstrate that an amendment is justified by completing an environmental, social, economic, and energy (ESEE) consequences analysis in accordance with Oregon Department of Land Conservation and Development administrative rules (OAR 660-23-040). If the application is approved, then the ESEE

analysis will be incorporated by reference into the city comprehensive plan and the significant natural resources map will be amended to remove the significant natural resource overlay zone from the inventory. If the application is approved, the city at its discretion may impose conditions on any resulting development approval in order to ensure that the development is consistent with the ESEE analysis. The ESEE analysis must comply with the following requirements:

A. The ESEE analysis must demonstrate that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource.

B. The ESEE analysis must demonstrate why the use cannot be located on buildable land outside of the significant natural resource and that no other sites within the city can meet the specific needs of the proposed use.

C. For resources located within the Goal 17 planning area, in addition to the above requirements, the ESEE analysis also must address the Goal 2 exception process as set out in OAR Chapter 660, Division 004. (Ord. 2000-11 § 6; Ord. 84-2 § 3.111(10))

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Chapter 17.47

NATURAL HAZARDS, BEACHES AND DUNES

17.47.010 Purpose.

The purpose of this section is to protect the public safety and welfare through recognition that different geological formations and landforms have different hazard characteristics with respect to suitability for development. These differences are caused by faults, flood potential, landslide potential, high groundwater, stream bank erosion, bluff erosion, beach erosion, ocean flooding, storm waves, and other factors. The intent is to reduce the losses resulting from these hazards. (Ord. 2000-11 § 7; Ord. 84-2 § 3.112(1))

17.47.020 Development in identified hazard areas.

A. Hazards Identified and Applicability of Standards. Specific natural hazard areas have been identified in Environmental Geology of Lincoln County, Oregon, Bulletin 81 (State of Oregon Department of Geology and Mineral Industries, 1973) and Environmental Hazard Inventory (RNKR Associates, 1978), and other sources. They are depicted on the comprehensive plan natural hazards map, as supplemented by Priest, G.R., and Allan, J.C., 2004.¹ For purposes of this chapter, in cases of conflict between a cited source and the map, as supplemented by the 2004 Priest and Allan report, the map, as so supplemented, will prevail.

Natural hazard areas identified in Environmental Geology of Lincoln County, Oregon, Bulletin 81 (State of Oregon Department of Geology and Mineral Industries, 1973) and Environmental Hazard Inventory (RNKR Associates, 1978) are advisory only. The city does not require analysis or mitigation for property identified as being in these hazard areas, but recommends that developers seek professional advice.

Development of property identified by Priest, G.R., and Allan, J.C., 2004, as subject to coastal erosion must meet the requirements of this chapter; however, the following activities are exempt:

1. Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation;
2. New construction or maintenance, repair, or alterations to existing structures on a portion of the lot that lies outside the coastal erosion zones;
3. Exploratory excavations under the direction of a registered engineering geologist or geotechnical engineer;

4. Construction for which a building permit is not required;

5. Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside the previously disturbed area;

6. Activities of emergency responders intended to reduce or eliminate an immediate danger to life or property.

B. Required Geotechnical Analysis. Development of all types, except beach front protective structures and natural means of beach protection, in coastal erosion hazard areas identified by Priest, G.R., and Allan, J.C., 2004, may not occur until an engineering geologist, certified to practice in Oregon, completes a review of the project site. To the extent the engineering geologist deems necessary, the review shall incorporate analysis and recommendations of an Oregon-certified coastal engineer and of technical experts from other fields outside of engineering geology. The review shall be prepared at the applicant's expense. The geologist must submit (electronically) the review to the city as a written report that, if written or last updated more than a year prior to the first building inspection, must be updated to reflect current conditions. In reviewing the submitted geotechnical report, the city may consult with, among others, the Oregon Department of Geology and Mineral Industries, the Department of Land Conservation and Development, and a certified engineering geologist. The city assumes no responsibility for the quality or accuracy of a geotechnical report.

Report Contents. Any geotechnical report must follow professional guidelines established by the Oregon State Board of Geologist Examiners, and include an explanation of the degree the hazard affects the property use in question, an explanation of the measures to be employed to minimize losses associated with the hazard, including, but not necessarily limited to, erosion control, vegetation removal, and slope stabilization, and an explanation of the hazard-associated consequences the development and the loss-minimizing measures will have on the surrounding properties.

For development activities of all types on a property in the coast erosion hazard zones, defined by Priest and Allan, 2004, except for beach front protective structures and natural means of ocean beach protection, the geotechnical report must include, but is not limited to, the following items:

1. Site Description.

- a. The history of the site and surrounding areas, such as previous riprap or dune grading permits, erosion events, exposed trees on the beach, or other relevant local knowledge of the site.
- b. Topography, including elevations and slopes on the property.
- c. Vegetation cover.
- d. Subsurface materials – the nature of the rocks and soils.
- e. Conditions of the seaward front of the property, particularly for sites having a sea cliff.
- f. Presence of drift logs or other flotsam on or within the property.
- g. Description of streams or other drainage that might influence erosion or locally reduce the level of the beach.
- h. Proximity of nearby headlands that might block the long shore movement of beach sediments, thereby affecting the level of the beach in front of the property.
- i. Description of any shore protection structures that may exist on the property or on nearby properties.
- j. Presence of pathways or stairs from the property to the beach.
- k. Existing human impacts on the site, particularly those that might alter the resistance to wave attack.

2. Description of the Fronting Beach.

- a. Average widths of the beach during the summer and winter.
- b. Median grain size of beach sediment.
- c. Average beach slopes during the summer and winter.
- d. Elevations above mean sea level of the beach at the seaward edge of the property during summer and winter.
- e. Presence of rip currents and rip embayment that can locally reduce the

elevation of the fronting beach.

f. Presence of rock outcrops and sea stacks, both offshore and within the beach zone.

g. Information regarding the depth of beach sand down to bedrock at the seaward edge of the property.

3. Analyses of Erosion and Flooding Potential.

a. Analysis of DOGAMI beach monitoring data available for the site.

b. Analysis of human activities affecting shoreline erosion.

c. Analysis of possible mass wasting, including weathering processes, land sliding or slumping.

d. Calculation of wave runup beyond mean water elevation that might result in erosion of the sea cliff or foredune (see Stockdon, 2006²).

e. Evaluation of frequency that erosion-inducing processes could occur, considering the most extreme potential conditions of unusually high water levels together with severe storm wave energy.

f. For dune-backed shoreline, use an appropriate foredune erosion (Komar et al. 1999³) or time-dependent erosion model (e.g., Kriebel and Dean, 1993⁴) to assess the potential distance of property erosion, and compare the results with direct evidence obtained during site visit, aerial photo analysis, or analysis of DOGAMI beach monitoring data.

g. For bluff-backed shorelines, use a combination of published reports, such as DOGAMI bluff and dune hazard risk zone studies, aerial photo analysis, and field work, to assess the potential distance of property erosion.

h. Description of potential for sea level rise, estimated for local area by combining local tectonic subsidence or uplift with global rates of predicted sea level rise.

i. An estimation of the annual erosion rate at the site.

4. Assessment of Potential Reactions to Erosion Episodes.

a. Determination of legal restrictions of shoreline protective structures (Goal 18

prohibition, local conditional use requirements, priority for nonstructural erosion control methods).

b. Assessment of potential reactions to erosion events, addressing the need for future erosion control measures, building relocation, or building foundation and utility repairs.

c. An annual erosion rate for the property.

5. Recommendations.

a. Based on results from the above analyses, recommended setbacks, building techniques, or other mitigation to ensure an acceptable level of safety and compliance with all local requirements.

b. A plan for preservation of vegetation and existing grade within the setback area, if appropriate.

c. Consideration of a local variance process to reduce the building setback on the side of the property opposite the ocean, if this reduction helps to lessen the risk of erosion, bluff failure or other hazard.

d. Methods to control and direct water drainage away from the ocean (e.g., to an approved storm water system), or, if not possible, to direct water in such a way so as to not cause erosion or visual impacts.

C. Compliance. Permitted development shall comply with the recommendations in any required geotechnical report and any report required by the building code.

At the time of footing inspection, or, if no footing inspection is required, at the time of the first building inspection, the author of the geotechnical report must certify that the development was constructed in accordance with the report's recommendations.

D. Bluff Setback. No bluff setback is required for public infrastructure, beach front protective structures, or natural means of beach protection. The footprint of any other new structure or any horizontal addition requiring at least one footing in ocean bluff areas must be set back from the bluff a distance of at least 60 times the annual erosion rate (determined by the geotechnical analysis) plus five feet. The bluff, for this purpose, shall be determined by the city through inspection of aerial photos, the most recent LIDAR data, and the dividing line between the active and the high-risk erosion zones identified in the

2004 Priest maps referenced above. If the planning director cannot determine the location of a bluff, the geotechnical analysis, provided at the applicant's expense, shall determine an appropriate site for the structure, if one exists.

If damaged, an existing structure that does not conform to the setback may be rebuilt in conformance with Chapter 17.64 LCMC, Nonconforming Situations. Reconstruction shall comply with recommendations provided in a report from an engineering geologist, a registered engineer, or both, as determined necessary by the building official.

E. Other Policies That Apply. If structures to protect shorelands, beaches and dunes, or flood areas are proposed, comprehensive plan "Shorelands, Beaches, Dunes, Estuaries, and Ocean Resources" Policies 7, 8, 9, 21 and 22 also apply. (Ord. 2012-09 § 1; Ord. 2011-16 § 1; Ord. 2004-05 § 4; Ord. 2000-11 § 7; Ord. 84-2 § 3.112(2))

17.47.030 Development in ocean beaches and dune areas.

This section ensures compliance with Statewide Goal 18.

A. Use Permitted/Prohibited. Residential development and commercial and industrial buildings are prohibited on active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping, and deflation plains that are subject to ocean flooding.

Other development that does not disturb the dune and dune vegetation significantly (e.g., fences that do not affect sand erosion or migration, a boardwalk) may be permitted in these areas, only if:

1. A geotechnical review, as described in LCMC 17.47.020(B), is completed for development activities of all types, except beach front protective structures and natural means of ocean beach protection. The written geotechnical report for this purpose must include the following information, in addition to other stated requirements:

- a. The type of proposed use and the adverse effects it might have on the site and the surrounding area. As used in this subsection, "adverse effects" are those that create a hazard to life, public or private property, or the natural environment;

- b. The measures to be employed to protect the site and the surrounding area from adverse effects created by the use; and

c. An explanation of the hazard-associated consequences the development and the loss- minimizing measures will have on the surrounding properties;

2. The geotechnical review concludes that the development as approved, with any conditions and measures to be employed to minimize losses associated with ocean undercutting, wave overtopping, and ocean flooding, is not likely to be subject to significant losses associated with these hazards during the design life of the development, or is of nominal value; and

3. The geotechnical review concludes that the development as approved, with any conditions and measures to be employed to minimize losses associated with ocean undercutting, wave overtopping, and ocean flooding, will not have significant adverse consequences associated with these hazards on surrounding properties.

B. Limit on Permitted Development. Development, except for beach front protective structures and natural means of ocean beach protection, in ocean beach and dune areas will be permitted only if the development predictably can be designed so that there will be no significant adverse impacts on the site and on adjacent properties from geologic hazards, wind erosion, and water erosion caused by ocean flooding, storm waves, or other causes, and is consistent with the requirements of Shoreland Policy 8.

C. Grading and Breaching of Foredunes. Grading and breaching of foredunes is prohibited.

D. Protective Structures. The city will rely on the State of Oregon Parks and Recreation Department (OPRD) to control the development of beach front protective structures and natural means of protection; however, the state will not issue a permit until the city has had an opportunity to determine that such protection complies with the applicable provisions of this chapter, including this subsection. Protective structures must be kept in good repair and are subject to additional compliance standards as well as enforcement under Chapter [8.10 LCMC](#).

E. Protection Project Permits. Shoreland (other than ocean beach front) protection projects, such as groins, bulkheads and sea walls, may not begin until a permit is obtained from the city. No approval to the state or city permit for a shoreland protection project will be issued until the developer has supplied to the city a plan, prepared by a certified engineering geologist or by a registered professional engineer qualified to practice geotechnical engineering, which indicates the nature and scope of the proposed protective activity. Nonstructural means of protection that will be effective to control erosion must be the first order of consideration in protecting shorelands. The use of structures, such as groins, bulkheads or sea walls, will not be allowed unless nonstructural means cannot protect the property and the adverse consequences created by such structures, both erosion- related and aesthetic, will be insignificant.

F. Vegetation. If vegetation is to be removed because of the development of any protection structure, a revegetation plan must be submitted. The plan must illustrate how vegetation removal will be minimized to prevent dune form alteration and exposure to erosion. The plan must provide for revegetation as extensive as or greater than exists prior to disruption. The protection structure will be approved by the state or permitted by the city only if the vegetation removal and the revegetation will be conducted so as to prevent dune form alteration and exposure to erosion resulting from the removal and revegetation.

G. Groundwater. No development in ocean beach and dune areas may use existing groundwater sources as a primary domestic water source. Developments may use existing groundwater sources for limited irrigation purposes, after securing all necessary state permits, and the submission to and approval by the city of written findings, prepared by a certified engineering geologist or by a registered professional engineer qualified to practice geotechnical engineering, that the irrigation will not cause groundwater drawdown to levels which would lead to loss of stabilizing vegetation or intrusion of salt water into the groundwater supply. (Ord. 2012-09 § 1; Ord. 2011-16 § 1; Ord. 2004- 05 § 4; Ord. 2000-11 § 7; Ord. 84-2 § 3.112(3))

1

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Stockdon, H.F., Holman, R.A., Howd, P.A., and Sallenger, A.H., 2006, Empirical parameterization of setup, swash, and runup: Coastal Engineering, v. 53, no. 7, p. 573-588.

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Komar, P.D., McDougal, W.G., Marra, J.J., and Ruggiero, P., 1999, The rational analysis of setback distances: Applications to the Oregon Coast: Shore & Beach, v. 67, p. 41-49.

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Kriebel, D.L., and Dean, R.G., 1993, Convolution method for time-dependent beach-profile response: Journal of Waterway, Port, Coastal and Ocean Engineering, v. 119, no. 2, p. 206-226.

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Chapter 17.48 AESTHETIC, HISTORIC AND ARCHAEOLOGICAL SITES

17.48.010 Purpose.

The aesthetic, historical, and archaeological resources of the city make it a desirable place to live and visit. The purpose of this chapter is to protect the public welfare through recognition of the social and economic benefits that the public enjoys in these resources and through protecting the resources for future generations. (Ord. 2000-11 § 8; Ord. 84-2 § 3.113(1))

17.48.020 Development in areas of aesthetic resources.

A. Application. This chapter applies to all areas identified on the city comprehensive plan as "significant aesthetic resources."

B. Development in areas of significant aesthetic resources must not reduce the scenic character of the area.

C. Development in areas of significant aesthetic resources must not substantially alter the natural vegetative cover. (Ord. 2000-11 § 8; Ord. 84-2 § 3.113(2))

17.48.030 Development on historic or archaeological sites.

A. Application. This subsection applies to all areas identified in the city comprehensive plan as historic or archaeological sites.

B. Development on identified archeological sites must be conducted in accordance with ORS 97.740 and 390.235.

C. Development on historic sites, as identified in the comprehensive plan inventory, shall not diminish the value of such sites as historic resources.

D. Alterations to identified historic structures shall be conducted in such a manner so as to maintain the historic value of the structures.

E. The demolition and the extensive alteration of the exterior facade of a structure identified as historical under state statutes shall not occur without a public hearing to encourage the protection of the structure. No demolition or alteration shall occur until 120 days after the conclusion of the hearing. During the 120-day period, the city shall, through public and private efforts, seek to save the structure. At the termination of the 120-day period, if the public or private efforts are not successful in saving the structure, demolition and alteration can occur without further notice. (Ord. 2004-05 § 5; Ord. 2000-11 § 8; Ord. 84-2 § 3.113(3))

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Chapter 17.50 OCEANLAKE PLAN (OP) DISTRICT

Article I. General Provisions

17.50.005 Definitions.

The following definitions are informational. Where conflicts occur between the definitions below and an adopted building code, the adopted building code shall apply. For terms that are not defined below and are not defined in the building code, the reviewing authority will use its discretion in selecting from professional source materials that are most relevant to the question at hand.

“Accessibility” means the locational and design characteristics of a use, structure, or facility that permit it to be reached by one with a disability, as prescribed under the Americans with Disabilities Act and associated building codes and guidelines.

“Alcove” means a recessed section of a building’s exterior wall; may provide weather protection, outdoor seating or other pedestrian amenities.

“Basement” means the lowest story of a building where 50 percent or more of the floor is located below the grade plane.

“Belt course” means a horizontal course in a masonry wall that is of a different color, texture, size, or material and which is compatible with the overall form and architectural composition.

“Bollard” means a post of metal, wood or masonry, or a combination thereof, that is used to separate or direct traffic (vehicles, pedestrians or both). Bollards may contain sidewalk or pathway lighting.

“Clerestory” means a window that extends from the ground floor of a building to near the top of an outside wall.

“Corbel” means a projection of a building out from a masonry wall, sometimes to support a load and sometimes for decorative effect.

“Cornice” means the exterior trim of a structure at the meeting of the roof and wall.

“Facade” means the front or principal face of a building, or any side of a building that faces a street, way, or pedestrian space.

“False-front” means a front wall that extends beyond the sidewalls or rooftop of a building to create a more imposing facade. (See also “Parapet.”)

“Fenestration” means the arrangement and design of windows and doors in a building. “Grade” means the surface elevation of the ground.

“Guideline” means a recommended approach, parameter, example, and/or rationale for interpreting, applying, and/or modifying a standard through the site plan review process. For the purpose of site plan review, the photographs, illustrations, and diagrams contained in this chapter are intended to be used as guidelines, except where an

illustration contains a specific dimensional requirement or is accompanied by the words “shall” or “must,” then the illustration is intended as a standard.

“Island alley” means an alley that does not connect to any street but is designed to allow for future extension through abutting properties and connection to a street or public parking facility. Island alleys serving one or more parcels may be approved through site plan review.

“Lintel” means a heavy horizontal beam of wood or stone over an opening of a door or window to support the weight above it.

“Medallion” means a small decorative detail used to accent a building’s exterior.

“Mezzanine” means an intermediate level between a ground floor and the upper story(ies) occupying a partial area of floor space.

“Parapet” means a low protective wall at the edge of a roof.

“Pedestrian-scale lighting” means lighting that is designed and located to illuminate a sidewalk, pathway or other area that is used principally by pedestrians. Bollards, wall-mounted lights and step lights are typical of pedestrian-scale lighting.

“Pedestrian space” means a public gathering space, such as a plaza, square, outdoor seating area, alcove, sculpture garden, or similar space, oriented to pedestrians and connecting one or more developments to the adjacent streetscape.

“Pediment” means a low-pitched gable over a portico, door or window; may be used to reduce the scale of a building facade.

“Pier” means a portion of a wall between windows, doors or other openings.

“Pilaster” means a shallow pier used to buttress a wall; or a rectangular column with a capital and base, projecting only slightly from a wall as an ornamental motif.

“Pocket park” means a small plaza or landscaped pedestrian space, typically less than one-quarter acre and not for recreational use.

“Portico” means a porch or entrance to a building consisting of a covered and often columned area; may be used to address building orientation standards where redeveloping a building to meet the front property line is not feasible.

“Public art” means artwork in the public realm, regardless of whether it is on public or private property, or whether it is acquired through public or private funding. Public art can be a sculpture, mural, manhole cover, paving pattern, lighting, seating, kiosk, gate, fountain, engraving, carving, fresco or similar artwork which is approved through design review. In evaluating public art proposals, the reviewing authority may refer to guidelines and inventories prepared by the arts committee, the National Trust for Historic Preservation and/or other references it deems appropriate.

“Spandrel” means the blank space between windows and successive stories; or the area between the top of a column or pier and the apex of the arch springing from it.

“Split-barrel roof” means a rounded roof that resembles a barrel split in half and resting rounded side up.

“Standard” means a requirement for the purposes of design review approval. Dimensional requirements and provisions containing the words “shall,” “must,” “not permitted,” “prohibited,” “required/requirement,” or similar prescriptive or proscriptive terms indicate the presence of a standard.

“Streetscape” means the interface between development and a public street along the development’s street frontage; it typically includes storefronts, building entrances, weather protective canopies or awnings, pedestrian spaces such as plazas and curb extensions at intersections, a building front zone along the sidewalk where outdoor seating may occur, a through zone for pedestrians, a street furnishings zone for lights, trees, and other furnishings, and on-street parking where applicable.

“Transom” means a window immediately above a window or door; may or may not be hinged to a transom.

“Transparency (windows)” means nonreflective glass with a visible transmittance rating of 0.50 or greater, per the National Fenestration Rating Council.

“Turret” means a small tower extending above a building.

“Wayfinding sign” means a directional sign that is part of an overall sign program for a district, neighborhood, or other city-recognized area as approved through design review. (Ord. 2007-08 § 1 (Exh. B, Appx. A))

17.50.10 Purpose and overall guiding principles.

The Oceanlake plan (OP) district is established to provide for the integration of residential, commercial, and recreational uses in a well-planned, pedestrian-oriented, mixed use environment. The purpose of the district is to provide maximum flexibility in land use where a proposed development meets the design requirements of this chapter; the land use approvals process should be as predictable and efficient as possible while striving for excellence in design. The OP land use and design standards in Articles II and III of this chapter, respectively, are intended to ensure that projects support the following objectives:

- Integration and functionality of land uses,
- Connecting Oceanlake to the ocean,
- Respecting neighborhood transitions,
- Designing for the climate,
- Aesthetics and context-sensitive design,
- Balancing durability and affordability.

A. Integration and Functionality of Land Uses. Connections between building entrances, sidewalks and associated pedestrian areas should be made to encourage visual and physical integration with a strong sense of place. Due to the small parcel sizes and limited

right-of-way widths within Oceanlake, developments should maximize the opportunity to consolidate and share parking, for example, by extending alleys or shared driveways, particularly those connecting to public parking facilities. Where such connections are not practicable, site plans should maximize the opportunity to provide shared parking serving multiple developments.

B. Connecting Oceanlake to the Ocean. Oceanlake has a well developed network of east-west (numbered) streets providing visual and, in some cases, physical access to the beach. The skyline is not defined by skyscrapers but village-scale storefronts, beach cottages and hotels nestled between rolling hills, shore pines, and ocean bluffs. While the city recognizes that it is not possible or practical to preserve all views of the ocean, new projects should be designed to take advantage of ocean views while maintaining view corridors from adjacent rights-of-way and pedestrian spaces to the greatest extent practicable. Building stories above 35 feet are required to step back away from the street to maintain a village scale along the street, and to allow for sunlight and ocean views.

C. Respecting Neighborhood Transitions. Developments on the edge of the Oceanlake plan district should be made compatible with abutting single-family residential uses outside the plan district, particularly the single-story bungalows and cottages in the R-1-5 zone north of NW 19th Street. The design standards for Oceanlake are intended to address compatibility through height, mass, scale, materials, detailing, setbacks and other elements.

D. Designing for the Climate. Temperatures in Lincoln City vary widely and it can rain any day of the year. People like being outside and will often walk from place to place even when it's raining. Oceanlake has many visitors in the summer and more people are making it their home, or second home. Therefore, buildings should be designed to withstand high winds, as storms can generate winds of 100 miles per hour. Rooflines should not be overly complex and should have proper drainage for rainwater. Roofs should shed and drain water away from building openings, parking, refuse storage areas and other such areas. Buildings should incorporate canopies, awnings, porticos or similar weather protection features. Pedestrian amenities such as plazas and outdoor seating areas should take advantage of southern exposures and be protected from the wind, to the greatest extent practical.

E. Aesthetics and Context-Sensitive Design. Oceanlake's aesthetic is rooted in the area's eclectic mix of beach cottages, hotels, and main street storefronts nestled between rolling hills, shore pines, and ocean bluffs. The Oceanlake plan district encourages new development and redevelopment that honors the past while providing a contemporary interpretation of the area's architecture and history. The predominant building materials are painted or natural-stain wood siding (shingle, lap, or board- and-batten), masonry block, brick and stone. Detailing may include any of these materials, as well as limited use of metal or vinyl for canopies, building detailing (e.g., flashing, roof gutters, drains, etc.),

signs, art, and other detailing.

While each project is unique, the Oceanlake design standards (Article III of this chapter) are intended to provide clear and consistent standards. The standards discourage overly thematic, “formula” architecture, or designs used by retailers, national chain stores, franchises and other companies with stores or offices in multiple locations; provided, that corporate logos, art and similar commercial speech are not restricted.

F. Balancing Durability and Affordability. “Balancing durability and affordability” means that the city is practical in administering its codes. Great design does not have to be expensive. Sound design principles, quality workmanship, long-lasting materials, and routine maintenance are all important. Historically, development in Oceanlake has been characterized by relatively simple building forms with moderate detailing and ornamentation. Traditional materials such as wood, stone, and brick are preferred, but other materials, such as architectural-grade composite boards, shingles and trim, may be used when it is demonstrated that the material is durable and fits the overall composition of the proposed design. Project designs should respect the past, while being practical and durable for the future. (Ord. 2007-08 § 1 (Ex. B § 1(A))

17.50.020 Oceanlake district overlay zones.

The OP district consists of three design subdistricts or overlay zones, as shown on the zoning map in Appendix B to the ordinance codified in this chapter.

A. Main Street/Highway 101 Area. The main street area extends approximately one-half block deep on both sides of the highway between 21st Street and 12th Street. The district is anchored by the Lincoln City Community Center at the north end of Highway 101, and a church at the south end. The approximate center of Oceanlake is Northwest 17th Street and Highway 101. This part of Oceanlake is characterized by a traditional street grid with sidewalks, street lights, storefront commercial uses, and proximity to walkable neighborhoods. The street grid contains 200-foot by 400-foot blocks spaced evenly along the highway. Pedestrian connections and plazas are provided where 16th and 18th Streets end at Highway 101.

B. Interior Area. Land use west of the highway consists of a mix of commercial and residential uses, some in new structures and others in older cottages and houses. The area is walkable and easily accessible to adjoining neighborhoods and main street businesses, though the sidewalk network is incomplete. Proximity to Highway 101 and the ocean, both less than two blocks away, makes the area attractive for retail, overnight accommodations, and tourist-related mixed use development. The OP district allows commercial uses (e.g., retail, commercial services and office uses) on the ground floor with dwellings above or behind storefronts. Upper building stories exceeding 35 feet in height are required to be recessed, or stepped back, from numbered (east-west axis)

streets west of Highway 101 to maintain view corridors toward the ocean, and to provide solar access. Front yards are minimal and parking is to be provided in public parking facilities, pullout bays along the street, and/or private facilities behind or beside buildings. The code encourages the extension of alleys and driveways through the block interiors to accommodate shared parking.

C. **Oceanfront Area.** The oceanfront is largely built-out with hotels, condominiums and other residential uses. As infill occurs and some parcels redevelop, the OP district encourages the retention of ocean view corridors and existing beach access, installation of sidewalks, and landscape screening of off-street parking along Harbor Avenue. Development adjacent to existing public beach access ways must maintain beach access and ocean views from the adjacent right-of-way. (Ord. 2007-08 § 1 (Exh. B § 1(B))

17.50.030 Applicability of municipal code regulations.

A. **Applicability.** The provisions of the Oceanlake plan district, in addition to all other applicable regulations of this title and other city ordinances, shall apply to all uses of land and development within the OP district.

B. **Redevelopment and Remodels.** Where an existing use or development is proposed to be modified through redevelopment or exterior remodeling, the standards shall apply only to that portion of the use or development that is to be modified; where more than 50 percent of the use or development is to be modified, the reviewing body may require the entire development to conform to the provisions of this chapter, as provided in subsection (E) of this section.

C. **Burden of Proof.** The applicant has the burden of proof of demonstrating conformity with the standards and criteria of this chapter.

D. **Ordinance Conflicts.** Where conflicts occur between the design standards and other municipal code regulations, the provisions of this chapter shall apply.

E. **Nonconforming Situations.** Existing uses and/or developments that do not conform to the provisions of this chapter, but were established lawfully prior to the city adopting this chapter, shall be allowed to continue, as provided in Chapter [17.64 LCMC](#), Nonconforming Situations. (Ord. 2007-08 § 1 (Exh. B § 1(C))

17.50.040 Administration of design standards.

A. **Site Plan Review.** The design standards will be applied to commercial development (including mixed use and multifamily dwellings, but not including single-family or two-family dwellings) that must receive approval through the city's site plan review process

during that process and prior to issuance of building permits. Single-family or two-family dwellings are subject to the design standards requirements relating to block layout, alleys, and connections to public parking facilities (LCMC [17.50.080](#)) and must receive approval through the building permit review process. The planning director may refer any site plan review application to the planning commission for a public hearing when:

1. The applicant has requested an adjustment or modification to one or more Oceanlake code standard(s), as provided in subsection (C) of this section; or
2. The applicant requests a hearing; or
3. The planning director determines that the size or scale of the development (vis-a-vis its appearance, traffic generation, parking, or other characteristics) warrants a public hearing.

B. Design Standards Versus Guidelines. The code sections that follow provide intent statements, followed by standards and guidelines. Most sections contain objective standards and approval criteria; however, some criteria require the reviewing body to apply discretion. Where discretion is involved, the code provides guidelines to assist the reviewing body in evaluating a proposal. The following further explains the relationship between intent statements, standards and guidelines:

1. Intent statements are not applicable approval criteria, except requests for adjustments or variance must demonstrate how the proposal conforms to the code's intent.
2. Standards use the words "shall" or "must" and are mandatory.
3. Guidelines use the words "should," "may," "preferred," and "discouraged," and are advisory. Guidelines supplement the standards and provide examples of acceptable or unacceptable design. Guidelines also assist in reviewing requests for adjustments and variances and may serve as the basis for approval, denial, or approval with modifications in such instances.
4. Graphics are used to illustrate standards and guidelines. They are not intended to prescribe a particular design but serve as examples of acceptable or unacceptable design solutions.
5. Standards and guidelines both serve as approval criteria, but the reviewing body is afforded greater latitude in applying guidelines. Where the word "should" is used, the applicant must demonstrate that the proposal is consistent with the guideline, or that applying an alternate design solution is consistent with the code's stated

intent. Where a guideline conflicts with any code standard, the standard shall prevail.

6. In the case of a proposed variance or adjustment to a code standard, the applicant must demonstrate how the variance or adjustment results in equal or greater conformity to the intent of the code and all other applicable standards and guidelines.

7. Nullification of one standard or guideline by a court of competent jurisdiction shall not cause any other standard or guideline to be nullified.

C. Adjustments/Modifications to the Standards. The standards contained in this chapter may be adjusted or modified without the need for a variance if the applicant demonstrates that:

1. The chapter's guiding principles and the intent statement(s) under the applicable standard to be adjusted can be better met through a proposed alternative design solution; or

2. There are practical difficulties in meeting a standard based on the necessary characteristics of an allowed use. In such cases the design must provide other features that tend to meet the goal of the standard (such as a trellis with vines, a sculpture, or a pergola).

Where the code language suggests more than one way to meet a particular standard, the applicant is encouraged to be creative and propose the most appropriate design solution given the site's context and the purpose of the code. The decision-making body shall refer to the guiding principles in LCMC [17.50.010](#), the purpose in LCMC [17.50.070](#), and the intent under each standard, in making its decision; the purpose, guiding principles and intent statements shall serve as the approval criteria for adjustments.

D. Incentives for Design Excellence. The city encourages excellence in design. Projects that provide superior pedestrian spaces, pedestrian amenities, public art, alleys, shared parking, or superior architecture may be rewarded, for example, with reduced off-street parking requirements, reduced lot sizes, increased allowable building coverage, and/or assistance from the city's urban renewal program. These incentives are in addition to the adjustments provided in Article III of this chapter. In granting incentives, the hearing body shall find that the incentive results in a design that is superior to what is required under the base standard(s), and is consistent with one or more of the following guidelines:

1. Integration and Functionality of Land Uses. Mixed use projects combining upper-story residential uses with ground floor commercial or civic uses are preferred over single-use developments.

2. **Connecting Oceanlake to the Ocean.** Oceanfront projects that provide physical beach access to the public are preferred over those that provide only visual access or no access at all. Non-oceanfront projects should maintain views of the ocean from public rights-of-way where such views currently exist. Where a project results in diminished ocean views, the decision body may consider other mitigating circumstances in approving an incentive, such as the provision of pedestrian spaces (e.g., plaza) or public parking facilities in the vicinity that enable the public to more easily access the shoreline.

3. **Respecting Neighborhood Transitions.** Where an applicant requests an exception to the maximum building height standards abutting a residential zone, the project must incorporate mitigating design features, such as additional open space or buffering adjacent to residential uses. Applicants are encouraged to do neighborhood outreach prior to submitting site plans to the city for review. The applicant's efforts to engage the public (e.g., through a design charrette) prior to submitting a site plan application may influence the decision body in approving or denying incentives.

4. **Designing for the Climate.** Incentives may be appropriate for projects incorporating green building practices, such as the preservation of existing mature vegetation, use of water quality treatment in parking lots, rooftops, and landscapes, use of renewable energy, and energy conservation in construction. Projects eligible for green certification through a nationally recognized program (e.g., Leadership through Energy and Environmental Design (LEED) or similar program approved by the city) are preferred over those that do not meet such criteria.

5. **Aesthetics and Context-Sensitive Design.** Architecture that goes beyond base code requirements and achieves the vision contained in the Oceanlake redevelopment plan is preferred over architecture that merely conforms to the base code requirements. For example, corner properties along Highway 101, particularly those in gateway locations, should reach the 35-foot allowable height by incorporating a third building story, tower, or other signature architectural feature. Oceanfront designs should be superior in both their street-fronting elevation, as well as their ocean-fronting elevation.

6. **Balancing Durability and Affordability.** In granting incentives, preference may be given to projects providing affordable workforce housing or affordable commercial space to small businesses (except overnight accommodations). "Affordable housing" means households earning less than the area median income pay no more than 30 percent of their income toward housing costs. Where incentives are provided, the reviewing authority may require the applicant/owner to record deed restrictions or provide other assurances that the subject housing remains affordable for not less than 10 years. (Ord. 2010-06 § 7; Ord. 2007-08 § 1 (Exh. B § 1 (D)))

Article II. Land Use Standards

17.50.050 Permitted uses.

Table 17.50.050 identifies the land uses allowed in each of the three Oceanlake subdistricts. Uses permitted subject to site plan review are identified with “P”; those that are allowed subject to conditional use permit are identified with “CU”; prohibited uses are identified with “N.” If a use is not listed, the planning commission may interpret the code and make a similar use ruling following the procedure for authorization of similar uses found in LCMC [17.52.020](#).

Table 17.50.050 – Land Uses Allowed in Oceanlake

Uses	Status of Use in District
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Use Categories	Main Street		
		Interior Area	Oceanfront Area
Residential Categories			
Household Living			
All residential uses allowed, if:			
Lawfully existing as of July 25, 2007	P	P	P
New dwelling(s) – ground floor	N	P	P
Dwelling(s) above a ground floor commercial use	P	P	P
Commercial Categories			
Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities)			
Lawfully existing as of July 25, 2007	P	N	N
New or expanded use	N	N	N
Bed and breakfast inn, per LCMC 17.80.060	P	P	P
Educational services, not a school (e.g., tutoring or similar services)	P	P	P
Entertainment, major event	CU	CU	CU
Overnight accommodations, except bed and breakfast inns	CU	CU	P
Offices	P	P	P
Outdoor recreation, commercial	CU	CU	CU
Surface parking lot, except for public facilities and parking as an accessory use	N	CU	N
Vehicle servicing or vehicle repair	N	N	N
Retail sales and service, excluding drive-up	P	P	P
Self-service storage	N	N	N
Industrial Categories			

Industrial service, excluding drive-up			
Fully enclosed (e.g., office)	CU	CU	N
Not enclosed	N	N	N
Manufacturing and production in conjunction with an allowed commercial use			
Fully enclosed	CU	CU	CU
Not enclosed	N	N	N
Warehouse and freight movement	N	N	N
Waste-related, except as accessory to a primary permitted use	N	N	N
Wholesale sales			
Fully enclosed	CU	CU	N
Not enclosed	N	N	N
Institutional Categories			
Basic utilities	P	P	P
Colleges	CU	N	N
Community service, including government use (public or nonprofit)	P	CU	CU
Day care, adult or child day care; does not include family day care (16 or fewer children) under ORS 657A.440	CU	P	CU
Parks and open space			
Pedestrian amenities	P	P	P
Parks and recreation facilities	P	P	P
Other open space	P	P	P
Religious institutions and houses of worship			
Lawfully existing as of July 25, 2007	P	P	P
New	CU	CU	CU

Schools	CU	CU	CU
Other Categories			
Accessory structures (with a permitted use)	P	P	P
Commercial radio frequency transmission facilities such as mini-cell antennas and Wi-Fi antennas	CU	CU	CU
Stand-alone wireless communications facilities	N	N	N
Essential emergency communications and warning facilities	P	P	P
Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080	P	P	P
Gardens and animals, accessory to a permitted use and subject to the provisions of LCMC 17.80.080	P	P	P
Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city's transportation system plan)	P	P	P

Key:

P = Permitted, subject to site/development review

CU = Conditional use permit required (Chapter [17.60 LCMC](#))

N = Not permitted

(Ord. 2009-05 § 17; Ord. 2007-08 § 1 (Exh. B § 2(A))

17.50.060 General development standards.

Except as modified through the procedures in LCMC [17.50.040\(C\)](#), the development standards in Table 17.50.060 apply to all Oceanlake uses and development.

Table 17.50.060 – Development Standards

Standard	Main Street/Hwy 101 Area	Interior Area	Oceanfront Area
Minimum lot area* (square feet)			
*Development must conform to lot width, depth, yard setback and coverage standards.			
Detached single-family dwelling	Not applicable	5,000 sf	5,000 sf
Attached single-family dwelling	Not applicable	2,000 sf (alley required)	5,000 sf
Other structures	5,000 sf	5,000 sf	5,000 sf
Minimum lot width	50 ft	20 ft w/alley access; or 50 ft w/out alley	50 ft
Minimum lot depth	50 ft	50 ft	50 ft
Building/structure height, per LCMC 17.50.090(B)(1)			
Maximum height (see exceptions in LCMC 17.50.090(B)(1))	35 ft	35 ft	35 ft
Minimum height	18 ft		
Fences, retaining/garden walls			
Maximum height – front and street yards	3.5 ft	3.5 ft	3.5 ft
Maximum height – interior side and rear yards	6 ft	6 ft	6 ft, except as may be prohibited in coastal zone
Building coverage			
Maximum building coverage (foundation plane as % of site area)	90%	80% where alley access or on-street parking provided 60% where no alley access or on-street parking provided	80%

<p>Minimum landscape area (% site area) except does not apply to single- family dwellings. Landscape area may include plant areas and approved pedestrian spaces.</p> <p>Street trees and other street frontage landscaping included. Single-family and duplex development is subject to landscaping standards in LCMC 17.52.100.</p>	10%	10% (may be reduced to 5% where at least one significant shore pine is preserved on site, subject to site plan review)	10% (may be reduced to 5% where at least one significant shore pine is preserved on site, subject to site plan review)
<p>Minimum setbacks (feet): (See also LCMC 17.50.090(B)(8) (b), Height Step-Back.)</p>			
<p>Front, street, side, and rear property lines, except garage or carport, and subject to building code</p>	0 ft, except as required for utility easements	0 ft, except as required for utility easements	10 ft
<p>Garage/carport entry, setback from street</p>	20 ft	20 ft	20 ft
<p>Alley, building setback from alley</p>	3 ft	3 ft	Not Applicable
<p>Build-to line (feet):</p>			
<p>New buildings only: At least one primary building entrance shall be built no farther from the street right-of-way than the build-to line; except where a greater setback is required for a planned street improvement, then the build-to line increases accordingly. The build- to line may also be increased through site plan review when pedestrian amenities are provided between a primary building entrance and the street right-of- way.</p>	10 ft	Not Applicable	Not Applicable
<p>Special setback for planned street improvements</p>	30 feet from the street centerline where the ultimate right-of- way width is 60 feet;		
	24 feet from the street centerline where the ultimate right-of- way width is 48 feet;		
	15 feet from the street centerline where the ultimate right-of- way width is 30 feet.		

(Ord. 2010-06 §§ 7, 8; Ord. 2007-08 § 1 (Exh. B § 2(B))

Article III. Design Standards

17.50.070 Purpose.

The Oceanlake design standards are intended to implement the redevelopment plan and vision for Oceanlake. The standards reflect the following values and objectives:

A. Retain Oceanlake's compact, walkable main street character and improve the Highway 101 commercial area as the district's main working, shopping and entertainment district.

B. Support the formation of a mixed use, pedestrian-oriented district drawing visitors from Highway 101 to the ocean.

C. Encourage architectural variety, consistent with the eclectic character of Oceanlake; provided, that new development creates a close, intimate human scale and architectural design addresses all four sides of a building.

D. Encourage the use of contextually appropriate materials, textures and colors.

E. Provide a continuous system of alleys and mid-block lanes with central public parking and encourage the provision of shared private off-street parking.

F. Create vibrant pedestrian spaces (e.g., plazas, public art, cafe seating areas, etc.); pedestrian spaces should help identify Oceanlake, create intrigue, and offer weather protection and comfort to pedestrians while adding value to the district.

G. Break down large building masses and provide visual interest along the street.

H. Balance rhythm and continuity; encourage creativity in the design of building elevations, rooflines and facade elements.

I. Treat corner lots as focal points with vertical elements, public art, seating, and other features.

J. Provide weather protection where buildings abut the street. (Ord. 2007-08 § 1 (Exh. B § 3(A))

17.50.080 Block layout, alleys and connections to public parking facilities.

A. Intent. New development and redevelopment projects should reinforce the historic street grid of Oceanlake and contribute to the development of central parking facilities interconnected by a system of alleys. Buildings should be placed at or near the sidewalk edge and parking should be set back behind or beside buildings. Parking should be provided on street where shoulders are approved to accommodate parking spaces or bays, and shared parking areas internal to each block. By

Alleys shall be 12 to 16 feet in width, subject to site plan review. See example in Figure 17.50.080-2.

c. Where a development receives credit toward off-street parking requirements based on its proximity to a public parking facility and/or abutting on-street parking, the city may require the owner to dedicate and improve an alley.

d. Alleys should be continuous through a block to facilitate property access and full utilization of internal parking areas, except where existing development or the highway precludes the continuation of an alley.

e. Alleys shall be contained in a public right-of-way or public access easement improved to city standards.

f. Where an interior lot or parcel is unable to connect to an existing alley and the proposed site plan provides a parking facility oriented to the rear of the property, the reviewing authority may allow the creation of a temporary island alley. Island alleys must allow for future extension(s) to abutting vacant and/or redevelopable properties.

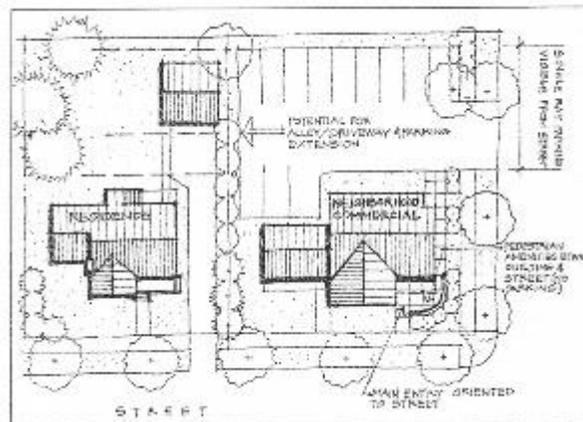


Figure 17.50.080-2: Typical parking lot configuration allowing for future alley.

3. Buildings Abutting Interior Parking Areas. Where a block is planned to contain an interior parking area (i.e., served by an alley or shared access drive), buildings abutting the parking area shall provide entrance(s) opening onto it or be connected to the street by a continuous pedestrian walkway (e.g., between buildings). Buildings and development shall not be configured in a way that precludes public access to such public parking facilities. (See also LCMC 17.50.090 through 17.50.130.) (Ord. 2007-08 § 1 (Exh. B § 3(B)))

17.50.090 Buildings and structures.

A. Intent. While many communities attempt to create or re-create an urban downtown of their own, Oceanlake already has a main street with a mixture of older and contemporary buildings. The interior area of Oceanlake, between the highway and ocean, also has the potential to become a vibrant, mixed use neighborhood, as envisioned by the Oceanlake redevelopment plan.

The eclectic group of buildings existing along the highway loosely follows the ageless rhythm of a traditional main street. Therefore building design standards draw on traditional main street elements while allowing for design variety. It is not the city's intent to create an architectural theme or to freeze time. The design standards are not meant to halt progress or restrict property rights, but rather to ensure that new buildings and remodels fit within the context of their surroundings and support a compact, pedestrian-oriented district. In this way, the city can ensure that Oceanlake retains its sense of place, its vitality and economic base.

The key elements of the building design standards are:

1. Eclectic coastal architecture, including residential, commercial, and mixed use development.
2. Building height and articulated facades that create a sense of street enclosure at a human scale.
3. Contextually appropriate materials, textures and colors.
4. Storefront character (windows, pedestrian shelter, furnishings, etc.).
5. Adaptable building styles that comfortably accommodate commercial, residential and mixed land uses.
6. A diversity of building facades and rooflines that fall into a consistent rhythm.
7. Corner lots as focal points with vertical elements, furnishings and public art.

B. Standards.

1. Height.

a. **Maximum Height.** The maximum allowable height is 35 feet, except that chimneys, spires, towers, and other architectural projections with an area of no more than 150 square feet may be allowed through site plan review. Building projections exceeding 35 feet in height within an ocean view corridor must be recessed behind lower building stories by not less than six feet. For the purpose of the OP district, ocean view corridors are all rights-of-way and parcels abutting 14th, 15th, 16th, 17th, 18th, and 19th Streets west of Highway 101, including rights-of-way and parcels extending west of NW Harbor Street to the ocean. (See Figures 17.50.090-1, 17.50.090-2 and 17.50.090-3.)

b. **Minimum Height.** Buildings fronting onto Highway 101 shall be built to a height of not less than 18 feet to maintain a sense of enclosure and a human scale relative to the street. Single-story buildings shall incorporate parapets, towers or other design elements that reach the minimum height. Single-story structures of less than 18 feet in height and fronting onto Highway 101 may be approved by the reviewing authority where the proposed building is replacing an automobile-oriented use as defined in LCMC [17.32.030](#).

2. Building Form.

a. Overall Form. Architectural designs shall address all four sides of a building. The predominant form abutting Highway 101 is a generally flat elevation with any recesses, projections, or rounded edges (“articulations”) appearing subordinate to the dominant rectangular form. New buildings should reflect the predominant form while expressing individuality; for example, with vertical elements such as cupolas, turrets or towers on corner properties. New buildings should not mimic any other building in their form or detailing.

b. Stepped Rooflines. Height shall vary from building to building to avoid a homogenous appearance. This standard is met by using either stepped parapets or slightly dissimilar overall height (i.e., building-to-building). Abrupt changes in height between buildings can be managed by having the taller building follow the horizontal lines of the shorter building along the first two floors and reference elements or detailing of the shorter building(s) on its upper stories. See also subsection (B)(3) of this section, Storefront Character.

c. Sloping Roof. Front-facing gables as a primary roof form are not allowed in the Highway 101 area, unless visually screened from the right-of-way by a parapet. Where a building in the Highway 101 area has a roof sloping to the rear of the site, it should have side parapets that screen the roof and step down toward the rear of the building. Front gables, split-barrel roofs, rounded parapets, turrets and similar forms may be used as secondary building elements or accents but not primary roof forms in the Highway 101 area. Front-facing gables are allowed as a primary roof form in the interior and oceanfront areas. Mansard roofs, including false mansards (applied forms without windows), are discouraged and A- frame buildings and other nontraditional Oceanlake forms are prohibited.

d. False Fronts. False fronts (e.g., boards, panels, flashing, etc.) covering historic masonry facades are not permitted. Exterior remodeling is encouraged where it would remove the false front(s) and restore or replace historically appropriate materials.

3. Storefront Character.

a. Fenestration (Windows and Doors).

i. Applicability. The window transparency requirement does not apply to the auditorium portion of a theater (but does apply to the lobby and concession area), to the guestroom portion of a motel, hotel, or resort (but does apply to the lobby and other portions), or to multiple-family dwellings (but does apply to the commercial parts of mixed use buildings incorporating multiple-family dwellings).

ii. Standard. Consistent with the desired storefront character in the Highway 101 area, buildings shall provide large display windows, windowed doors and transom windows. The ground floor, street-facing elevation of all buildings shall contain at least 60 percent transparent windows, measured as a section extending the width of the street-facing elevation between the building base (or 30 inches above the sidewalk grade, whichever is less) and a plane 80 inches above the sidewalk grade. Upper floors may have less window area, but should follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices. Buildings without a street-facing

elevation, such as those that are set back behind another building and those that are oriented to a pedestrian space (e.g., side plaza or court), shall meet the 60 percent transparency standard on all elevations abutting pedestrian spaces(s) and on elevations containing a primary entrance. (Recommended: Figures 17.50.090-1 and 17.50.090-2.)

4. Building Orientation. New buildings shall conform to the build-to line requirements in LCMC [17.50.060](#). Primary building entrances shall be oriented to a front yard or a side yard, consistent with the build-to line requirement.

5. Primary Entrances. Buildings shall have clearly defined primary entrances. Primary entrances for buildings fronting onto Main Street/Highway 101 shall be oriented to the highway or a corner where the highway and a side street meet. Buildings on other streets shall have primary entrances oriented to a street, court or alley, as described in subsection (B)(2) of this section. All primary entrances shall be covered for a depth of not less than five feet, either by recess, overhang, canopy, portico and/or awning extending at least five feet over the entrance. See also subsection (B)(14) of this section, Pedestrian Shelters.

6. Secondary Entrances. Buildings with more than 90 feet of frontage on a street shall have a second entrance oriented to that street. Buildings adjacent to an internal parking area shall provide a secondary entrance in conformance with subsection (B)(5) of this section. (See also this section and LCMC [17.50.100](#), Streetscapes.)

7. Armature of the Block. The width of all buildings fronting Highway 101 shall extend from side lot line to side lot line to maintain continuity of the storefront character. Exceptions to this standard may be granted where the applicant demonstrates that the provision of side yards contributes positively to the pedestrian environment, for example, by providing a pedestrian space, a pedestrian access way to a parking facility, or an access to residences located on an upper building story or behind a commercial use.

8. Building Mass.

a. Traditional Building Pattern. Buildings shall incorporate offsets or divisions in the facade to express the traditional lot pattern and building width of Oceanlake. Changes in facade material, window design, facade height or decorative details are examples of techniques that should be used. These variations should be expressed throughout the width of the structure such that the composition appears to be a collection of smaller buildings or storefronts. See also subsection (B)(11) of this section, Horizontal Rhythms. (Recommended: Figures 17.50.090-1, 17.50.090-2, and 17.50.090-3.)

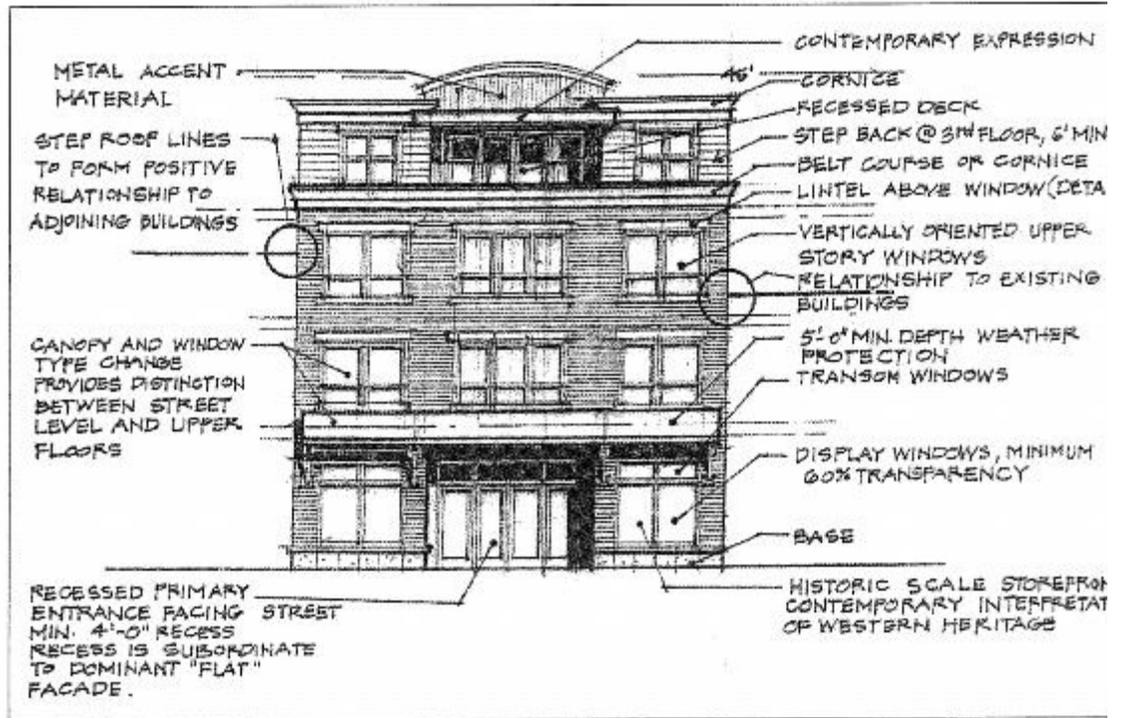


Figure 17.50.090-1: Example of acceptable building elements (35 feet).

b. Height Step-Back. For properties fronting Highway 101, portions of a building exceeding two stories shall be set back on the street sides of each successive story of the building above the second story a minimum of six feet from the next immediate lower story. The purpose of the height step-back is to maintain the appearance of a shorter building from the street and to provide for light filtering down to the street. Note: Height step-backs also apply along the east-west (numbered) streets for the purpose of protecting coastal views and solar access, per subsection (B)(1) of this section. (Recommended: Figures 17.50.090-1 and 17.50.090-2.) The planning and community development director may approve an adjustment waiving the above standard for a portion of a building incorporating a signature vertical element (e.g., clock tower) on a street corner, as recommended in subsection (B) (12) of this section. Any projection exceeding 35 feet shall be ornamental only and not contain habitable floor space. (See Figure 17.50.090-3.)

c. Street Level/Upper Floor. The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials and/or fenestration. (Recommended: Figures 17.50.090-1, 17.50.090-2, and 17.50.090-3.)

9. Accessibility. Accessibility shall be provided consistent with applicable building codes. Where wheelchair ramps are required, the ramp design shall incorporate materials and detailing similar to the base of the building.

10. Openings.

a. Ground Floor Windows. Ground floor elevations shall conform to subsection (B)(3)(a) of this section and should contain windows that are framed by piers or pilasters (sides); awnings, canopies or trim/hoods (tops); and kick plates or bulkheads (base). Decorative detailing and ornamentation around windows (e.g., sills, corbels, medallions, pediments, or similar features) is encouraged. (Recommended: Figures 17.50.090-1, 17.50.090-2, and 17.50.090-3.)

b. Upper Floor Windows. Upper floor window orientation should primarily be vertical, or have a width that is no greater than the width of the ground floor windows. (Recommended: Figures 17.50.090-1, 17.50.090-2, and 17.50.090-3.)

c. Projecting Windows, Display Cases. Where windows, flower boxes or display cases break the front plane of the building on its ground floor, such windows shall not encroach into a required sidewalk clear zone. For durability and aesthetic reasons, display cases, when provided, shall be part of the building (not affixed to the exterior) and integrated into the building with trim or other detailing.

d. Entrances. Ground level entrances shall be recessed behind the front facade not less than three feet and be at least partly transparent, except transparency is not required on entrances to residences. This standard may be met by providing a door with a window(s), a transom window above the door, or sidelights beside the door.

e. ATMs and Service Windows. Where ATMs or service windows are proposed on any street-facing elevation, they shall be visible from the street for security and have a canopy, awning, or other weather protection shelter.

f. Corner Entrances. Buildings on corner lots should have corner entrances. Such entrances are not required to be recessed, but shall have an awning or canopy for weather protection. Where a corner entrance is not provided, the building plan shall provide for a corner plaza consistent with LCMC 17.50.110, or the building shall provide architectural features that honor the corner as a pedestrian space; such features may include but are not limited to an alcove with seating, public art (e.g., sculpture or fountain), a vertical building element such as a tower (e.g., clock tower), or other feature approved through site plan review. (See also LCMC 17.50.110, Pedestrian spaces.)

g. Remodels. The scale and proportion of altered or added building elements, such as the size and relationship of new windows, doors, entrances, columns, weather protection shelters, and other features shall be visually compatible with the overall composition of the building (i.e., including building materials, color, detailing, etc.).

11. Horizontal Rhythms.

a. Traditional Lot and Building Pattern. Front elevations shall be articulated not less than once every 25 feet to maintain a pedestrian scale and to avoid blank walls. Articulation should be subtle. For example, slight offsets in a building elevation or roofline, and/or the rhythmic placement of windows, pilasters, awnings, trim, art/medallions, or other detailing and ornamentation are preferred. Abrupt divisions, such as changes in cladding materials,

or offsets greater than eight feet, should be avoided. Side and rear elevations may be articulated less frequently but should complement the overall building design. The approving authority may require detailing on a zero-lot line elevation to reduce the apparent scale and avoid blank walls, i.e., until an abutting property develops. (Recommended: Figures 17.50.090-1 and 17.50.090-2.)

b. Horizontal Lines. New building designs and exterior remodels shall establish prominent horizontal lines and avoid blank walls. Examples of such horizontal lines include: base materials and detailing below a series of storefront windows, awning or canopy line, belt course between building stories, and cornice or parapet lines. It is not necessary for new lines to match existing lines. (Recommended: Figures 17.50.090-1 and 17.50.090-2.)

c. Ground Floor/Upper Floor Division. A clear visual division shall be maintained between the ground level floor and upper floors, for example, through the placement of windows, transoms, canopies, awnings, and signage. The majority of signage should be placed on the ground floor elevation (e.g., sign bands, canopy signs, or blade signs). (Recommended: Figures 17.50.090-1 and 17.50.090-2.)

d. Building Base. Buildings shall have a foundation or base, typically from ground to the bottom of the lower windowsills, with changes in volume or material, to give a sense of strength and symmetry. (Recommended: Figures 17.50.090-1 and 17.50.090-2.)



Figure 17.50.090-2: Rhythm, massing, and building openings.

12. Vertical Lines. New construction or front elevation remodels should reflect a vertical orientation, either through breaks in volume or the use of surface details, to divide large walls and create a pedestrian scale. Building massing for corner properties on Highway 101 should accentuate the corner location with a vertical element. See also

subsection (B)(11)(a) of this section, Traditional Lot and Building Pattern.
(Recommended: Figures 17.50.090-1, 17.50.090-2, and 17.50.090-3.)

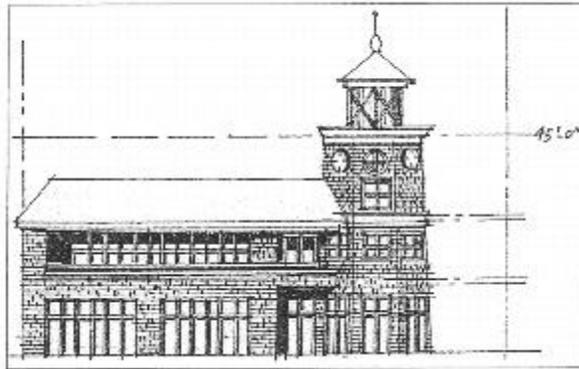


Figure 17.50.090-3: Example of vertical element and desirable building height for corner property on Highway 101. Note: building step-back not required on east side of Highway 101.

13. Materials and Color.

a. Primary Materials. Exterior building materials shall predominantly consist of painted or natural stain wood, stone, brick, rusticated concrete block (warm earth tones) or comparable cladding. Rough-hewn wood, timbers and metals may be used as accents but not as the primary exterior cladding. See also subsections (B)(13)(c), Secondary Materials, and (B)(13)(d), Substitute Materials, of this section.

b. Change in Materials. Elevations shall incorporate changes in material that define a building's base, middle and top and create visual interest and relief. Side and rear elevations that do not face a street, public parking area, pedestrian access way or plaza may utilize changes in texture and/or color of materials in the interest of affordability; provided, that the design is consistent with the overall composition of the building.

c. Secondary Materials. Any of the primary materials listed above may also be used as secondary materials or accents. Metals such as copper, steel, iron, bronze and similar appearance metals may be used as trims or accents (e.g., flashing, weather protection features, ornamentation, etc.) when compatible with the overall building design, and subject to review and approval through site plan review.

d. Substitute Materials. Substitute materials that are equal in appearance and durability to those in subsection (B)(13)(a) of this section may be approved at the discretion of the reviewing authority through site plan review. The applicant will be required to provide specifications from the manufacturer.

e. Color. Color schemes should be simple and coordinated over the entire building to establish a sense of overall composition. Color schemes should tie together signs, ornamentation, awnings, canopies and entrances. There shall be no more than one base color for each 25 horizontal feet of the front elevation; one base color for the entire front elevation is preferred. Using only

one or two accent colors is also preferred, except where

precedent exists for using more than two colors with some architectural styles (e.g., arts and crafts). Natural wood finishes are appropriate for doors, window sashes and trim, signs, canopies and other architectural accents. Luminescent, sparkling, neon and “day-glow” colors are not allowed (e.g., outlining building), except that neon signs are allowed subject to applicable sign codes. Metals shall be brushed finish or painted in mute or earth tones to minimize glare.

f. Contemporary Designs. Materials that provide a contemporary interpretation of local architecture styles, including arts and crafts, art deco, and vernacular (beach cottage) styles are encouraged. Buildings that resemble suburban strip malls (e.g., picture windows extending to near grade level) and those that use highly reflective glass, clerestory windows and/or similar nontraditional features are discouraged.

g. Restoration and Rehabilitation. Restoration and rehabilitation projects should incorporate original materials and design elements (e.g., previously covered over), to the extent practicable.

14. Pedestrian Shelters. Awnings, canopies, recesses or similar pedestrian shelters shall be provided along at least 60 percent of a building’s ground floor elevation(s) where the building abuts a sidewalk, plaza, pedestrian access way, or outdoor seating area. Pedestrian shelters used to meet the above standard shall extend at least five feet over the pedestrian area, shed rain away from building entrance(s), be proportionate to the building in its dimensions, and not obscure the building’s architectural details. If mezzanine or transom windows exist, the shelter shall be below such windows where feasible.

Exception: The reviewing authority may reduce the minimum shelter depth to four feet upon finding that existing right-of-way dimensions or building code requirements preclude a larger shelter.



Pedestrian shelters may come in a variety of forms, materials, and colors, provided they fit the overall composition of the building. Actual designs should address the location and function of the shelter, building codes, architecture, durability, and right-of-way constraints, if any.

15. Mechanical Equipment.

a. Screening. When mechanical equipment, such as utility vaults, air compressors, generators, antennas, satellite dishes, or similar equipment, is adjacent to a street, sidewalk or pedestrian space, it shall be screened from view on all streets. Where such equipment is installed on a side or rear building elevation and is adjacent to an alley, access way, or pedestrian space, its appearance shall be minimized or screened using materials and/or colors that are similar to those used on the subject building. Standpipes, meters, vaults and similar equipment should not be placed on a front elevation when other alternative locations exist; such equipment shall be placed on a side or rear elevation when practicable.

b. Rooftops. Rooftop mechanical units shall not be visible from any street and shall not exceed the allowable building height.

c. Ground-Mounted Units. Ground-mounted mechanical units shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings. Hedges may also be used as screens where there is adequate sunlight and irrigation to ensure their successful growth. (Ord. 2007-08 § 1 (Exh. B § 3(C)))

17.50.100 Streetscapes.

A. Intent. The relationship between the local street system, Highway 101 and adjoining properties is important from both a transportation planning and a land use perspective. Oregon Department of Transportation (ODOT) is the permitting authority for all access onto Highway 101. As the permitting agency for land use, the city works cooperatively with ODOT to manage development adjacent to the highway. The city's design standards are intended to implement the community's vision of a cohesive streetscape, with on-street parking, wide sidewalks, weather protection (pedestrian) shelters, benches, pedestrian-scaled lighting, public art, opportunities for cafe seating, and other amenities. A safe, inviting and comfortable pedestrian environment benefits businesses, highway users and the community as a whole.

B. Standards. In addition to standards for block layout, alleys and parking lot access provided in LCMC [17.50.080](#), the following provisions apply to all new development:

1. Transportation Plan Conformity. New development shall conform to the policies, standards, specifications and design details (e.g., street sections) contained in the city's transportation system plan (TSP) and the requirements of this chapter, specifically LCMC [17.50.080](#) (Block layout, alleys and connections to public parking facilities) and [17.50.110](#) (Pedestrian spaces). When streetscape improvements are required of new development, such improvements shall conform to the TSP. Additionally, street furnishing shall conform to the specifications contained in the Oceanlake redevelopment plan.

2. Local Streets and Alleys. LCMC [17.50.080](#) provides standards for extending alleys through blocks and local street improvements.

3. Pedestrian Amenities. LCMC [17.50.110](#) provides standards for pedestrian spaces and pedestrian amenities. Additionally, the Oceanlake redevelopment plan provides specifications for street furnishings such as benches, trash receptacles, wayfinding signs, and streetlights. (Ord. 2007-08 § 1 (Exh. B § 3(D)))

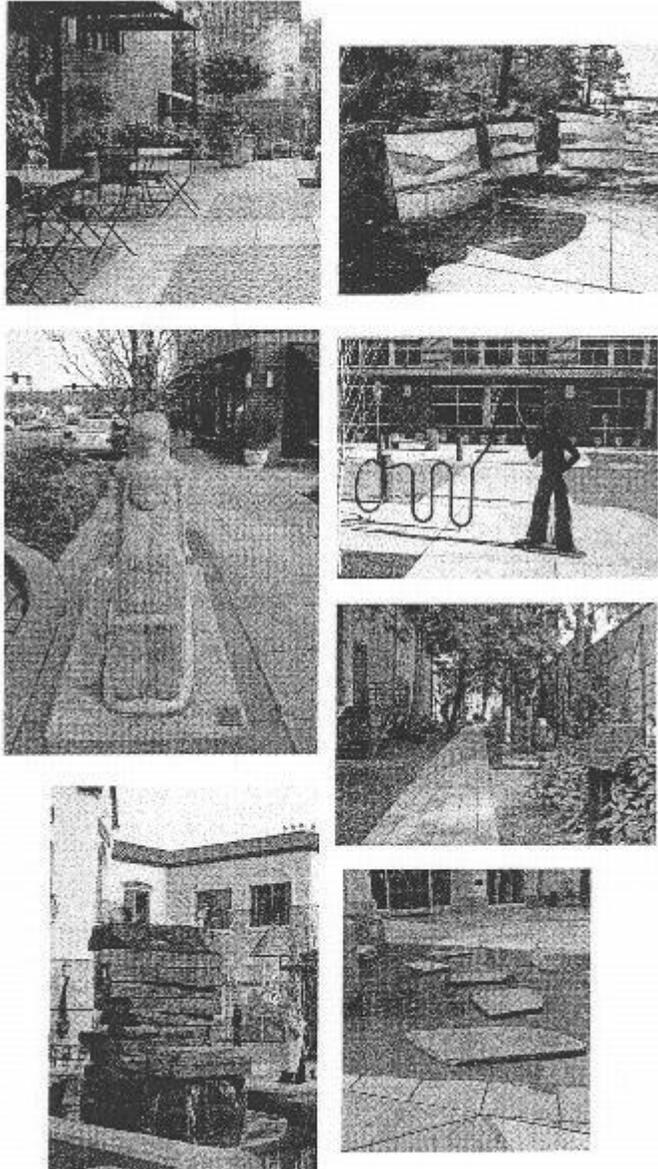
17.50.110 Pedestrian spaces.

A. Intent. The increased development intensity, mixture of uses, pedestrian activity, close building orientation and minimal private open space envisioned for Oceanlake require that pedestrian space be provided along building frontages and in breaks between buildings. Pedestrian space, such as plazas, extra-wide sidewalks, outdoor seating areas, pedestrian access ways between buildings, alcoves and pocket parks, provides visual relief, pedestrian resting areas and opportunities for socialization. Pedestrian spaces do not have to be publicly owned or maintained. Public or private, they are as important as building design and central parking to the success of Oceanlake. Therefore, the city requires that all new developments and redevelopment projects contribute their proportionate share of pedestrian space.

B. Standards.

1. Pedestrian Space Standard. At least three percent of every development site, except for residential developments, shall be designated and improved as pedestrian space. The highest priority locations for pedestrian space are those areas with the highest pedestrian activity (e.g., street corners and mid-block pedestrian access ways) that have a western or southern exposure (within 45 degrees of true south or west). Where no such area exists, then pedestrian space should be provided as an extended sidewalk or walkway connecting multiple developments. See photo examples in subsection (B)(2) of this section.

2. Dimensions. All pedestrian spaces shall have dimensions of not less than eight feet across and have a surface area of not less than 64 square feet.



Pedestrian spaces should serve as focal points and gathering places, giving the downtown a unique identity and sense of place. Pedestrian amenities may include, but are not limited to, outdoor seating areas or cafes, pedestrian access ways, weather protection, plazas, benches, public art, and street furnishings such as bicycle racks and pedestrian lighting (e.g., bollards) at crossings.

3. Public Access. Such areas shall abut a public right-of-way or otherwise be connected to and visible from a public right-of-way by a sidewalk or pedestrian access way; access ways shall be identifiable with a change in paving materials (e.g., pavers inlaid in concrete or a change in pavement scoring patterns and/or texture). Where a right-of-way connection is not possible, the owner shall be required to provide a public access way easement to the pedestrian space. Pedestrian spaces shall not be gated or closed to public access, unless otherwise required by the city. (Recommended: Figures 17.50.110-1 and 17.50.110-2.)

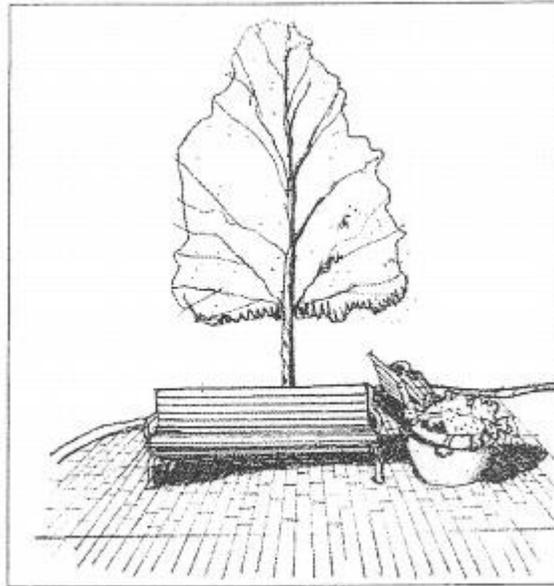


Figure 17.50.110-1: Example of a small pedestrian space containing approximately 64 square feet.

4. Pedestrian Amenities Required. Where pedestrian space is required, it shall contain pedestrian amenities such as plaza space, extra-wide sidewalks (i.e., outdoor cafe space), benches, public art, pedestrian-scale lighting, wayfinding signs (as approved by the city) or similar pedestrian areas in an amount equal to or greater than one-half of one percent of the estimated construction cost of the subject building(s). Where a pedestrian space adjoins a building entrance, it should incorporate a canopy, awning, pergola, portico, or similar weather protection feature. Pedestrian amenities such as seating, planters, public art and pedestrian lighting (e.g., antique lamps or bollard lights) at street corners or pedestrian access ways may be counted in fulfilling the one-half percent requirement. (See Figure 17.50.110-2.) Cost estimates for pedestrian amenity improvements shall be prepared by a licensed architect, landscape architect, or other qualified professional, and shall be subject to review and approval by the administrator.

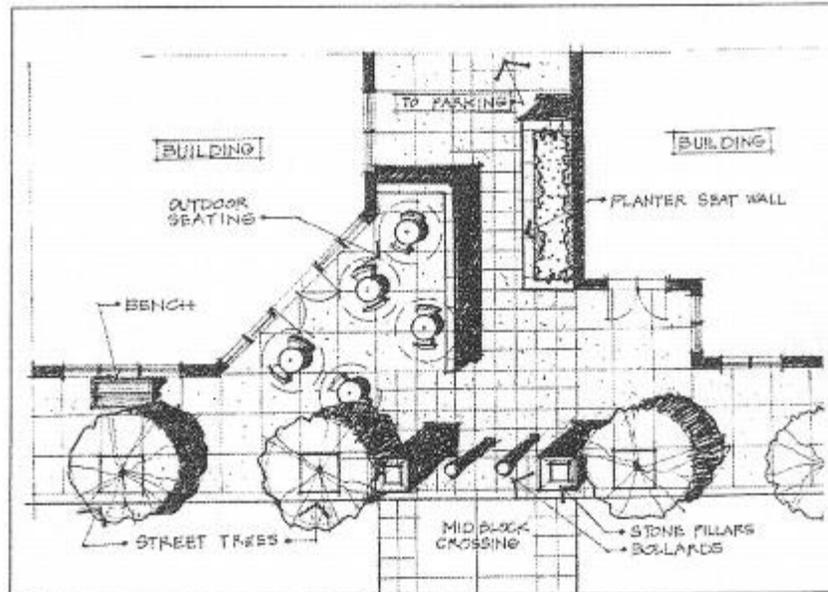


Figure 17.50.110-2: Example of preferred types of pedestrian amenities, shown with access way between buildings leading to an internal parking area or street end.

5. Mechanical Equipment and Garbage Storage Areas. Mechanical equipment and garbage storage areas are not permitted within pedestrian space(s). Such facilities shall be screened completely from view and set back 20 feet or more from a pedestrian space for aesthetic reasons and to minimize odors and noise. (Ord. 2007-08 § 1 (Exh. B § 3(E)))

17.50.120 Off-street parking and circulation.

A. Intent. Parking is to be provided primarily in on-street parking spaces, parking bays abutting streets, garages, and in shared public or private parking areas internal to each block. Where areas of surface parking exist, such areas shall be oriented behind or to the side of buildings. Surface parking may transition to structured parking over time as the market and public-private partnerships allow.

B. Standards. In addition to standards for block layout, alleys and parking lot access provided in LCMC [17.50.080](#), the following provisions apply to all new development:

1. Drive-Up and Drive-Through Uses. New drive-up/drive-through facilities (e.g., windows, ATMs, etc.) are not permitted. Where applicable, the reviewing authority may approve the relocation and improvement of existing drive-up facilities, subject to a conditional use permit.

2. Off-Street Parking. There is no minimum off-street parking requirement for the commercial component of any mixed use building within 400 feet of a public parking facility; all other uses shall conform to the minimum parking standards of the Lincoln City Municipal Code. Where new surface parking is planned, it shall be limited to parallel on-street parking spaces, parking bays abutting the street, and/or parking areas located behind or to the side of a building. (Recommended: Figure 17.50.120-I.)



Figure 17.50.120-1: Parking is subordinate to storefront character. Parking must be buffered from adjacent streets and pedestrian ways. Drive-up/drive-through uses, where allowed, shall be oriented away from Main Street.

3. Parking Lot Design. Surface parking areas shall be divided into bays of not more than 12 parking spaces per bay. The minimum dimension for landscape areas is four feet in width and 24 square feet in area. Additionally, where a parking area or access drive abuts a street or pedestrian access way, a landscape screen of not less than four feet in width and four feet in height shall be provided. Alternatively, the screen may be reduced to two feet in width where a masonry, wrought iron, brick or similar architectural-grade wall is also provided, subject to site plan review. Landscaping shall be provided in conformance with LCMC [17.50.140](#). The planning commission may allow a greater number of consecutive parking spaces where the development preserves and protects one or more existing mature trees or exceeds the minimum pedestrian space requirement in LCMC [17.50.110](#). The commission shall use its discretion in adjusting the standard; provided, that more credit may be awarded to projects that preserve the largest or most visible trees as viewed from public rights-of-way.

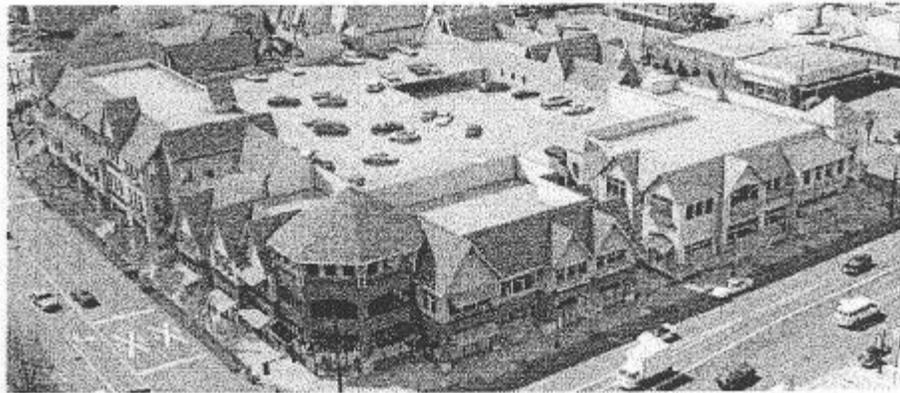
4. Redevelopment of Surface Parking Lots. Site plans for properties adjacent to city-owned parking lots should allow for conversion of such lots to structured parking in the future. Site plans should also allow for the conversion of nonconforming, front yard parking lots to new building sites or pedestrian spaces as properties redevelop. Where a proposed project would construct underground parking, the review authority may adjust building coverage, setbacks, or other development standards to facilitate provision of public-private parking spaces.

5. Parking in Front of Buildings. Due to the pedestrian orientation of downtown, surface parking is not allowed between any new building and the street to which it is oriented. Where such parking currently exists, the owner may be required to install landscaping or other buffering between the parking area and the sidewalk with future redevelopment.

6. Parking Structures. Parking structures (e.g., garages, decks, lids, etc.) shall not open onto any public street, but shall instead receive access from an alley or other approved access through the site plan review. Where structured parking is

provided, it shall not abut Highway 101, but shall instead be clad with commercial building(s) and/or pedestrian space along the highway frontage.

7. **Service and Loading Areas.** The visual, traffic, odor and noise impacts of service and loading areas, relative to streets, pedestrian spaces, pedestrian access ways and adjacent residences, shall be minimized. Service areas and loading docks/bays shall be accessed from an alley and screened using architectural elements that are compatible with adjacent building(s). Where no alley exists, service areas shall be accessed from streets other than Highway 101.



The aerial photo (top) shows an example of a parking structure interior to the block; access is provided via a side street in the upper right corner. Below the aerial, and clockwise from the upper left, are photos of the driveway opening and public

parking signage, a pedestrian access way to the garage, another view of the garage with a pedestrian access way, and a storefront on the main street. Note the parking structure is clad with commercial buildings and pedestrian space.

(Ord. 2010-06 § 7; Ord. 2007-08 § 1 (Exh. B § 3(F))

17.50.130 Pedestrian access.

A. Intent. In new development, the pedestrian circulation system shall provide a direct, convenient and comfortable means of accessing individual uses and connecting to other parts of Oceanlake. The pedestrian system includes sidewalks, pathways, mid-block access ways, and the ocean beach.

B. Standards. To ensure safe, direct and convenient pedestrian circulation, all developments shall provide a continuous pedestrian system conforming to city standards. (Ord. 2007-08 § 1 (Exh. B § 3 (G))

17.50.140 Landscaping.

A. Intent. Oceanlake is identifiable, in part, by its shore pines and other coastal vegetation. While it is inevitable that some existing trees will be removed with new development, native vegetation should be preserved where practicable or otherwise replanted in required landscape areas. Trees and hedges serve as windbreaks and visual screens in an area that is otherwise being exposed to high winds. Grassy swales capture and cleanse surface water runoff before it infiltrates into the ground or seeps onto the beach. Mature vegetation also enhances real estate values. For these reasons, as well as for aesthetic reasons, the city requires that all new developments and redevelopment projects attempt to save mature vegetation that is not within building envelopes and provide landscaping in surface parking areas, as buffers between uses, within street planter strips, and to soften the appearance of large building elevations.

B. Standards.

1. Mature Landscaping. Site plans shall incorporate existing, mature vegetation that is not within building envelopes and not within areas that are required to be graded or excavated (e.g., for utilities, foundations, and driveways) into the project's landscape design to the greatest extent practicable. Where mature tree removal is unavoidable (e.g., a tree's location precludes reasonable development consistent with prescribed building envelopes, required building orientation, or public improvement requirements), mitigation shall be required as per subsection (B)(3)(g) of this section.

2. Volume Landscaping and Screening. Large trees and/or shrub planting may be required in quantities exceeding the base requirements of this code to mitigate adjustments to other standard or the loss of mature trees as described under subsection (B)(1) of this section.

3. Minimum Landscape Standards.

a. All off-street parking and vehicular use areas (including driveways and loading docks) shall have perimeter landscaping of not less than four feet in depth, and interior landscaping covering at least 10 percent of the entire vehicular use area. The planning commission authority may reduce the minimum landscaper area

to not less than five percent where the development preserves and protects one or more existing mature trees. The commission shall use its discretion in awarding credit; provided, that more credit may be awarded to projects that preserve the largest or most visible trees as viewed from public rights-of-way including the beach. Areas with preserved trees are counted toward the required parking lot landscaping.

b. Each separate landscape area shall be a minimum of 24 square feet with a minimum dimension of at least four feet and shall contain at least one tree. All remaining land in the landscape area shall be covered by a combination of shrubs, ground cover plants or other city-approved nonvegetative ground cover.

c. All required buffer strips, screens, and other required landscape areas shall be planted at a density to ensure the intended buffering or screening intent is met; in no case shall a landscape area have less than one tree per 200 square feet of surface or less than one shrub per 50 square feet of area.

d. Required trees and shrubs shall be noninvasive species that are known to thrive in the northern Oregon coastal environment.

e. The following guidelines apply:

i. Vegetation native to the Pacific Northwest coast is encouraged.

ii. Turf and grass is discouraged, except in residential developments and in water treatment swales.

iii. Species should be those contained in the Lincoln City Tree Planting Guide and List of Recommended Species, or species recommended by a licensed nurseryman as being suitable for the local climate, as approved by the planning director.

f. Trees shall be at least two-inch caliper at time of planting.

g. When tree mitigation is required, the number of mitigation trees required shall be equal to at least one-half the total number required to achieve the number of inches of mature tree(s) removed (diameter measured at four feet above grade). For instance, if a 12-inch diameter tree is removed, then two three-inch trees of the same or comparable species shall be planted.

h. Irrigation systems shall be provided for all planted areas for a period of at least two years, or until it is demonstrated that new plants have become naturalized.

i. Shrubs shall be at least three-gallon size when planted.

j. If hedges are planted for screening, plants shall be at least of an initial size so that the required screening will be achieved within two years.

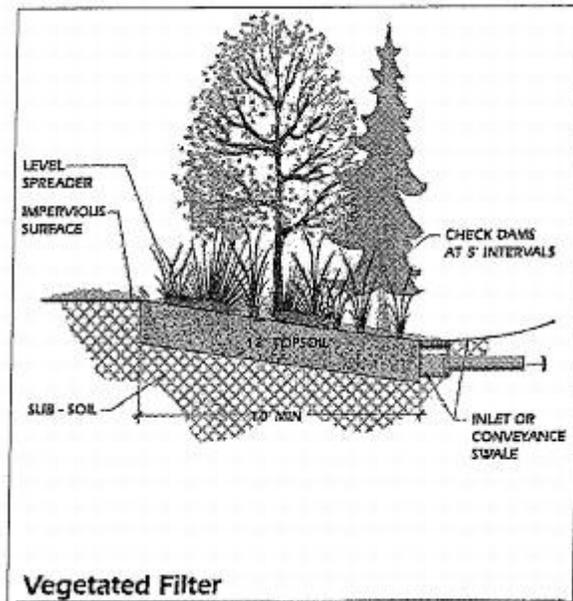
k. Trees shall be planted so that encroachment below eight feet into a public right-of-way can be prevented without long-term detriment to the subject tree.

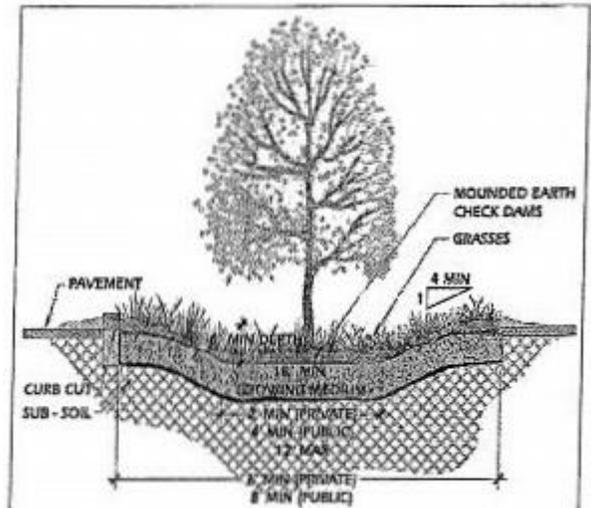
l. Landscaping shall preserve an adequate line of sight around vehicle accesses.

m. All landscaping materials shall be in vigorous and healthy growing condition and shall be installed according to common planting procedures, with consideration given to soil condition. The property owner is responsible for maintaining and replacing, as necessary, all approved landscape plants on his property and those within abutting rights-of-way (e.g., street trees).

4. Parking Area Landscaping. Surface parking areas shall contain landscaping as described under LCMC [17.50.120](#), Off-street parking and circulation.

5. Water Quality. Where a surface parking area incorporates water quality filters/swales and porous paving materials, such as pavers set in sand, concrete blocks allowing grass to grow through, and/or porous concrete (e.g., particularly along walkways and in parking areas that are used infrequently), the reviewing authority may allow additional building (lot) coverage, consistent with the standards in Table 17.50.060. Porous paving may also be used for small areas, such as the first four feet of a parking lot's perimeter, where it would help reduce or slow surface water runoff. (Recommended: Figure 17.50.140.)





Grass Swale

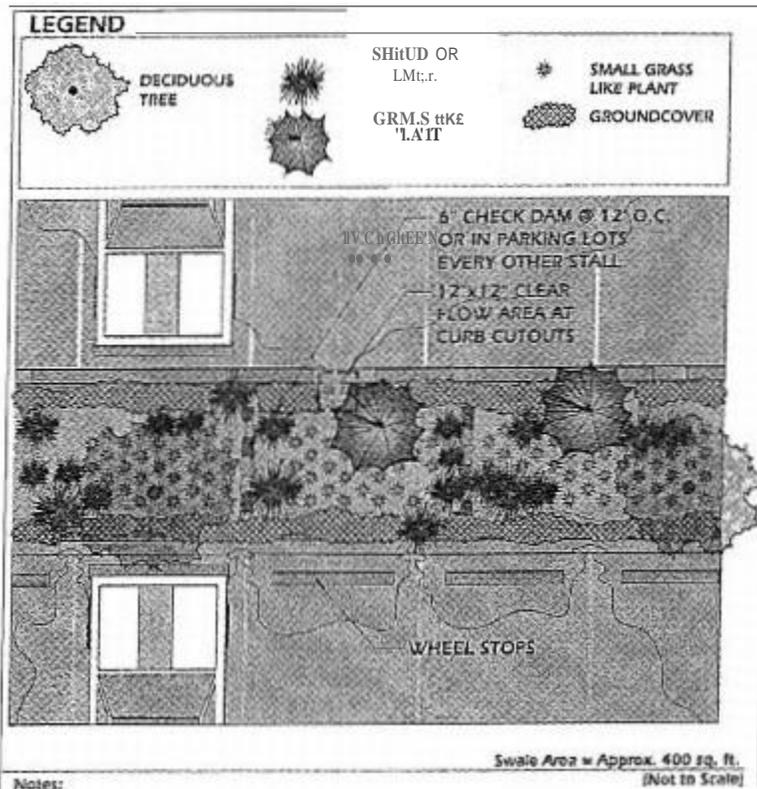


Figure 17.50.140

Ord. 2007-08 § 1 (Exh. B § 3(H))

17.50.150 Signs.

A. Intent. The number, size, configuration, placement, color, materials and illumination of signs all play a part in shaping the built environment. Signs in Oceanlake should function primarily as cues for pedestrian wayfinding and business identification. Business identification does not require that owners maximize the size or number of signs. The highway streetscape has built-in traffic calming features that, together with the building design standards, will enable motorists and pedestrians to notice signs at a relatively small scale. Signs designed to a highway scale are not necessary and are discouraged through the following standards.

B. Standards. Signs shall not be installed without a sign permit. Where a sign permit is required as part of a larger project, the sign package shall be reviewed with the site plan under the applicable provisions of Chapter [17.72 LCMC](#) and the following guidelines and standards. Where a sign permit is requested apart from any other development application, it shall be processed administratively under the applicable provisions of the Lincoln City Municipal Code and the following guidelines and standards.

1. Building Signs. Building-mounted signs shall be positioned to emphasize established architectural elements such as entrances, windows, gables, etc. Signs should appear to fit within frames created by components of the facade design. Signs should not obscure building details. An individual building shall have no more than four building-mounted signs totaling not more than 48 square feet.

2. Freestanding Signs. New freestanding signs shall not exceed six feet in height, except that signs suspended from an awning, canopy or similar architectural feature may be approved subject to applicable building codes. Portable signs shall conform to LCMC [17.72.060\(A\)\(4\)](#).

3. Contextual Design. Signs should complement Oceanlake's natural surroundings. For example, signs engraved or sculpted from metal or wood (natural or painted wood) are preferred over those that are predominantly made of plastic, Plexiglas, or similar reflective materials. Pictographic symbols are encouraged, as they often communicate more than text and add visual interest to the street. Fluorescent (e.g., day-glow), sparkling, reflective, or similar colors or finishes are not permitted. Banner signs, streamers, moving signs, video or animated signs, flashing signs, and similar sign types are considered a nuisance and traffic safety hazard and are therefore not permitted.

4. Pedestrian Signs. Pedestrian-scale signs, such as blade signs, wood cutout signs, door signs and permanent stylized window signs (allowing at least 50 percent transparency throughout the window) are encouraged. Such signs are exempt from the overall sign area limitations.

5. Directory Signs. Directory signs for buildings with multiple tenants should be designed to allow for new business names to be added or replaced easily.

6. Illuminated Signs. When signs are to be illuminated, external light sources shall be used. Light sources shall be placed close to and directed onto the sign they are intended to illuminate, and shielded to minimize glare into the street or onto adjacent properties. Where possible, lights should be incorporated into the sign bracket. Lights placed below any sign (up-lighting) shall be cut off to minimize spillover into the night sky. Lights in canisters and backlit signs, except for those existing prior to the effective date of the design standards, are prohibited. See also LCMC 17.50.160, Exterior lighting.

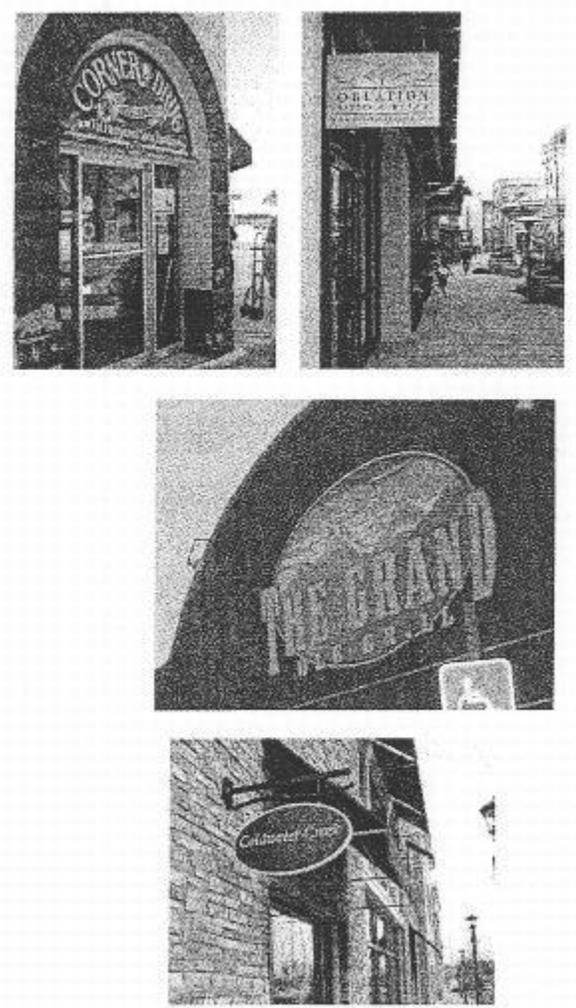


Figure 17.50.150-1: Examples of encouraged sign types (from top: mural, blade, wood cutout, hanging sign).
(Ord. 2007-08 § 1 (Exh. B § 3(I))

17.50.160 Exterior lighting.

A. Intent. The number, size, design and placement of lights all contribute to creating a safe and aesthetically pleasing development. Excessive lighting contributes to light pollution, glare and light trespass, and it diminishes views of the night sky. Lights in Oceanlake should function primarily as tools for pedestrian wayfinding and business visibility. Business visibility does not require that owners

fully illuminate their building and parking areas. The urban renewal plan for Oceanlake includes sidewalk lighting (antique street lamps) that, together with modest on-site lighting in developments, will enable motorists and pedestrians to recognize businesses and safely walk to them. Lights designed to a highway scale or large urban commercial scale (e.g., cobra head standards, or car sales lot lighting) are not permitted.

B. Standards. Outdoor light fixtures shall not be installed without site plan review approval. Where a light fixture is required as part of a larger project, the lighting package shall be reviewed under the following guidelines and standards. Where an outdoor light fixture is to be installed apart from any other development application, it shall be processed administratively. Outdoor lighting that does not conform to current standards, but conformed to city standards prior to the effective date of the ordinance codified in this section, is allowed to continue as nonconforming until such time that the light fixture and/or building is remodeled or replaced.

1. Contextual Design. Exterior lights shall be designed to fit their particular location and function. They should be simple in character and similar in color and intensity to those used traditionally. High pressure sodium lights are appropriate, except where good color rendition is required; enhanced color rendition high pressure sodium lamps, or more uniform spectrum lamps, may also be used.

a. Pedestrian ways and entrances that are not otherwise illuminated by building-mounted lights or streetlights shall be illuminated using bollards, step lights, or other low-profile fixtures that are appropriate for walkways and plazas. Illumination between one and two foot-candles for such areas is required.

b. Building-mounted lights should complement the building background in style; using lights to draw attention to (wash) architectural elements is permitted; provided, that unshielded, high intensity light sources and sources that direct light upward without cut-offs are not permitted. (See subsection (B)(2) of this section.)

c. Antique-style lights are preferred over recessed can lights and globe fixtures. Contemporary light fixtures that draw on historic elements or provide a new interpretation of an historic style are encouraged.

d. Maximum initial luminance of outdoor sales areas, storage areas and service station canopies and similar areas shall not exceed 20 foot-candles, except as otherwise approved by the planning director.

e. Maximum initial luminance of parking lots shall not exceed four foot-candles, except as otherwise approved by the planning director.

2. Impacts of Lighting. The visual impacts of site and architectural lighting, such as overspray of lights onto adjacent residential properties and lights shining into the night sky, shall be avoided.

a. Light poles shall not exceed a height of 20 feet.

b. Only shielded lights are permitted. Shielding should be integral to the light fixture and direct light downward. Exception: Up-lighting of official flags may be allowed; provided, that the luminance level is minimized.

c. Lighting associated with service areas, parking lots and parking structures, as

well as streetlights, shall be shielded or provide cut-offs to avoid glare, light pollution (night sky) and light spillover onto residential properties. Luminance at the property line, or no more than five feet over the property line, shall be zero.

d. The planning director may require the installation and use of timers or activity switches to prevent unnecessary sources of light by controlling the length of time that exterior lights are in use late at night.

e. Lights used to wash a building elevation (including any signs) shall not wash more than 75 percent of the facade. Interior lights (e.g., store displays, etc.) are exempt.

f. Up-lighting is prohibited. Where lighting is used to wash an exterior wall, the use of recessed eave lighting is preferred. The maximum illumination limits for wall washing are one foot-candle for dark-colored surfaces and one-half foot-candle for light-colored surfaces.

g. The manufacturer's data or measurement shall be provided to demonstrate conformance with subsection (B)(1) of this section. Photometric plans are required with site plan review applications, unless waived by the planning director.

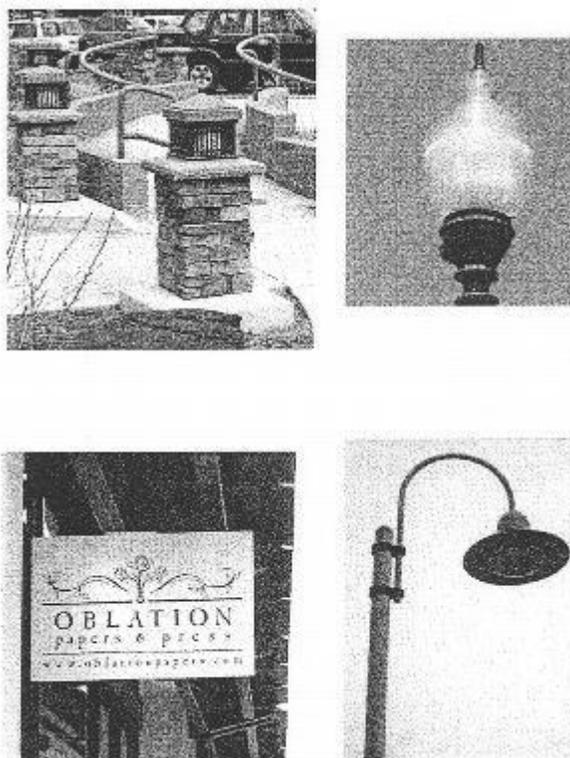


Figure 17.50.160-1: Examples of acceptable lights.

(Ord 2007 – 08 § 1 (Exh. B § 3(J))

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Chapter 17.52

SUPPLEMENTARY REGULATIONS AND EXCEPTIONS

17.52.010 Accessory uses – General provisions.

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this title, and shall comply with the following limitations:

A. *Repealed by Ord. 2010-04.*

B. A greenhouse or hothouse may be maintained accessory to a dwelling, provided the activity does not exceed that which requires a license under ORS Chapter 571, Nurseries and Nurserymen.

C. A guest house may be maintained accessory to a dwelling, provided there are no cooking facilities in the guest house.

D. *Repealed by Ord. 2010-04.*

E. A home occupation shall not occupy more than one-quarter of the ground floor area of the dwelling. The residential character of the building shall be maintained and the activity shall not have the outward appearance of a business nor detract from the residential character of the neighborhood. There shall be no outside display or storage of merchandise, materials, signs or equipment on the premises. Noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the home occupation shall not be detectable beyond the limits of the property. (Ord. 2010-04 §§ 1, 2; Ord. 84-2 § 4.010)

17.52.020 Authorization of similar uses.

In response to an application in relation to a specific lot, the planning commission may rule by resolution that a use not specifically named in the allowed uses of a zoning district and not specified in any other zoning district shall be included among the allowed uses if the use is of the same general type and is similar to the allowed uses. Such ruling by resolution of the planning commission shall thereafter be presented to the city council for legislative enactment to amend this title to include such use. In addition, the ruling shall be entered in a registry available to the public that sets out the street address or other easily understood geographic reference to the lot, the date of the ruling, and a description of the ruling. (Ord. 2000-06-A § 1; Ord. 90-8 § 1; Ord. 84-2 § 4.020)

17.52.030 Access requirement.

Every lot shall abut a street, other than an alley, for at least 25 feet. (Ord. 84-2 § 4.030)

17.52.050 Storage in front yard.

Boats and trailers and house trailers shall not be stored in a required front yard. (Ord. 84-2 § 4.050)

17.52.060 Clear-vision area requirement.

A clear-vision area shall be maintained on the corners of all property adjacent to the intersection of two streets. A clear-vision area shall contain no planting, fence or other

temporary or permanent obstruction exceeding two and one-half feet in height, measured from the top of the curb or, where no curb exists, from the established centerline grade of the street, except that trees exceeding two and one-half feet may be permitted if all branches and foliage to a height of eight feet above the top of the curb are removed. (Ord. 84-2 § 4.060)

17.52.070 Measurement of clear-vision areas.

A clear-vision area shall consist of a triangular area two sides of which are street lines and the third side of which is a line across the corner of the lot connecting the ends of the other two sides. The size of a clear-vision area is determined by the distance from the intersection of the two street lines to the third side, measured along the street. The size shall be as follows:

- A. In a residential zone, the distance determining the size of a clear-vision area shall be 30 feet.
- B. In all other zones, the distance determining the size of a clear-vision area shall be 15 feet, except that when the angle of intersections between streets is less than 30 degrees, the city may require a greater distance. (Ord. 84-2 § 4.070)

17.52.080 Maintenance of minimum requirements.

No lot area, yards, other open space, or off-street parking or loading area existing on or after the effective date of the ordinance codified in this title shall be reduced below the minimum required for it by this title. (Ord. 84-2 § 4.080)

17.52.090 Dual use of required open space.

No lot area, yard or other open space or off-street parking or loading area which is required by this title for one use shall be utilized to satisfy requirements for lot area, yard or other open space or off-street parking or loading area for another use, except as provided in Chapter [17.56](#) LCMC. (Ord. 92-8

§ 11; Ord. 84-2 § 4.090)

17.52.100 Landscaping.

A. Purpose. Landscaping is important to the community for its aesthetic value and environmental benefits, such as controlling erosion and functioning as part of the natural hydrologic cycle. By requiring landscaping for all new development and substantial improvements, the aim of this section is to maximize both benefits. Landscaping for each new development shall satisfy the following requirements.

B. Applicability. Landscaping requirements in this section apply to:

1. Newly developed lots.
2. Previously developed lots whenever improved by 50 percent or more of the assessed value of the existing improvements.

C. Landscape Plan. A landscape plan shall be submitted with any building permit for new construction, as applicable under this section.

1. Single-Family Residences and Duplexes.

a. Preliminary Landscape Plan. The plan shall be drawn to scale and shall include the location of buildings, impervious surfaces, and pervious surfaces. Approved plans shall indicate the amount of minimum planted area required.

b. Final Landscape Plan. Prior to a request for final inspection, a final landscape/site plan shall be submitted and shall indicate the following:

i. The location and number of proposed plantings. Materials in the plan shall not be installed until the plan has been approved.

ii. The degree and direction of finished slopes of all landscape areas. Degree of slope shall be measured and indicated by category as per subsection (F)(1)(a) of this section.

2. Uses other than single-family homes and duplexes.

a. Landscape plan shall be submitted with the site plan and shall be drawn to scale and shall include the location of buildings, impervious surfaces, and pervious surfaces. Plans must indicate the location, species, and number of proposed plantings and how the landscaped area will be irrigated.

b. Landscaping shall be located in at least three separate and distinct areas of the lot, one of which must be located in the front and another in one of the side areas. In all developments, the areas between buildings on the lot must be landscaped.

c. Materials in the plan shall not be installed until the plan has been approved.

D. Impervious Surface Limits. The following limits on impervious surface apply to all lots:

1. Single-Family Dwellings and Duplexes. Maximum coverage of a lot in impervious surfaces shall be limited to a percentage of the lot, according to zone, as listed in the table below.

R-1*	R-M	NCR	R-R	OPD I-M	OPD OF	NBMU	NBD
55%	55%	55%	65%	75%	80%	90%	90%

*R-1 standards applicable in G-C, R-C, and TVC zones.

Exemptions and adjustments:

a. Flag lot access ways (i.e., the “flagpole”) shall not be included in the calculation for determining impervious surface limits.

b. Recorded, legal access easements shall not be included in the calculation for determining impervious surface limits.

c. Eco-roofs, installed or inspected and approved by a certified professional, shall not be included in the calculation for determining impervious surface limits.

d. For existing lots between 3,000 square feet and 4,000 square feet, maximum impervious surfaces shall be an additional five percent above the limit listed in

the table above.

e. For existing lots less than 3,000 square feet, maximum impervious surfaces is an additional 15 percent above the limit listed in the table above or 100 percent, whichever is less.

2. All Development Other Than Single-Family Dwellings and Duplexes. Impervious surface shall be limited in accordance with Chapter [17.56 LCMC](#), Off-Street Parking and Loading Regulations, and subsection (E) of this section, and the applicable zoning designation.

E. Planted Area – Minimum Requirements. For the purposes of this chapter, a planted area is any area designed to accommodate live vegetation. It includes the non-living ground cover that is distributed amongst and between the plants for erosion control, soil fertility, and beautification.

1. Single-Family Dwellings and Duplexes.

a. At a minimum, planted area shall be a percentage of single-family and duplex lots based on zone, as listed in the table below.

R-1*	R-M	NCR	R-R	OPD I-M	OPD OF	NBMU	NBD
20%	20%	20%	15%	10%	10%	10%	10%

*R-1 standards applicable in G-C, R-C, and TVC zones.

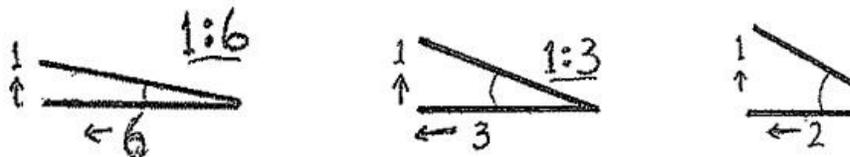
b. A minimum of 25 percent of the front yard shall consist of one or more planted areas, which shall count towards total required planted area for the lot.

2. All Development Other Than Single-Family Dwellings and Duplexes. Except as modified by other sections of the zoning ordinance, a minimum of 15 percent of the total lot area shall be landscaped with plants and groundcover, as described in this section.

F. Groundcover Required. All exposed ground, such as soils, clay, sand, etc., shall be landscaped with groundcover, either living or non-living, as described in the following:

1. Living Groundcover. Living groundcover must be evenly distributed throughout areas required by subsection (F)(1)(a) of this section.

a. Coverage of Living Groundcover. The slope of the planted area shall determine the required coverage of living groundcover. For the purposes of this section, slope is the ratio of vertical distance to horizontal distance on a surface. For example, a slope of one vertical foot (rise) over two horizontal feet equals a 1:2 ratio, as shown in the illustration below at right.



The minimum coverage of living groundcover shall be determined based on the maximum slope of an individual planted area in the following categories:

- Category 1: For gradual slopes of 0 up to and including 1:6, living groundcover shall cover a minimum of 25% of the required planted area.
- Category 2: For slopes greater than 1:6 up to and including 1:3, groundcover shall cover a minimum of 50% of the required planted area.
- Category 3: For slopes greater than 1:3 up to and including 1:2, groundcover shall cover a minimum of 75% of the required planted area.
- Category 4: Steep slopes greater than 1:2 shall meet requirements set out in Chapter [12.08](#) LCMC, Grading and Erosion Control.

b. Groundcover Size. Groundcover plants shall be sized and spaced so that they grow together to cover the minimum required area in subsection (E)(1)(a) of this section within three years of planting. Until new plants have grown to cover the required area, bare ground between plants shall be protected from erosion with non-living groundcover, as specified in subsection (F)(2) of this section. Wattle, bio-bags, or similar methods approved by the city engineer shall be used in conjunction with organic, non-living groundcover to prevent erosion on slopes greater than 1:6.

2. Non-Living Groundcover. Depth of mulch shall be the minimum necessary (i.e., a two- to three-inch-thick layer) to ensure effective erosion control and to avoid leaching of excessive nutrients. Mulch between plantings shall consist of any of the following materials:

a. Organic materials. Examples include wood mulch and wood nuggets that are a minimum diameter of one inch, straw, and well-aged compost and leaves.

i. Mulch shall be weed-free.

ii. Mulching with manure that has not been composted or aged is prohibited.

b. Non-organic materials, such as loose (not compacted) small river gravel, river rock, and pumice.

G. Additional Required Vegetation.

1. Single-Family Dwellings and Duplexes. For single-family dwellings and duplexes, one plant unit must be planted and maintained for every 500 square feet of required planted area. One plant unit equals 10 points in any combination according to the values listed below:

- 10 points: one large tree (over 20 feet in height at maturity)
- 5 points: one small tree (20 feet in height or less when mature)
- 2 points: one native species or drought-tolerant shrub
- 1 point: one native species or drought-tolerant perennial

Exception: If the percentage of living groundcover in a planted area is 100 percent, additional vegetation requirements may be reduced by 50 percent.

2. All Development Other Than Single-Family Dwellings and Duplexes. All areas to be landscaped and buffered shall be planted with a minimum of the following:

- a. One large tree or two small trees per 20 feet of lot perimeter; and
- b. One deciduous or evergreen shrub per five feet of lot perimeter.
- c. Plantings shall not be higher than five feet if they would block the view of any shoreline of the Pacific Ocean, Siletz Bay or Devils Lake.

H. Standards for Plant Materials.

1. Size.

- a. Large trees shall be a minimum of one-inch caliper or six feet in height at time of planting.
- b. Small trees shall be a minimum of one-gallon size or two years old at time of planting.
- c. Shrubs shall be a minimum of one-gallon size when planted.
- d. Perennials shall be a minimum of four-inch pot size.

2. Species and Practices.

- a. Use of native and drought-tolerant species is advised generally, and required in subsection (G)(1) of this section for shrubs and perennials.
- b. Invasive and noxious plants as defined in LCMC [8.12.010](#) or by the Oregon Department of Agriculture are prohibited.
- c. For all development other than single-family dwellings and duplexes, plant materials shall achieve balance between low-lying and vertical shrubs and trees.
- d. High fertilizer hydro-seeding is prohibited.

3. Condition. All selections must be healthy and disease-free.

I. Additional Pervious Surface. For areas of a lot not covered with impervious surfaces or required planted areas, any of the following is permitted:

1. Pervious off-street parking surfaces.
2. Pervious hardscape features, i.e., patios, decks, sidewalks and pathways, etc.
3. Non-organic groundcover (e.g., rock) with or without vegetation.
4. Organic groundcover with vegetation as per subsection (F) of this section (i.e., additional planted areas).

J. Generally.

1. Time of Installation. All required landscaping shall be installed prior to issuance of a certificate of occupancy or, in relation to development for which a certificate of occupancy is not required, prior to commencement of use.

a. Agreement to Delay Installation. If all required landscaping has not been satisfactorily completed prior to application for issuance of a certificate of occupancy or prior to a proposed commencement of use, and if the director determines that a delay in completion of the landscaping is appropriate because there has not been a reasonable amount of time for the completion of the landscaping or for other reasons, then the director may require, as a condition of such issuance or use, a landscaping agreement signed by the owner, in a form satisfactory to the director. A landscaping agreement shall:

i. Identify all landscaping to be completed and establish a time period, not to exceed 120 days, within which the owner shall complete the landscaping;

ii. Provide that if the owner does not complete the identified landscaping within the established time period, then the city may complete the landscaping and recover the full cost and expense of completion from the owner;

iii. Require the owner to hold harmless, defend, and indemnify the city and its mayor and council members, officers, boards, commissioners, and employees from claims of any nature arising or resulting from the performance of any acts required to be done by the owner under the agreement.

b. Financial Security Required for Delayed Installation. An owner entering into a landscaping agreement under this subsection shall file with the city, as a condition to city acceptance of the agreement, financial security to assure the full and faithful performance of the agreement by the owner. The financial security shall be in an amount equal to 110 percent of the owner's estimated cost to complete the landscaping, as approved by the director, which amount shall be subject to reduction from time to time in the sole discretion of the director as satisfactory installation of the landscaping is completed. The financial security required under this subsection shall be in a form approved by the director and may be one or more of the following:

i. A surety bond executed by a surety company authorized to transact

business in the state of Oregon;

ii. Cash; or

iii. An irrevocable standby letter of credit or similar financial security instrument.

2. Maintenance. The owner of a lot is responsible for continuous maintenance of the landscaping required by this chapter, including necessary irrigation, weeding, pruning and, if necessary, replacing, in a substantially similar manner as originally approved. The lot owner is responsible for keeping the required planted areas free from weeds and litter. Failure to maintain the landscaping in accordance with this chapter shall be considered a Class A civil infraction.

3. Landscaping shall be in conformance with the general visibility requirements set out in LCMC [17.52.260](#).

4. Any constructed earth berms shall be between three feet and four feet in height, and topped with ground cover and shrubbery.

5. Uses within a development that might provide objectionable views, such as garbage and trash collection stations, and laundry areas in multifamily developments, shall be landscaped with screen plantings, or landscaped masonry wall or fencing.

6. Drainage pipes and appurtenances located on an ocean front parcel shall be secured and screened with landscaping to the extent feasible, and the discharge shall be placed to limit erosion. (Ord. 2010-6 § 10)

17.52.110 Distance between buildings.

A minimum distance of 15 feet shall be maintained between buildings designed for dwelling purposes on the same lot. A minimum distance of 10 feet shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. (Ord. 84-2 § 4.110)

17.52.120 Utilities.

A. In the single-family residential (R-1) zone, and the multiple-family residential (R-M) zone, when city services are not available or when only partial services are available, the minimum parcel size shall be five acres; except however, any existing lots of record less than five acres in area which do not front on a public sewer line but which will be connected to a public water line may be developed with a single-family dwelling utilizing an approved subsurface sewerage disposal system, provided a deferred improvement agreement is executed and recorded by the owner of record consenting to the establishment of a local improvement district to participate in future public sewer system extensions and connections.

B. In all zones, all electrical, telephone and cable television utility service installations or connections made as part of new construction of a building or structure shall be placed underground in accordance with city standards. (Ord. 95-15 § 11; Ord. 91-1 § 1; Ord. 84-2 § 4.120)

17.52.130 Projections from buildings.

Repealed by Ord. 2010-04. (Ord. 84-2 § 4.130)

17.52.140 Lot size requirements – General exceptions.

Repealed by Ord. 2011-03. (Ord. 84-2 § 4.140)

17.52.150 Lighting.

Artificial lighting shall not be designed to shine or create glares in any residential zone, adjacent dwelling unit or in a public right-of-way. (Ord. 84-2 § 4.150)

17.52.160 Required yards – Exceptions.

A. Architectural Features. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues, and bay windows not more than four feet wide or high may project up to 18 inches into a required yard.

B. Accessory Buildings. A required side or rear yard may be reduced to three feet for an accessory building, provided the building is detached from other buildings by five feet or more and does not exceed a height of one story nor an area of 200 square feet.

C. Fences. Fences, which may be located within required yards up to the property line, may not exceed three and one-half feet from the grade of the street centerline in the front yard, and shall not exceed six feet in other yards nor conflict with requirements of a clear vision area as provided in LCMC [17.52.060](#) or the clear vision areas of adjacent private driveways.

D. Retaining Walls. Retaining walls may be constructed in required yards, subject to the following limitations:

1. One or more retaining walls, none of which individually exceeds four feet in height, may be used, provided each successive wall is set back or stepped from the next lowest wall at least one foot for each one foot of height for that wall;
2. Within side and rear building setbacks that are not adjacent to a street or right-of-way, the height of a retaining wall exposed toward the interior of the property may be allowed that is up to eight feet in height. Those exposed toward the exterior of the property shall be limited as in subsection (D)(1) of this section;

E. Handicapped Access Facilities. Handicapped access facilities may be constructed in required yards as additions to existing buildings if exclusive of railings they do not exceed the height of the building's ground floor and do not conflict with the clear vision requirements of LCMC [17.52.060](#). For purposes of this section handicapped access facilities include ramps, sidewalks, curbing and entrances constructed for the purpose of making a building accessible to a physically handicapped person. Handicapped access facilities must be constructed in accordance with any applicable requirements of the building code in effect at the time of their construction. Handicapped access facilities constructed as additions to a nonconforming structure shall not be considered an alteration or extension of the nonconforming structure.

F. Bridges. Unenclosed and uncovered pedestrian or vehicular bridges for access to a dwelling may be constructed in a required yard. Such bridges may not have a slope up from the adjacent roadway exceeding the maximum allowed for driveways.

G. Porches, Decks, and Stairs. Unenclosed and uncovered porches, decks, and stairs may be constructed in a required yard, provided no part of the porch, deck, or stairs is

more than 30 inches above the ground or otherwise requires a building permit. (Ord. 2010-04 § 4)

17.52.170 Trash receptacle enclosures.

In any R-M, PC, RC, GC and PI zone, all trash receptacles shall be located within a building or within an enclosure which screens the receptacle from the view of neighboring property or from a public right-of-way, except those trash receptacles accessory to a single-family dwelling. (Ord. 84-2 § 4.170)

17.52.180 Screening of mechanical equipment.

Any heating, air conditioning, or other special mechanical equipment installed on or near a building to be used to serve the building or a function performed therein, and any propane tanks, shall be screened from the ground level view from adjacent properties and from public streets. (Ord. 98-11

§ 4; Ord. 84-2 § 4.180)

17.52.190 Building height limitations.

A. No structure used for human habitation that exceeds 45 feet in height shall be permitted in any zone unless consent is first approved by the voters of the city at a regular or special election. For the purpose of this section, "height" means the average vertical distance from the grade at the center of all walls of the building to the highest point of the roof, excluding those excepted in LCMC [17.52.200](#).

B. No structure that exceeds 35 feet in height shall be permitted in a residential zone within 500 feet of any shoreline without prior approval of the planning commission at a public hearing.

C. No structure used for human occupancy shall be permitted to exceed the building height limitations of the zones in which they are located. To ensure that this standard is met the following rules apply:

1. Building permit applications must include elevations of all exterior walls of the proposed structure showing:
 - a. The line of the approved grade in the plane of the wall; and
 - b. The highest part of the structure.
2. The grade may not rely on retaining walls, riprap, other artificial restraints, or berming to increase elevation at the point of height measurement.
3. For the purposes of this subsection, "approved grade" means:
 - a. The existing grade, meaning one of the following:
 - i. The ground level before any human disturbance as shown by survey or other reliable evidence; or
 - ii. The ground level shown on the city's 2009 LIDAR data (which is available from the planning and community development department); or

iii. If the proposed building site has existing structures or other disturbances to the land that existed lawfully prior to October 1, 2010, the ground level established when the structure or disturbance was created (which may be determined by any of the above means); or

iv. If there has been grading on the proposed building site, without a grading permit, the planning and community development director, in consultation with the city engineer, will determine the existing grade.

b. The grade shown on a grading plan approved as a part of one of the following:

i. A final master plan for a planned unit development under LCMC [17.52.210](#); or

ii. A partition or subdivision under Chapter [16.08](#) LCMC; or

iii. A site plan under LCMC [17.52.240](#); or

iv. A conditional use permit under Chapter [17.60](#) LCMC; or

v. A grading plan under Chapter [12.08](#) LCMC; or

vi. A building permit for a structure not subject to any of approvals in subsections (C)(3) (b)(i) through (v) of this section.

4. If a lawfully established single-family or duplex dwelling that does not conform to the requirements of this section is destroyed by calamity to an extent exceeding 50 percent of the appraised value as determined by the records of the county assessor for the year preceding destruction it may be rebuilt within the same footprint and to the same height, subject to compliance with the flood damage prevention requirements of Chapter [15.16](#) LCMC. To the extent any such rebuilt residence is expanded, including a vertical expansion, the area of expansion must conform to this section. (Ord. 2010-04 § 5; Ord. 84-2 § 4.190)

17.52.200 Building height limitations – General exception.

Projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and other similar objects not used for human occupancy are not subject to the building height restrictions of this title. (Ord. 2010-04 § 6; Ord. 84-2 § 4.200)

17.52.210 Planned unit development (PUD).

A. Purpose. It is the purpose of this section to allow master planned developments in any residential or commercial zone, or any combination of them, and in doing so, to allow a more flexible approach to land development than that which is normally accomplished through the subdivision and zoning ordinances of the city. The planned unit development approach is intended to provide more desirable environments by encouraging creative site planning and building designs; to make possible greater diversification between buildings and open spaces; and to conserve land and minimize development costs. In addition to the uses allowed in residential zones, the planned unit development approach may allow certain commercial uses subject to the specific limitations of this section.

B. Planning Commission Authority. The planning commission shall have the authority to approve, approve with conditions, or disapprove planned unit developments in any residential or commercial zone, or any combination of them, subject to the provisions of

this section.

C. Pre-Application Conference. Prior to filing an application for a planned unit development, the applicant shall review the applicant's preliminary master plan with the city manager or the city manager's designated representative at a pre-application conference. The purpose of the pre-application conference is to inform the city of the nature of a likely PUD application at an early date and to provide the potential applicant with information on what will be needed to make an application complete.

D. Allowable Density. The allowable residential density in a PUD that meets only the minimum PUD standards is the "maximum base residential density" and shall be determined in the following manner:

1. Determine the gross square footage of the project site.
2. Subtract from the gross square footage the square footage of any areas proposed for nonresidential development, including commercial uses, places of worship, schools, and public buildings and their associated parking areas and grounds (including required yards and landscaping areas). The result is the "preliminary gross residential area."
3. Subtract from the preliminary gross residential area the square footage of any areas of significant natural resources as identified in the comprehensive plan. The result is the "final gross residential area."
4. Multiply the final gross residential area by 0.83. The result is the "final net residential area."
5. Divide the final net residential area by the minimum lot size of the underlying zone. The result is the "maximum base residential density" expressed in dwelling units. Any number not a whole number shall be rounded down to a whole number.

E. Residential Density Bonuses.

1. Density in excess of the maximum base residential density for the underlying zone may be considered for projects that comply with the density bonus standards. The amount of density bonus shall be determined by the type of density bonus standards incorporated in the development proposal.
2. Except with respect to the "affordable housing bonus," in no case shall the density bonus or bonuses cause the overall project density to exceed the maximum allowed residential density, which in the R-1-5 zone is 8.71 units per gross project acre, in the R-1-7.5 zone is 5.81 units per acre, in the R-1-10 zone is 4.36 units per acre, and in the R-M zone is the "low density" density as calculated in LCMC [17.20.050\(A\)](#).
3. If an applicant requests one or more density bonuses the planning commission shall determine, based on evidence supplied by the applicant, any other person, or staff, whether the applicant has complied with the bonus density standards. If the planning commission determines that the applicant has complied with one or more bonus density standards it shall assign the applicable density bonus points and multiply the maximum base residential density by the applicable density bonus points. The result is the total number of additional residential units allowed for the project above the maximum base residential density.
4. Density Bonus Standards. If an applicant desires to be allowed to develop a

number of residential units above the maximum base residential density the applicant shall comply with one or more of the following bonus density standards. The density bonus points for each density bonus standard are in parentheses at the end of each standard.

a. Floodplain.

i. Requirement. For projects where part(s) of the site is located within the 100-year floodplain as defined and mapped by the Federal Emergency Management Agency, the portions in the floodplain must be developed according to the National Flood Insurance Program requirements.

ii. Density Bonus Standard. For projects where part(s) of the site is located within the 100-year floodplain as defined and mapped by the Federal Emergency Management Agency, develop only on portions of the site that are not in the 100-year floodplain or on portions that have been previously developed. (0.01 point.)

b. Steep Slopes.

i. Requirement. On portions of the project site with pre-project slopes greater than 15 percent that are not previously developed, do not disturb slopes greater than 40 percent and do not disturb portions of the project site within 50 feet of the top of such slopes, and 75 feet from the toe of such slopes.

ii. Density Bonus Standard. On portions of the project site with pre-project slopes greater than 15 percent that are not previously developed sites, limit development to no more than 40 percent of slopes between 25 percent and 40 percent, and to no more than 60 percent of slopes between 15 percent and 25 percent, and locate development such that the percentage of the development footprint that is on pre-project slopes less than 15 percent is greater than the project's total percentage of buildable land that has pre-project slopes less than 15 percent. (0.01 point.)

c. Protected Species Habitat.

i. Requirement. If designated critical habitat for species that are listed or are candidates for listing under state or federal endangered species acts is found on or adjacent to the project site, do not disturb that critical habitat or portions of the site within an appropriate buffer around the critical habitat.

ii. Density Bonus Standard. If habitat for species that are listed or are candidates for listing under state or federal endangered species acts is found on the project site, do not disturb that habitat or portions of the site within an appropriate buffer around the habitat, with habitat connections or corridors (including connections to habitat on adjacent parcels) in mind. The geographic extent of the habitat and the appropriate buffer shall be identified by a qualified biologist (as determined by the planning and community development director) or the appropriate federal or state agency. Protect the habitat and its identified buffers from development in perpetuity by donating or selling the land or a conservation easement on the land to an accredited land trust or relevant public agency. (0.02 points.)

d. Public Transit.

i. Requirement. Design streets so that pullouts and public transit shelters may be added in the future without the need to acquire additional rights-of-way or relocate any sidewalks or utility lines.

ii. Density Bonus Standard. Provide covered and at least partially enclosed public transit shelters, adequate to buffer wind and rain, at appropriate locations within the project boundaries. If public transit does not serve the area of the project, provide pullouts at appropriate locations within the project boundaries so that public transit shelters may be added in the future. (0.01 point.)

e. Accessible Design.

i. Requirement. Design and build all buildings to comply with the minimum requirements of the Americans with Disabilities Act.

ii. Density Bonus Standard. For each residential unit type developed, design 20 percent (and not less than one) of each type to comply with the accessible design provisions of the Fair Housing Amendments Act (FHAA) and Section 504 of the Rehabilitation Act (Rehabilitation Act), as applicable. Separate residential unit types include: single-family, duplex, triplex, multi-unit row or townhouses, and mixed use buildings that include residential units. All paths of travel between residential units and other buildings within the project shall comply with the accessible design provisions of the FHAA and Rehabilitation Act, as applicable; and facilities and rights-of-way shall comply with the accessible design provisions of the FHAA, the Rehabilitation Act, or the Americans with Disabilities Act, as applicable. (0.01 point.)

f. Energy Efficiency.

i. Requirement. None.

ii. Density Bonus Standard. (0.02 point).

(A) For new residential structures of three stories or fewer, build and equip the structures to qualify as an Energy Star Home by either a performance path (through a HERS Index rating) or a prescriptive path (Building Option Package or BOP); and

(B) For nonresidential structures and residential structures of more than three stories, demonstrate a minimum 10 percent improvement in the proposed building performance rating compared to the baseline building performance rating per ASHRAE/IESNA Standard 90.1-2007 (without addenda) by a whole building project simulation using the Building Performance Rating Method in Appendix G of the Standard. Appendix G requires that this energy analysis include all of the energy costs within and associated with the building project. The proposed design must comply with the mandatory provisions (Sections 5.4, 6.4, 7.4, 8.4, 9.4 and 10.4) in Standard 90.1-2007 (without addenda), must include all the energy costs within and associated with the building project, and must be compared against a

baseline building that complies with Appendix G to Standard 90.1-2007 (without addenda).

The default process energy cost is 25 percent of the total energy cost for the baseline building. For buildings where the process energy cost is less than 25 percent of the baseline building energy cost, the applicant must provide supporting documentation substantiating that process energy inputs are appropriate. For the purposes of this analysis, process energy is considered to include, but is not limited to, office and general miscellaneous equipment, computers, elevators and escalators, kitchen cooking and refrigeration, laundry washing and drying, lighting exempt from the lighting power allowance (e.g., lighting integral to medical equipment) and other (e.g., waterfall pumps). Regulated (nonprocess) energy includes lighting (such as for the interior, parking garage, surface parking, facade, or building grounds, except as noted above), HVAC (such as for space heating, space cooling, fans, pumps, toilet exhaust, parking garage ventilation, kitchen hood exhaust, etc.) and service water heating for domestic or space heating purposes.

g. Outdoor Water Conservation.

i. Requirement. For irrigation, design and install all irrigation systems in the project so that they do not spray onto or otherwise directly place irrigation water onto impervious surfaces such as roads, driveways, parking lots, and sidewalks.

ii. Density Bonus Standard. For irrigation, design and install all irrigation systems in the project that use only captured rainwater, recycled wastewater, recycled graywater, or install landscaping that does not require permanent irrigation systems. Temporary irrigation systems used for plant establishment are allowed only if removed within one year of installation. (0.01 point.)

h. Indoor Water Conservation.

i. Requirement. None.

ii. Density Bonus Standard. Design and construct at least 90 percent of all buildings in the project such that they meet one of the following requirements according to the appropriate category (0.01 point):

(A) For nonresidential buildings and residential buildings over three stories, employ strategies that in aggregate use 30 percent less water than the water use baseline calculated for the building (not including irrigation) after meeting the Energy Policy Act of 1992 fixture performance requirements. Calculations are based on estimated occupant usage and shall include only the following fixtures (as applicable to the building): water closets, urinals, lavatory faucets, showers, and kitchen faucets.

(B) For residential buildings three stories or fewer, install fixtures that comply with all of the following requirements:

(1) The average flow rate for all lavatory faucets must be no more than 2.0 gpm.

(2) The average flow rate for all shower heads must be no more than 2.0 gpm.

(3) The average flow rate for all toilets, including dual-flush toilets, must be no more than 1.3 gpf.

i. Tree Preservation.

i. Requirement. Comply with the requirements of LCMC [17.52.220](#).

ii. Density Bonus Standard. For each two percent of canopy cover provided by trees that are preserved and incorporated into a development plan, a 0.01 point density bonus may be granted. The bonus is not applicable to trees preserved in areas that would otherwise be precluded from development, including floodplains, slopes greater than 25 percent, drainage ways, or wetlands. No more than a 0.10 point density bonus may be granted for any one development.

F. Affordable Housing Bonus. An additional density bonus of 10 percent above the maximum base residential density shall be available for projects incorporating an affordable housing element. For the purposes of this section an affordable housing element must include the following components:

1. At least five percent of the total number of dwelling units in the project must be affordable units.

2. The affordable units must be incorporated into the overall project and not be clustered into a separate area of the project. This provision is not intended to prohibit "cottage clusters" of affordable units; provided, that such clusters are themselves incorporated into the overall project and not clustered into a separate area of the project.

To be considered "affordable" a unit must meet affordability standards as adopted by the city. Alternatively the developer may transfer title to individual lots dedicated to affordable housing to the Lincoln County Land Trust or other organization approved by the planning and community development director for development by that entity as affordable housing.

G. Large-Scale, Mixed Use PUDs. This subsection sets forth special provisions for large-scale, mixed use PUDs that provide additional amenities for residents, visitors, and the larger Lincoln City community while ensuring that impacts can be internalized and mitigated through master planning and coordinated on-site management.

1. Applicability. Subsection (H) of this section may be applied only to an existing or proposed PUD that is 100 acres or larger, has direct access to an arterial street, and designates at least 35 percent of the gross PUD site area as open space.

2. Limited Recreational Commercial Uses Permitted.

a. Uses Allowed. In addition to residential uses, the following recreational commercial uses may be permitted in large-scale, mixed use PUDs located in residential or commercial zones, subject to the limitations in subsection (G)(2)(b) of this section:

- i. Motels, hotels, and resorts;
- ii. Cabins and yurts used for overnight accommodations;
- iii. Eating or drinking establishments without drive-up service facilities;
- iv. Retail sales, exclusive of drive-up service facilities;
- v. Day spas;
- vi. Child day care facilities;
- vii. Religious institutions and houses of worship;
- viii. Convention centers and meeting facilities;
- ix. Time-share units;
- x. Bed and breakfast accommodations;
- xi. Public use or public utility;
- xii. Utility substation;
- xiii. Outdoor commercial amusement establishments;
- xiv. Essential emergency communications and warning facilities;
- xv. Emergency shelters;
- xvi. Mixed use incorporating one or more of the uses listed here.

b. Limitations. In addition to such conditions and restrictions as the planning commission may deem appropriate, the following limitations apply to commercial uses in large-scale, mixed use PUDs located in residential or commercial zones:

- i. The combined area of commercial uses, including associated parking areas, may not exceed 15 percent of the gross site area;
- ii. Commercial uses must be located a minimum of 100 feet from existing off-site residential buildings;
- iii. No commercial or mixed use buildings may exceed 45 feet in height (unless approved by a vote of the people pursuant to the provisions of LCMC [17.52.190](#)); and
- iv. Recreational commercial uses are subject to the “pearl” Lincoln City commercial design standards.

3. Applications for large-scale, mixed use PUDs shall meet the requirements of OAR 660-012- 0060, and be subject to the following:

a. A transportation impact analysis (TIA) shall be required at the time of application to determine if the proposed change would significantly affect an existing or planned transportation facility. The TIA shall demonstrate that the development does not significantly impact the transportation system as defined by OAR 660-012-0060(1); or the development shall be made consistent with the transportation system as allowed in OAR 660-012-0060 (2). The TIA, findings of significant effect/no significant effect, and proposed mitigation measures shall be sent to the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation for acknowledgment (concurrence).

b. To be consistent with OAR 660-012-0060, the analysis as indicated in subsection (G)(3)

(a) of this section shall include a review process that includes adequate public notice and a public hearing, with the right to appeal.

c. Where access to US-101 is proposed as part of a large-scale, mixed use PUD, a valid ODOT highway approach road permit must be provided to Lincoln City before development permits may be issued.

H. Preliminary Master Plan Application. Following a pre-application conference, an applicant may submit a preliminary master plan to the site plan committee established under LCMC [17.52.240](#) for review. The preliminary master plan, which must include a drawing showing the layout of the proposed planned unit development, must contain the following information:

1. Proposed name of the planned unit development;

2. Date, north point and scale of drawing;

3. Appropriate identification clearly stating that the drawing is a preliminary planned unit development master plan;

4. Location of the planned unit development by section, township and range; a legal description sufficient to define the location and boundaries of the proposed planned unit development tract; and the tract designation or other description according to the real estate records of the county assessor;

5. A vicinity sketch map at a scale of one inch equals 400 feet showing adjacent property boundaries and land uses;

6. The following:

a. Location, widths and names of all existing streets or other public ways within or abutting the planned unit development;

b. Contour lines having the following minimum intervals:

i. Two-foot contour intervals for ground slopes less than 10 percent; and

ii. Five-foot contour intervals for ground slopes 10 percent or greater. Contours shall be based on contour maps provided by the city or other data approved by the city engineer;

c. Location of at least one temporary benchmark within the planned unit development boundaries or the source of the contour line data shown. (Source and accuracy subject to city engineer's approval);

d. Location and direction of all water courses and natural features such as rock outcroppings, marshes and wooded areas; and the approximate locations of trees or stands of trees having a trunk cross-sectional diameter of eight inches (approximately 25 inches in circumference) or more, measured at a point 54 inches above the base of the trunk on the uphill side. The plan must identify those water courses, natural features and areas of trees meeting the described criteria which are to remain and those which may be altered or removed;

e. Proposed streets, including location, widths and approximate radii or curves;

f. Location of existing and proposed easements on the site or abutting property, showing the width and purpose of each easement;

g. The types of housing proposed within the PUD, the approximate location or locations proposed for each type of housing, and the approximate housing density proposed at each location;

h. Sites, if any, allocated for:

i. Churches;

ii. Parks, schools, playgrounds;

iii. Public buildings;

iv. Open space;

v. Commercial uses, specifying the type of each.

i. Area coverage of existing and proposed structures, lots, streets or other development.

I. Supplemental Preliminary Master Plan Information. The applicant also shall submit the following information to supplement the preliminary master plan. This information can be submitted in separate statements accompanying the preliminary master plan:

1. Proposed restrictions to be filed in the county deed records, in outline form, such as deed restrictions, conditions, covenants and restrictions, and homeowners' association agreements. The outline restrictions shall identify the time at which the restrictions will be filed in the county deed records; generally who will have authority to enforce the restrictions; specifically which restrictions, if any, are proposed to be enforceable by the city; the time at which the restrictions will become enforceable;

and which restrictions, if any, will not be subject to amendment without the consent of the city;

2. Approximate locations and anticipated grades of all streets. Typical cross sections of the proposed streets showing widths of roadways, curbs, location and widths of sidewalks and the location and size of utility mains;
3. Approximate plan of proposed sanitary sewers, storm drains, storm water detention and drainage pretreatment facilities and the water distribution system;
4. A general description of property intended to be dedicated to the city or public, other than street rights-of-way, including proposed dedication restrictions;
5. A description of any residential density bonus the applicant is requesting, including evidence demonstrating compliance with applicable density bonus standards;
6. Proposed number of residential units;
7. An approximate tabulation of all dwelling units by type;
8. A narrative description of the planned unit development and the manner in which it meets the purpose set out in subsection (A) of this section;
9. A statement describing the present and proposed ownership;
10. A preliminary landscape plan, covering both areas to retain undisturbed their natural vegetation and areas to be relandscaped;
11. A circulation plan and traffic impact analysis identifying likely circulation patterns for and traffic impacts from traffic generated by the development including patterns and impacts within the development, in the area surrounding the development, and in other affected areas of the city;
12. A statement whether the applicant proposes to submit the final master plan for review as a single master plan or in phases; a statement of the date or dates by which the applicant proposes to submit the final master plan or final master plan phases for review; and a statement of the date or dates by which the applicant anticipates that the development and related improvements or each phase thereof will be substantially completed.
13. A tree maintenance and protection plan, which shall contain the following information:
 - a. An accurate topographical survey, subdivision map or plat map, that bears the signature of a qualified, registered surveyor or engineer, and which shows:
 - i. The shape and dimensions of the property, and the location of any existing and proposed structures or improvements;
 - ii. The location of the individual trees, with a diameter of eight inches or more, on the site, and indicating species, approximate height, d.b.h., canopy spread and common name;

iii. The location of unique trees or stands of trees as set out in the arborist report described below; and

iv. The location of existing and proposed easements, as well as setbacks required by existing zoning requirements.

b. In lieu of the map or survey, an applicant proposing to remove trees may provide aerial photographs with overlays, GIS documentation, or maps approved by the planning director, and clearly indicating the information required by this subsection.

c. Arborist Report. The report shall identify any unique or unusual trees or stands of trees and describe the health and condition of all trees subject to removal or transplanting, and shall include information on species, common name, d.b.h., and approximate height and age.

d. Tree Protection. Unless specifically exempted by the planning director, a statement describing how trees intended to remain will be protected during tree removal and how remaining trees will be maintained.

e. Tree Identification. Unless specifically exempted by the planning director, a statement that any trees proposed for removal will be identified by a method obvious to a site inspector, such as tagging, painting, or flagging, in addition to clear identification on construction documents.

f. Replacement Trees. A description of the proposed tree replacement program with a detailed explanation including the number, size, species, and cost. In lieu of replacing trees, the applicant may propose to pay into the city tree fund an amount equivalent to the value of the replacement trees after installation, as provided in this subsection.

g. Covenants, Conditions and Restrictions (CC&Rs). Where the applicant is proposing to remove trees on common areas, the applicant shall provide a copy of the applicable CC&Rs, including any landscaping provisions.

h. Waiver of Documentation. The planning director may waive an application document where the required information has already been made available to the city, or where the director determines the information is not necessary to review the application.

J. Determination That Preliminary Master Plan Is Complete. Following submission or resubmission of a preliminary master plan, the site plan committee established by LCMC [17.52.240](#) shall determine whether the plan is complete pursuant to the submittal requirements of subsections (H) and (I) of this section. The determination of the committee shall be in writing and, if the application is determined to be incomplete, shall be provided to the applicant with a description of the additional material required to make the application complete.

K. Site Plan Committee Review of Complete Preliminary Master Plan. Following submission of a complete preliminary master plan, the site plan committee shall review the preliminary master plan, shall seek comments on the plan from potentially affected governmental units and agencies, and shall

report to the planning commission the comments of the committee members and of those governmental units and agencies that submit comments.

L. Planning Commission Consideration of Preliminary Master Plan. Following receipt of comments on the preliminary master plan from the site plan committee, the planning commission shall review the plan and comments in public hearings and shall give approval, approval with conditions, or disapproval to the preliminary master plan. The planning commission shall state its decision and its reasons in writing. The applicant may appeal the decision to the city council in accordance with the provisions of LCMC [17.76.040](#). The planning commission shall issue its written decision in a timely manner so that the city's final decision, inclusive of all appeals, can be made within 120 days after submission of a complete preliminary master plan. The planning commission's consideration of the preliminary master plan shall be subject to the following:

1. The commission shall approve, or approve with conditions, the plan if it finds that the plan, either as submitted or with conditions, meets all of the following criteria. The commission shall disapprove the plan if it finds that the plan, either as submitted or with conditions, does not meet any one or more of the following criteria.

a. The proposed planned unit development will be substantially compatible with existing development in the surrounding area; and undeveloped land in the surrounding area can be developed in a manner substantially compatible with the proposed planned unit development.

b. The number of years proposed for completion of the development or each phase of the development is reasonable, taking into consideration the possibility of changing land use patterns in or requirements of the city over time. In order to ensure that the development will be compatible with land use patterns in and requirements of the city at the time of approval of a final master plan, the planning commission shall establish an expiration date for the preliminary master plan approval, not sooner than two years after approval of the preliminary master plan; may impose conditions requiring that a final master plan or phases thereof be submitted for commission review within a specified period or periods of time, not sooner than one year after approval of the preliminary master plan; or may impose conditions requiring commission reevaluation of as yet unbuilt portions of the development, for conformity with then-existing city zoning ordinance requirements in relation to then-existing conditions, not sooner than five years after approval of the preliminary master plan, and at such periodic intervals of not less than five years thereafter as the commission deems appropriate to ensure conformity.

c. Construction of the development can be accomplished in a manner that does not create unreasonable negative impacts on the area surrounding the development or in the city. In order to assure the avoidance or mitigation of negative construction impacts on the area surrounding the development or in the city, the planning commission may impose conditions including but not limited to:

i. Requirements that removal of existing landscaping during construction be limited to areas of the planned unit development to be constructed shortly following removal and to portions of those areas on which construction will occur;

ii. Prohibitions of open burning on the site during construction;

iii. Prohibitions or limitations on construction track-out;

iv. Restrictions on construction noise; and

v. Restrictions on construction traffic.

d. The development will not create unreasonable negative impacts on the area surrounding the development or in the city. In order to assure the avoidance or mitigation of negative impacts, the planning commission may require the filing of restrictions in the county deed records including but not limited to restrictions:

i. Prohibiting the removal of specified landscaping; and

ii. Prohibiting open burning during construction.

e. Street, water, sewer, drainage and drainage pretreatment, storm water detention, and other similar facilities in the area surrounding the development and in the city are or will be adequate to provide for the health, safety and welfare for the development's population densities and the type of development proposed, taking into consideration existing and projected future demands on those facilities.

f. Street, water, sewer, drainage and drainage pretreatment, storm water detention and other similar facilities proposed to be constructed as part of the development are adequate to provide for the health, safety and welfare for the population densities and the type of development proposed.

g. The proposed number of residential units does not exceed the maximum permitted number of residential units; and at least 15 percent of the gross area is dedicated to landscaping. For purposes of computing area dedicated to landscaping, dedicated open space and protected resource areas may be treated as area dedicated to landscaping, but parking areas may not.

2. The planning commission, in approving a preliminary master plan, may attach conditions it finds are necessary or appropriate to carry out the purposes of this title.

M. Extension of Approved Preliminary Master Plan. Prior to expiration of an approved preliminary master plan, the planning commission may, on receipt of an application applying to the as yet unbuilt portions of the development, extend the expiration date; provided, that the extension will be consistent with then-existing city zoning ordinance requirements, in relation to then-existing conditions. An application for an extension shall be subject to all of the procedures set out in subsections (C) through (H) of this section, including but not limited to the requirement of a hearing before the planning commission, except that the application materials required to be submitted shall

be only such materials supplementing the original application as are needed to demonstrate that an extension will meet the criteria for an extension established by this subsection.

N. Modification of Approved Preliminary Master Plan. The planning commission may, on receipt of an application applying to the as yet unbuilt portions of the development, modify an approved preliminary master plan; provided, that the modifications will be consistent with the then-existing city zoning ordinance requirements, in relation to then-existing conditions. An application for modifications shall be subject to all of the procedures set out in subsections (C) through (L) of this section, including but not limited to the requirement of a hearing before the planning commission, except that the application materials required to be submitted shall be only such materials supplementing the original application as are needed to identify the proposed modifications and to demonstrate that the modifications will meet the criteria for modifications established by this subsection.

O. Procedure Following Expiration of Preliminary Master Plan. If an approved preliminary master plan expires, whether as to the entire area proposed for development or as to as yet unbuilt portions of the development, then a complete new application must be submitted prior to reconsideration. An application for reconsideration shall be treated as an original application and shall be subject to all of the procedures set out in subsections (C) through (H) of this section, including but not limited to the requirement of a hearing before the planning commission.

P. Submission of Tentative Subdivision Plan. If an approved preliminary planned unit development master plan provides for the subdivision of land within the planned unit development, then within such period or periods of time as required by the preliminary planned unit development master plan approval, an applicant shall file a tentative subdivision plan for the planned unit development or for phases of the development, if phasing is permitted. The submittal requirements, procedures and approval requirements for the tentative subdivision plan shall be as set out in LCMC Title 16.

Q. Planning Commission Consideration of Final Master Plan.

1. Following preliminary master plan approval, and prior to issuance of a development permit and commencement of development, a final master plan must be submitted to and approved by the planning commission. The final master plan may be submitted in development phases; provided, that:

a. Each phase can exist as a separate entity capable of independently meeting all requirements and standards of this section and of the underlying zones in which the PUD is located; or

b. Prior to the development of any phase that will not exist as such a separate entity capable of independently meeting the requirements and standards, restrictions enforceable by the city and in a form approved by the city have been filed in the county deed records, such as conditions, covenants and restrictions. The restrictions shall be applicable to other areas of the planned unit development not yet proposed for development, and shall be sufficient to assure that:

i. The area within the phase proposed for development, when combined with the area not yet proposed for development, as subject to the deed restrictions, can exist as a combined entity capable of independently meeting the requirements and standards;

ii. The phase has met any applicable reevaluation requirement imposed during the preliminary master plan approval process; and

iii. The separate development of phases will not be detrimental to the total development nor to the adjacent properties in the event the remainder of the development is not completed.

2. The final master plan must be in sufficient detail to allow the planning commission to determine whether the final master plan is consistent with the preliminary master plan and whether the final master plan meets all conditions applicable to the preliminary master plan. In addition, the final master plan shall include:

a. Detailed landscaping plans showing the type and size of all plant material and its location, the irrigation system, decorative materials, recreation equipment and special effects; and the schedule for removal and replanting of vegetation;

b. Detailed water, sewer, drainage and drainage pretreatment, storm water detention and street system plans, including:

i. Central line profiles showing finished grades of all streets;

ii. Cross sections of proposed streets showing widths of roadways, curbs, locations and widths of sidewalks and locations and sizes of utility mains;

iii. Profiles of sanitary sewer, street drainage, drainage pretreatment, storm water detention and water distribution systems, showing pipe size and location of valves and fire hydrants, all to conform to city standards;

iv. The estimated cost of street, sewer, drainage and drainage pretreatment, storm water detention, water, and other public infrastructure improvements within the planned unit development.

3. The planning commission shall approve, or approve with conditions, the final master plan if the planning commission determines that the plan meets all of the following criteria. The commission shall disapprove the final master plan if it finds that the plan, either as submitted or with conditions, does not meet one or more of the following criteria:

a. The plan is consistent with the preliminary master plan and all conditions applicable to it;

b. All utility systems and landscaping conform to city standards or are approved by the city engineer; and

c. If the final master plan is for a phase of the total planned unit development, the criteria for phasing stated in subsection (Q)(1) of this section will be met.

R. Requirements Following Final Master Plan Approval.

1. A certified print of the approved final planned unit development master plan shall be provided by the applicant without charge to the office of the city recorder.
2. Except as provided in subsection (R)(3) of this section, proposals to make changes in the final master plan after it has been approved shall be considered the same as a new PUD application and shall be permitted only in accordance with all of the procedures set out in this section, including but not limited to the requirement of a hearing before the planning commission, except that the application materials required to be submitted shall be only such materials supplementing the original application as are needed to identify the proposed changes and to demonstrate that the changed planned unit development will meet the criteria established by this section.
3. Proposals to make minor changes in the final master plan after it has been approved may be approved by the city manager or the city manager's designated representative. Minor changes consist only of changes that will not have public visibility and that:
 - a. Do not increase densities;
 - b. Do not change boundaries;
 - c. Do not change any use, specific or general, described in the final master plan; and
 - d. Do not change the location or amount of land devoted to specific land uses.
4. A final PUD plat shall be filed with and approved by the city in accordance with the final platting requirements of LCMC Title [16](#) (Subdivisions) and recorded with Lincoln County, within one year of the approval of a final master plan. One extension of time may be granted, for good cause, by the planning commission if such extension is authorized by the commission prior to the expiration of the one-year period, and provided such extension not exceed one additional year. No additional extensions may be granted. If a final PUD plat is not filed, approved and recorded as required by this section, then the planned unit development approval shall become void as of the date the filing requirement no longer can be met.
5. Prior to commencement of development, the developer shall provide to the city an improvement agreement and financial security instrument as described in LCMC [17.52.240](#)(L) and shall obtain a development permit. (Ord. 2012-06 § 10; Ord. 2008-14 § 2; Ord. 96-7 § 1; Ord. 91-13 § 1; Ord. 84-2 § 4.210)

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17.52.220 Tree protection and removal.

- A. Scope. This section applies to all trees within the city wherever located.
- B. Purpose. This purpose statement provides a general philosophy to guide the specific enforcement and implementation of provisions and criteria in this section.

1. Value of Trees. The city benefits from trees. Trees of varied types add to the aesthetic beauty of the community and provide important environmental benefits including: help clean the air, help control erosion, maintain water quality and provide noise barriers.

2. Intent. The intent of this section is to protect trees where appropriate, including taking reasonable measures in development to avoid tree removal, and to prohibit damage, mutilation, and destruction of valuable trees. Protection of trees is preferred over replacement. This section aims to:

- a. Establish regulations to protect trees;
- b. Encourage the preservation of trees in the city;
- c. Require the preservation of trees on property subject to development approval;
- d. Set standards for removal of trees;
- e. Control problems of soil erosion, destruction of scenic values and wildlife habitats;
- f. Improve air quality;
- g. Protect water quality; and
- h. Protect land from erosion.

3. Need for Exceptions. The city recognizes that, at the time of development, removing certain trees may be necessary to accommodate structures, streets, utilities, and other needed or required improvements within the development. The burden of proof is on the applicant to show removal is necessary, and that other alternatives are not feasible. Cost shall not be the sole factor in determining whether an alternative is feasible.

C. Definitions. The following definitions apply to regulations governing the preservation and removal of trees contained in this section exclusively:

"Arborist, certified" means a licensed tree care consultant, who is certified as an arborist by the International Society of Arboriculture, or other arborist approved by the city.

"Canopy cover" means the area above ground that is covered by the trunk and branches of the tree.

"Commercial forestry" means the removal of 10 or more trees per acre per calendar year for sale. Tree removal undertaken by means of an approved tree removal plan under subsection (F) of this section is not considered commercial forestry under this definition.

"Cut" means to fell or remove a tree or to do anything that has the natural result of causing the death or substantial destruction of a tree, including girdling and topping.

"Development" means grading, excavation, fill, or construction on a site requiring site plan review, conditional use approval, subdivision approval, or planned unit development approval.

"Diameter" means diameter of tree measured at four and one-half feet above grade on the uphill side. In the case of multi-stemmed or trunked trees, the diameter shall be the sum of diameters of all individual stems or trunks, measured at a point no more than six inches

above the surrounding grade or measured six inches from the point where the stems digress from the trunk, whichever produces the larger measurement. If a tree has been removed and only a stump shorter than four and one-half feet remains, diameter shall be measured as the diameter of the top of the stump.

"Girdling" means the cutting or removal of the outer bark and conducting tissues of a tree, potentially causing death by interrupting the circulation of water and nutrients.

"Hazardous tree" means a tree that by reason of emergency conditions, disease, infestation, age, or other condition presents a known and immediate hazard to persons or to public or private property.

"Pruning" means the cutting or trimming of a tree in a manner consistent with recognized tree maintenance practices.

"Removal" means cutting or removing 50 percent or more of the crown, trunk or root system of a tree, or any action that results in the loss of aesthetic or physiological viability or causes the tree to fall or be in immediate danger of falling. "Removal" includes topping, but shall not include pruning performed to applicable standards.

"Significant natural resource areas" means those lands described in Chapter [17.46 LCMC](#).

"Topping" means the severe cutting back of the tree's crown limbs to stubs to such a degree so as to remove the natural canopy and disfigure the tree.

"Tree" means a perennial woody plant, typically of eight feet or more in height, with a single main stem (the trunk or bole), or in some cases, multiple trunks, from which branches and twigs extend to form a characteristic crown of foliage.

"Large tree" includes any tree that has a trunk at least six inches in diameter (see definition of diameter).

"Mitigation tree" includes any tree required by this section as a replacement for a tree removed.

"Protected tree" includes any tree preserved in a tree protection or landscape plan, any tree planted as mitigation for removed trees, any tree planted to fulfill a requirement of the city code, and any tree planted to replace protected trees that died or were removed.

D. Tree Removal Prohibitions.

1. Tree removal is prohibited, except as allowed in this section. Violations of this section are enforceable as Class A violations.

2. Topping is prohibited, except where necessary for utility work or public safety, in which case it requires a tree removal permit. The burden of proof is on the applicant to demonstrate in the permit application that topping is necessary, the only means of accomplishing the task, and preferable to removal. The city will rely on the most recent version of the ANSI A300 Standards for Tree, Shrub, and Other Woody Plant Maintenance to distinguish topping from pruning, and

will keep a copy of the publication at the planning and community development department for review.

3. Removal of protected trees is prohibited. Protected trees must be maintained according to applicable tree protection plans, CC&Rs (conditions, covenants and restrictions), and other recorded agreements.

4. Removal of trees in wetlands that fall under the jurisdiction of state or federal government removed without concurrence from those state and/or federal agencies that have jurisdiction is prohibited.

5. Removal of trees as part of commercial forestry operations, as described in this section, is prohibited, and commercial forestry is not permitted, except as specifically allowed by this section.

E. When Tree Removal Is Allowed Without a Tree Removal Permit.

1. Generally.

a. In all cases, removal of trees must be conducted in a manner consistent with LCMC [12.08.050\(B\)](#), which regulates land-disturbing activities.

b. Removal of trees less than six inches in diameter is permitted without a tree removal permit, unless they are protected trees.

2. Single-Family Dwellings and Duplexes or Two-Family Dwellings, and Attached Single-Family Dwellings. Removal of trees is allowed without a permit on a lot developed with a single-family dwelling, duplex or two-family dwelling, or attached single-family dwelling, provided:

a. The lot is not capable of further land division due to size or configuration, or if the lot is capable of further division, trees to be removed are within 100 feet of the dwelling; and

b. No protected tree may be removed without a permit, except that any tree planted to fulfill the landscaping requirements in LCMC [17.52.100](#) for lots with single- and two-family dwellings may be removed, if replaced by a plant or plants with equal plant unit value, as described in LCMC [17.52.100\(G\)\(1\)](#).

3. Public Utilities and Public Works.

a. Removal of trees is allowed without a permit if performed by utility or city public works personnel to remove vegetation and trees that present a danger to life or property, to restore utility services, or to reopen a public thoroughfare to traffic.

b. Removal of trees is allowed without a permit if performed by city public works personnel to remove trees that are deemed nuisances under Chapter [8.12](#) LCMC, Nuisances, or to remove trees necessary to install or maintain improvements on parklands, streets, sewers, or utilities within publicly owned and dedicated rights-of-way or public utility easements.

4. Dangerous and Nuisance Trees. Removal of a tree that is a hazard or a nuisance, affecting public safety as defined in LCMC [8.12.080](#), as demonstrated to the satisfaction of the director of planning and community development in consultation with the city engineer, as applicable to the circumstances.

F. When a Tree Removal Permit Is Required. Except as allowed in subsection (E) of this section, no person shall engage in or cause land clearance or tree removal without first having obtained a tree removal permit issued by the city.

1. A tree removal permit may be issued only for:

a. Single-Family Dwellings, Duplexes, Two-Family Dwellings, and Attached Single-Family Dwellings. Removal of trees is allowed with a permit on a lot adjacent to a lot developed with a single-family dwelling, duplex or two-family dwelling, or attached single-family dwelling, provided:

i. The adjacent lot is owned by the owner of the developed lot or the owner of the developed lot has written permission from the owner of the adjacent lot, and the trees to be removed are within 100 feet of the dwelling; and

ii. No protected tree may be removed, except that any tree planted to fulfill the landscaping requirements in LCMC [17.52.100](#) for lots with single- and two-family dwellings may be removed, if replaced by a plant or plants with equal plant unit value, as described in LCMC [17.52.100\(G\)\(1\)](#).

b. Multifamily Dwellings, Commercial or Industrial Sites, Undeveloped Sites, Trees More Than 100 Feet from Single-Family Dwellings and Duplexes or Two-Family Dwellings, and Attached Single-Family Dwellings on the same lot. Removal of trees is allowed with a permit for the following reasons only:

i. Diseased or Dead. Removal of dead trees or diseased tree(s) weakened by age, storm, fire or other injury. If a visual inspection by the city staff cannot establish that the tree is dead or diseased, the applicant shall, at the applicant's cost, obtain the services of a certified arborist to make that determination. If the arborist determines that the tree is dead or diseased and cannot be saved, the director of planning and community development shall approve its removal;

ii. Solar Access. Removal of tree(s) to allow solar access to the south face of buildings during solar heating hours, taking into account latitude, topography, microclimate, existing development, existing vegetation, and planned uses and densities, which cannot be accomplished by pruning as demonstrated by an appropriate professional;

iii. Surveyor Access. Selective removal of tree(s) and vegetation to allow reconnaissance surveys, topographical determinations of a project site, coring to permit geotechnical evaluation and soil surveys, and similar efforts, to the extent the applicant demonstrates such removal is necessary to perform such surveys;

iv. Spread of Disease, Insects and Threat of Natural Hazard. Where removal is necessary to prevent the spread of disease or insects declared to be a nuisance by a government agency or certified arborist, or to correct or eliminate a verified natural hazard to the property owner,

surrounding properties, or the community at large;

v. Selective Thinning on Open Space and Park Zoned Land. Where crowding is impairing the health and vigor of trees as determined by an appropriately qualified forester, after notice and hearing pursuant to LCMC [17.76.020](#) and [17.76.030](#) the city council may allow selective thinning on property zoned open space or park according to an acceptable maintenance plan to improve the health of the forest and using the lowest impact forestry methods practical;

vi. Development. Removal of tree(s) for the placement of structures and other improvements, in accordance with subsection (F)(9) of this section and provided:

(A) The city has approved a site plan, subdivision, planned unit development or building permit; and

(B) The city has approved a tree protection plan, if required by subsection (H) of this section.

2. Conditions. The city may place conditions on any tree removal permit as appropriate to assure that the tree removal is conducted in a manner consistent with this section and LCMC [12.08.050](#)(B), which regulates land disturbing activities. Where conditions of a permit conflict with requirements of this section, the more restrictive shall apply.

3. Review Process. If part of a project that requires subdivision review, site plan review, or a conditional use permit, the permit for tree removal shall be processed as part of development or conditional use permit review. Other tree removal applications shall be reviewed by the director of planning and community development, who may require an erosion control plan to determine conformance with Chapter [12.08](#) LCMC, Grading and Erosion Control, and rules issued by the public works department.

Where a tree protection plan is required for development review, the city shall not issue a tree removal permit until the applicant has demonstrated compliance with all conditions of the development approval that are required to be met prior to the start of any land clearing, grading, or construction.

4. Fee. The city council may adopt by resolution a fee to cover the actual or average costs of reviewing or issuing a tree removal permit.

5. Authority. The city manager or the city manager's designee, including the director of planning and community development in the case of development approval, or the public works director in the case of a public works permit, is authorized to issue, extend, enforce, and revoke a tree removal permit.

6. Permit Notice and Appeal.

a. The city shall provide notice of decision or hearing in conjunction with the required notice for subdivision, partition, site development review, planned development or conditional use and in accordance with Chapter [17.76](#) LCMC, Administrative Provisions. Notice shall not be required for other tree removal permits.

b. Appeals of a tree removal permit shall be as provided in this title for quasi-judicial land use decision. Administrative decisions by the director of planning and community development may be appealed to the planning commission, which shall be the final appeal. Decisions of the planning commission, not including appeals of administrative decisions, may be appealed to the city council in the same manner as provided for in Chapter [17.76](#) LCMC.

c. The city shall not issue a tree removal permit approved in conjunction with a development review until the time allowed for appeals has passed and no appeal has been filed, or after all appeals have been exhausted. The timely filing of an appeal shall have the effect of suspending the issuance of a permit pending the outcome of the appeal.

7. Display of Permit – Inspection. The tree removal permit shall be kept on site during permitted activities. The permit grantee shall allow city representatives to enter and inspect the premises at any reasonable time, and failure to allow inspection shall constitute a violation of this section.

8. Duration. A tree removal permit shall be effective for 18 months from the date of approval. Upon written request by the applicant prior to the expiration of the existing permit, a tree removal permit shall be extended for a period of up to one year if the approval authority finds that the applicant is in compliance with all prior conditions of permit approval and that no material facts stated in the original application have changed.

9. Tree Removal for Development. Removal of tree(s) for the placement of structures and other improvements shall comply with the following:

a. Timing of Permit Issuance.

i. Building. A permit for tree removal from individual building lots shall be issued in conjunction with, and not prior to, issuance of the building permit.

ii. Infrastructure. A tree removal permit may not be issued under this subsection for removal for installation of street, gutter, curb, sidewalk, sanitary sewer, storm sewer, and water system improvements until the city engineer has given final approval to the design of the improvements and to the grading and erosion control plans, and, to the extent otherwise required by this section or this code, the owner has entered into a public infrastructure improvement agreement for the improvements and provided financial security therefor, including for tree mitigation; and the director of planning and community development has approved a tree protection and mitigation plan, if required.

iii. Phased Developments. For phased developments, a separate tree removal permit is required for each phase of infrastructure development, which will not be issued until such time as public works approves commencement of grading for the phase. Tree removal permits issued for infrastructure development shall apply only to the minimum area necessary to accommodate the improvements.

b. Tree removal shall conform to the approved tree protection and replacement plan, if required by subsection (H) of this section, and to subsection (I) of this section, Tree Protection and Replacement Plan

Required.

c. Revegetation. Immediately following completion of the improvements, areas disturbed by tree removal shall be revegetated in accordance with the requirements of LCMC 17.52.100 (F), (G), (H), and (I).

d. Bond Required. Whenever trees are removed that according to this chapter require replacement, if removal is in conjunction with a development, the anticipated cost of replacement trees and vegetation required shall be covered by the bonding mechanism approved for the development, or a separate bond expressly for the purpose of required tree replacement.

G. Replacement of Trees Lawfully Removed.

1. Applicability. The standards of this section apply to trees removed with a permit required by subsection (F) of this section that are more than 100 feet from a building subject to site plan review, or conditional use approval, or that are removed to allow development of parking in excess of the amount of required parking, or that are removed for purposes other than compliance with a governmental requirement. If the tree being removed is dead, dying, diseased or dangerous to life or property, replacement is encouraged, but not required, unless the tree is a protected tree, in which case replacement is required.

2. Replacement Requirement. Removed trees six inches or more in diameter must be replaced on a one-for-one basis.

3. Pre-Development Tree Removal. Any trees that were located in the areas described in subsection (G)(1) of this section that were removed within one year prior to application for a tree permit shall be included among those required to be replaced under subsections (G)(1) and (G)

(2) of this section.

4. Tree Replacement Specifications – Species, Size and Location. When replacement of a tree or trees legally removed is required by subsection (G)(2) of this section, the number, species and size shall be governed by all of the following:

a. Species. The city prefers native trees, including conifers; however, the planning commission or director of planning and community development shall take into consideration site compatibility as well as the property owner's preference, provided the species of replacement tree is expected to mature to approximately the same environmental and aesthetic value as the tree being removed.

b. Size. The minimum diameter of a replacement tree shall be one and one-half inches. The planning and community development director or planning commission may adjust the size requirement for tree species where the applicant demonstrates to the satisfaction of the director of planning and community development that the minimum size would be unreasonable or impractical in the circumstances.

c. Location. Trees shall be replaced according to a planting plan provided by the applicant and approved by the director of planning and community development, showing all preserved and replacement trees.

5. Planting Site. The preferred replacement site shall be on the property from which a tree is being removed. Provided one or more of the replacement trees cannot be located viably on the property from which a tree is removed, the director of planning and community development may either require that (a) the applicant pay an in-lieu payment into the city tree fund an amount equivalent to the value of the replacement trees after installation, as provided in this subsection, or that (b) the applicant plant one or more replacement trees on other private or public property within the city, with the consent of the owner and under a management plan approved by the city. The planting location of mitigation trees on city property shall be determined by the city council, whose authority is hereby delegated to the city manager. The city manager, in conjunction with staff, shall select an appropriate planting site on open space, a park, or other public land suitable for new trees.

6. In-Lieu Payment. The in-lieu payment amount shall be equivalent to the cost of the replacement trees, plus the cost of delivery, installation, and maintenance for a period of one year. The in-lieu payment approved and received shall be used by the city for planting and maintenance of mitigation trees on city-owned property. Any unspent funds shall be carried forward from year to year for the purpose of meeting the intent of this chapter to maintain the city's urban forest.

7. Responsibility to Replace Mitigation Trees. The planting of replacement trees shall take place in such a manner as to reasonably ensure that the trees grow to maturity. Any mitigation tree planted on private property dying within one year of the date of planting shall be replaced by the owner of the property.

8. Timing of Replacement. Replacement trees, including trees meant to replace a previously planted mitigation tree that has died within one year, shall be planted within six months of the date of issuance of a tree removal permit or death of a mitigation tree, unless the director of planning and community development has granted an extension of time no longer than six months due to season or unforeseen circumstances. Failure to complete mitigation within the allotted time frame shall be considered a violation of this chapter and subject to the penalties provided for in subsection (K) of this section.

H. Design Modifications for Tree Retention – Design Modifications of Public Improvements. The planning commission, with input from the city engineer, may adjust design specifications of public improvements to accommodate tree retention where possible and where it would not interfere with safety.

I. Tree Protection and Replacement Plan Required.

1. Applicability. Requirements of this subsection apply to any lot, parcel or combination of lots or parcels for which an application for a subdivision, site plan review, planned unit development or conditional use is filed if the proposed project will involve tree removal.

2. Elements of a Tree Protection Plan. The owner of lots or parcels specified in subsection (I)(1) of this section shall provide a tree protection plan for the planting, maintenance, removal and protection of trees, prepared by a certified arborist to meet the approval of the director of planning and community development and the city engineer. The tree protection plan shall include all of the following items; however, the director of planning and community development and the city engineer may waive one or more of the items where the required information already has been

made available to the city, or is not necessary to review the application.

a. Identification of the location, size and species of all existing, large trees and protected trees.

b. An accurate topographical survey, subdivision map or plat map that bears the signature of a qualified, registered surveyor or engineer, and showing:

i. The shape and dimensions of the property, and the location of any existing and proposed structures or improvements;

ii. The location of the individual large trees and protected trees on the site, and indicating species, approximate height, diameter, canopy spread and common name; and

iii. The location of existing and proposed easements, as well as setbacks required by existing zoning requirements.

c. In lieu of the map or survey required in subsection (l)(2)(b) of this section, an applicant proposing to remove trees may provide aerial photographs with overlays, GIS documentation, or maps approved by the director of planning and community development, that clearly indicate the information required by this subsection.

d. Arborist Report. The report, prepared by a certified arborist, shall describe all large trees and all protected trees on the site and any large or protected trees removed within the period of one year prior to application for a tree permit. The report shall include the following:

i. Information on the health and condition of all large trees and protected trees;

ii. Information on species, common name, diameter, and approximate height and age of all large trees and protected trees; and

iii. Indication of those subject to removal or transplanting.

e. Tree Identification. Unless specifically exempted by the director of planning and community development and the city engineer, a statement that any trees proposed for removal will be identified by a method obvious to a site inspector, such as tagging, painting, or flagging, in addition to clear identification on construction documents.

f. Replacement Plan. A detailed description and map of the proposed tree replacement program, meeting the standards of subsection (l)(2) of this section and including the information on the number, size, species, and cost.

g. Covenants, Conditions and Restrictions (CC&Rs). Where the applicant is proposing to remove trees on common areas in a recorded subdivision or planned unit development, the applicant shall provide a copy of the applicable CC&Rs, including any landscaping provisions.

h. Tree Protection Program. A program describing how preserved trees will be protected during tree removal and construction that meets the requirements of subsection (l) of this section, unless specifically exempted by the director of

planning and community development. The tree protection program shall commit the property owner to a maintenance plan that promotes the vitality of all protected trees.

3. Recording of Tree Protection Plan. Approved tree protection plans shall be recorded, either separately or included in development agreements required in LCMC Titles 16 and 17 for planned unit developments (PUDs) and subdivisions. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that trees preserved and planted in accordance with an approved tree protection plan may be removed only with a permit and only for the reasons described in subsection (E) of this section, in which case the tree shall be replaced. The form of this deed restriction shall be subject to approval by the director of planning and community development and the city attorney. Except as provided in this subsection, removal of a tree designated for protection under a tree protection plan recorded as a condition of development approval shall constitute a Class A violation.

J. Protection Standards Related to Construction.

1. Applicability. These standards apply to all construction or development that requires a tree removal permit.

2. Standards.

a. All trees required to be protected must be clearly labeled as such.

b. The property owner shall give notice to the city a minimum of two business days (at least 48 hours) in advance of any grading or clearing of the site.

c. The property owner shall permit the city to enter the site at any time to review compliance with the tree protection plan and tree removal permit.

d. No person may conduct any construction activity likely to be injurious to a tree designated to remain, including, but not limited to, placing solvents, building material, or construction equipment, or depositing soil, or placing irrigated landscaping, within the drip line, unless a plan for such construction activity has been approved by the director of planning and community development or the planning commission based upon the recommendation of an arborist.

e. No person shall attach any device or wire to any tree unless needed for tree labeling or protection.

f. Protective Barrier.

i. Before development, land clearing, excavation, filling, or any land alteration for which a tree removal permit is required, the developer shall delineate clearly the exterior property lines of the project.

ii. The developer shall erect and maintain barriers adequate to prevent incursion of machinery within drip lines of trees the tree protection plan identifies to be preserved in and within drip lines of trees on adjoining properties.

iii. Barriers must be sufficiently substantial to withstand nearby construction activities, and the most appropriate and protective barrier shall be utilized.

Plastic tape or similar forms of markers do not constitute barriers. For street rights-of-way and utility easements, however, barriers may consist of stakes set a maximum of 50 feet apart along the outside perimeters of areas to be cleared and connected with ribbon, plastic tape, rope, or similar material used for demarcation.

iv. Selection and installation of demarcations and barriers must be approved by the director of planning and community development or the city engineer prior to commencement of grading or tree removal. Protective barriers shall remain in place until the city authorizes their removal or issues a final certificate of occupancy, whichever occurs first.

K. Violation – Enforcement.

1. Responsibility/Liability. The owner and the owner's agents and contractors, including but not limited to an arborist, contractor, engineer or other person responsible for clearing, grading, construction or tree removal on a project, are responsible for meeting the requirements of this section and shall have joint and separate liability for any violation of this section.

2. Violations Defined. A violation of this section includes cutting, damaging, or removing a tree:

a. Without a valid tree removal permit; or

b. In noncompliance with, or breach of, any condition of approval of a tree removal permit, tree protection plan, or tree maintenance plan; or

c. In noncompliance with any condition of any city permit including but not limited to a building permit, public works permit, approved tree protection plan, covenants, codes and restrictions (CC&Rs) imposed by a condition of approval and required to be reviewed and approved by the city, or other development approval that results in damage to, or contributes to the decline or failure of, a tree or its root system; or

d. In noncompliance with any recorded covenant; or

e. In noncompliance with any other section of this title or code.

3. Remedies. If the city manager or the city manager's designee has reason to believe that a violation of this chapter has occurred, then he or she may do any or all of the following:

a. Require the owner of the land on which the tree was located to submit sufficient documentation, which may include a written statement from a certified arborist, demonstrating that removal of the tree was authorized by law;

b. Issue a stop work order, as provided in subsection (K)(4) of this section;

c. Issue a citation pursuant to Chapter 1.16 LCMC with an expedited hearing;

d. File an action to temporarily restrain and/or permanently enjoin the owner from continuing to violate this section;

e. Take any other action allowed by law.

4. Authorization to Enforce Compliance. The director of planning and community development, the building official, and the public works director are each authorized to issue a stop work order, withhold approval of a final plat or public works permit, or withhold issuance of a certificate of occupancy, permits or conduct of required inspections or acceptance of work until the provisions of this section, including any conditions attached to a public works permit, tree protection plan or tree removal permit, have been fully met.

a. Use of Stop Work Order. In the event any grading, clearing, excavation, filling, construction or land-disturbing activity on the property is about to occur, is occurring or has occurred in such a manner that preserved trees or trees required to be protected on the site are in imminent danger of damage or removal from such activities, any person authorized to enforce this chapter may order all work on the site to cease until adequate safeguards are in place as follows:

i. Notification. Based on sufficient evidence that activities on site are likely to cause or have caused harm to trees required to be protected, city staff shall immediately notify any responsible person on the project that a stop work order is imminent and that all work on the site shall cease. Staff shall make reasonable attempts to inform the owner and developer by any means, including, but not limited to, telephone, facsimile, or electronic communication;

ii. Written Form. The order shall be in written form, copied to the property owner, and include a brief description of the violations or imminent harm that are required to be immediately addressed;

iii. Posted Sign. A sign declaring the stop work order shall be posted on the site;

iv. Duration. The stop work order shall not be lifted until adequate safeguards, including any amendments to an agreement between the applicant and the city, a development approval, a tree protection plan, a tree removal permit, a public works permit, or other applicable permit, are reviewed and approved by the city;

v. Removal of Stop Work Order. The stop work order shall be removed after the city staff responsible for the matter has determined there is no longer a need for the order;

vi. Settlement. Whenever the city has issued a citation for violation of this code in connection with activities leading to issuance of a stop work order or order to cease and desist activities on land, the city and owner may agree to resolve the citations by means of settlement in lieu of further prosecution. Any monies paid in lieu of fines shall be deposited in the city tree fund. Any such settlement agreement shall be approved by the city council.

5. Violation – Penalties. A violation of this section shall be enforced as a Class A civil infraction pursuant to Chapter 1.16 LCMC. Any person convicted of a violation of this section shall be subject to civil penalties including a fine up to the maximum amount provided by this code, with illegal removal of or damage to one tree constituting a single violation. In addition to the monetary fine, a person convicted of a violation under this section shall be required to remedy any damage caused by the violation.

a. Upon conviction of a violation of this section, a person shall be required to mitigate the unlawful tree cutting or removal by replacing the removed trees with like kind trees. If the director of planning and community development makes a determination that one or more of the replacement trees cannot be located viably on the property from which a tree is removed, the municipal court judge shall impose as a penalty a forfeiture in the amount of money equivalent to the cost of the replacement trees, plus the cost of delivery, installation, and maintenance for a period of one year.

b. In the event replacement trees are required to be planted as mitigation for unlawfully removed or damaged trees, the replacement trees must be planted in accordance with the specifications for tree replacement in subsection (K)(7) of this section.

c. The municipal court judge is authorized to impose an enhanced penalty of twice the value of the unlawfully removed or damaged trees where the tree removal was conducted in violation of this section and in disregard of any Lincoln City permit or approval.

6. Alternative Sentence for Multiple Violations. In the event a person is convicted of more than one violation of this section, the following alternative sentence may be imposed:

If a person has gained money or property through the commission of an offense under this section, then upon conviction thereof, the municipal court judge may sentence the person to pay an amount, fixed by the court, not to exceed double the amount of the gain from the commission of the offense. "Gain" is defined as the amount of money or value of property derived from the commission of the violation, less the amount of money or value of property seized by or surrendered to the city. "Value" shall be the greater of the market value or replacement cost as determined by a licensed professional in the tree, nursery, or landscape field.

7. Specifications for Replacement of Unlawfully Removed Trees.

Replacement of a tree removed in violation of this section shall be according to the following:

a. Species. A replacement tree shall be a substantially similar species, taking into consideration site characteristics. If a replacement tree of the species of the tree removed or damaged is not reasonably available, the director of planning and community development may allow replacement with a different species of equivalent or greater natural resource value; and

b. Size and Number. If a replacement tree of the size cut is not reasonably available on the local market or would not be viable, the director of planning and community development shall require replacement with more than one tree of the maximum size reasonably available and viable, so that the sum of the calipers is equal to or greater than the estimated caliper of the tree removed or damaged. If this number of trees cannot be located viably on the subject property, the director of planning and community development may require one or more replacement trees to be planted on other property within the city, either public property or, with the consent of the owner, private property, or may accept fees in lieu of planting as described in subsection (G)(6) of this section; and

c. Manner of Planting. The planting of a replacement tree shall take place

in a manner reasonably calculated to allow growth to maturity.

8. Exclusivity. The remedies set out in this section shall not be exclusive, and the city may take any action authorized by law to enforce this section.

9. Any person designated to enforce violations of city ordinances may enforce this section.

L. Tree Board.

1. Purpose. An advisory board is hereby established to advise staff and city council on matters relating to trees.

a. The tree board shall make recommendations on a tree manual implementing the requirements of this section and that establishes guidelines for tree selection, installation, and maintenance, using best practices. The city council shall adopt the tree manual by resolution.

b. The tree board shall make recommendations on suggested tree species for use in planting and landscaping in Lincoln City, Oregon.

c. The tree board shall make reports from time to time as it deems advisable on ordinance revisions and enforcement, information concerning tree disease or infestation, and other matters related to trees.

2. Members. The city council by ordinance shall establish the number of members and any membership qualifications of the tree board. (Ord. 2011-04 § 1; Ord. 2010-03 § 1; Ord. 2008-16

§ 1; Ord. 2002-09 § 2; Ord. 92-17 § 4; Ord. 84-2 § 4.220)

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17.52.230 Public infrastructure improvement requirements.

A. Infrastructure Easement and Improvement Requirements. The issuance of a building permit shall be for the addition, alteration, or repair, within any 12-month period, exceeding 50 percent of the assessed value or market value, whichever is greater, of an existing building or structure, or for a new building or structure in connection with any permitted or conditional use within any zone as described in this title, or of a site plan approval for development for which site plan review is required under LCMC [17.52.240](#), shall be subject to the following requirements:

1. The applicant shall submit, as part of a building permit application, a site plan drawn to scale showing the nature, size, and location of:

a. Proposed buildings and improvements,

b. Proposed access and off-street parking,

c. Proposed private and public utility lines, facilities, and easements,

d. Proposed curbs, gutters, pavement, and sidewalks, and related easements,

e. Proposed stormwater detention, treatment, and drainage features,

facilities, and easements,

f. Existing private and public utility lines, facilities, and easements,

g. Existing stormwater detention, treatment, and drainage features, facilities, and easements,

h. Existing lot lines; and

2. The applicant shall agree, except as otherwise provided in subsections (B) and (C) of this section:

a. To install curbs and gutters along adjacent streets not having curbs and gutters, and also to pave the roadways from the curbs to 12 feet beyond centerline of unpaved or partially unpaved streets contiguous to the property to be developed, in accordance with the standards of this title and LCMC Title 16 (Subdivisions) applicable to the type of development planned on the subject property; and, if existing rights-of-way for streets contiguous to the property are not adequate in width, under the standards of this title and LCMC Title 16 (Subdivisions), to dedicate right-of-way to the city sufficient to allow streets that are adequate in width,

b. To dedicate to the city utility easements five feet in width along rear lot lines, or along front lot lines as required by the city,

c. To dedicate easements for drainage purposes, and provide stormwater detention, treatment, and drainage features and facilities, as approved by the city engineer, in order to accommodate expected runoffs as determined by a registered professional engineer licensed in Oregon, according to generally accepted drainage accommodation principles,

d. To install sidewalks five feet in width along boundaries contiguous with streets, within existing right-of-way if adequate in width; and, if existing easements are not adequate in width, to deed easements to the city sufficient to allow sidewalks five feet in width,

e. To install and connect to the city systems water and sewer lines and appurtenances which conform to adopted city standards,

f. To place underground all existing electrical, telephone, and cable television utility service installations or connections between any building or structure and the utility distribution system, in accord with city standards, in addition to meeting the requirements of LCMC 17.52.120, and

g. To develop the site and construct all buildings and improvements in strict conformity to the tendered site plan.

The city manager or a designated representative may accept a deferred improvement agreement, in a form approved by the city manager or designate, for installation of curbs, gutters, sidewalks, street paving, water and sewer lines and appurtenances, and stormwater detention, treatment, and drainage features and facilities, when the city manager or designate determines that a delay is appropriate prior to the commencement of construction of these improvements; and

3. The city manager or a designated representative finds that the building site is not

subject to natural hazards such as flooding, falling rock, landslides, or mass movement, and that the building site is capable of accommodating the proposed structure without danger to users of the site or to the citizens of the city; and

4. If no street is contiguous to the property from which safe and convenient access and egress can be obtained for pedestrians and vehicular traffic, the applicant shall agree, if required by the city manager or a designated representative, to dedicate a street right-of-way and to construct improvements to adopted city standards as provided in subsection (A)(2)(a) of this section.

5. As to applications for site plan approval, if the site consists of more than one lot and any lot does not conform to the minimum access or lot requirements for the zone in which the lot is located, the owner shall agree that, prior to issuance of a building permit, or commencement of development if a building permit is not required, the owner will either:

a. Provide to the city a covenant that the lots comprising the site, unless subsequently partitioned or subdivided, will be treated as a single lot for all purposes of the municipal code and this title and that the lots comprising the site will not be sold separately; or

b. Reconfigure the lots comprising the site, in accord with the applicable legal procedures, so that all lots comprising the site will conform to the minimum lot and access requirements for the zone in which the lots are located.

B. Limitations on Infrastructure Requirements. If the applicant asserts that it cannot legally be required, as a condition of building permit or site plan approval, to provide easements or improvements at the level otherwise required by this section, then:

1. The building permit or site plan review application shall include a rough proportionality report, prepared by a qualified civil or traffic engineer, as appropriate, showing:

a. The estimated extent, on a quantitative basis, to which the improvements will be used by persons served by the building or development, whether the use is for safety or for convenience;

b. The estimated level, on a quantitative basis, of improvements needed to meet the estimated extent of use by persons served by the building or development;

c. The estimated impact, on a quantitative basis, of the building or development on the public infrastructure system of which the improvements will be a part;

d. The estimated level, on a quantitative basis, of improvements needed to mitigate the estimated impact on the public infrastructure system; and

2. The applicant shall, instead, be required to provide easements and improvements that are roughly proportional to what is needed for the safety or convenience of persons served by the building or development, plus those additional easements and improvements that are roughly proportional to what is needed to mitigate the impact of the building or development on the public infrastructure system of which the

improvements will be a part, if the impacts are not fully mitigated by the easements and improvements needed for the safety or convenience of persons served by the building or development.

C. Easements and Improvements Deferred from Land Divisions. If a prior land division approval under LCMC Title 16 affecting the building or development site has deferred, until submission of a building permit or site plan review application, the definition of the level of easements or public infrastructure improvements required to be provided in relation to the land division, based on an assertion that the level of easements or improvements required cannot be defined until actual development is proposed for the divided land, then the owner shall provide with the application a report as described in subsection (B) of this section and, as a condition of application approval, shall be required to dedicate easements and provide public infrastructure improvements required under LCMC Title 16, to the extent the easements and improvements meet the standards set out in subsection (B)(2) of this section.

D. Appeals.

1. Any person aggrieved by that person's inability to obtain a building permit pursuant to this section or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of this section may appeal, which appeal must be in writing and filed pursuant to LCMC 17.76.040.

2. Notwithstanding subsection (D)(1) of this section, decisions of the city manager, public works director, city engineer, or designated representative in the enforcement of deferred improvement agreements entered into under subsection (A)(2) of this section shall not be subject to appeal under LCMC 17.76.040.

E. Limitations to Issuance of Certificate of Occupancy. No certificate of occupancy shall be issued until the applicant has fulfilled all requirements of, and has executed the agreements required by, this section, and shall not be issued if there is any variance from the approved site plan.

F. Applicability. This section, except for subsection (C) of this section and proceedings under this section related thereto, shall not apply to building permit applications for building on land subdivided pursuant to a final subdivision plat approved or subdivision exemption granted by the planning commission and/or city council after November 1, 1989. (Ord. 2000-06-A §§ 2 – 8; Ord. 98-11 § 2; Ord. 91-1 § 7; Ord. 90-15 § 1; Ord. 84-2 § 4.300)

17.52.240 Site plan review.

A. Purpose. The purpose of site plan review is to establish a coordinated permit process to ensure that new development is in compliance with the requirements of this title. The result of approval of a site plan is the issuance of a permit to the applicant to develop the site in accord with the site plan and any conditions of site plan approval without further review of the site plan for compliance with the provisions of this title. The issuance of a site plan review permit under this section, however, does not excuse a developer or owner from obtaining any other permits or approvals required by this title, by the Lincoln City Municipal Code, or by any other local, state, or federal law or authority applicable to the proposed development, including but not limited to city sign, tree cutting, grading, sedimentation prevention, erosion control, conditional use, planned unit development, and land division

permits.

B. Site Plan Review Criteria. A site plan review application shall demonstrate that:

1. The proposed development will comply with all of the applicable requirements of this title; and
2. The arrangement of all buildings and structures, access points, parking and loading facilities, landscaping, lighting, walls and fences, and stormwater detention, treatment, and drainage features and facilities will avoid traffic congestion and will provide for pedestrian and vehicular safety and welfare.

C. Site Plan Review Officials. Site plan review officials shall include, but need not be limited to, the director, fire marshal, public works director, police chief, and parks and recreation director, or their designates. These officials shall have the opportunity to review, for compliance with the requirements of this title, the site plans for all proposed nonexempt new buildings, outdoor storage areas, and parking lots, and for the expansion of existing nonexempt buildings, outdoor storage areas, and parking lots, in those zones where site plan review is required.

D. Site Plan Review Required.

1. Except as provided in subsection (D)(2) of this section, site plan review is required before any building permit is issued authorizing development and before any outdoor storage area or parking lot development commences, in the R-M, PC, RC, GC, PI, M-W, P, OS, TVC, NPD and OPD zones, and before any nonresidential building permit is issued authorizing development and before any nonresidential storage area or parking lot development commences in any other zone.
2. The following development is exempt from site plan review:
 - a. Single-family and duplex dwellings.
 - b. Development involving only modifications to the interior of a structure.
 - c. Development meeting all of the following criteria:
 - i. The development involves either no expansion of an existing building or expansion of an existing building by 800 square feet or less; and
 - ii. The development does not affect on-site traffic circulation patterns; and
 - iii. The development adds less than three additional parking spaces.

E. Application. An application for site plan review shall include:

1. The application form established by the department in order to have the information needed to demonstrate compliance with the requirements of this title provided in a manner that will allow the site plan review officials to review the site plan in an organized and efficient manner;
2. The filing fee established by resolution of the city council; and
3. A site plan covering all lots on which development will occur or whose area is needed within the development in order to meet requirements of this title. The site plan shall be drawn to scale and shall indicate the following, where applicable:

- a. Dimensions and orientation of the site, and lot lines of, and within, the site.
 - b. Locations of buildings and structures, both existing and proposed, and an identification of buildings and structures proposed to be removed.
 - c. Location and layout of off-street parking and loading facilities.
 - d. Location and points of entry and exit for motor vehicles, and the internal circulation pattern.
 - e. Location of walls and fences and an indication of their height and materials of construction.
 - f. Location and type of exterior lighting standards and devices.
 - g. Location of areas of required landscaping and areas of existing vegetation proposed to be retained.
 - h. Grading (excavations and fills), by plotting existing and proposed contours and existing and proposed stormwater detention, treatment, and drainage features and facilities.
 - i. The height of buildings and structures.
 - j. The proposed use of buildings and structures.
 - k. Location and dimensions of existing and required utility, drainage and sidewalk easements.
 - l. Location of required sidewalk, curb, gutter, and pavement improvements.
 - m. Location of existing and proposed water and sewer lines and facilities.
 - n. General location of proposed private utility lines.
 - o. If environmental assessments or reports are required by Chapters 17.46, 17.47 and 17.48 LCMC, the location of any riparian vegetation, significant wildlife habitat and major marshes, exceptional aesthetic resources and related natural vegetation cover, historic and archeological sites, natural hazards, and beaches and dunes that are subject to those sections.
4. Any environmental assessments or reports required by Chapters 17.46, 17.47 and 17.48 LCMC. If an application does not include the required environmental assessments or reports, the application shall be deemed not complete, but on the request of the applicant, site plan review officials may review and comment on the site plan on a preliminary basis.
5. Any other architectural, civil or traffic engineering, or other information required to permit findings that the development will comply with the provisions of this title.
6. If an expansion of an existing building, outdoor storage area, or parking lot is proposed, the site plan shall indicate the relationship of the proposed expansion to the existing development but need not include other data required in subsection (D) of this section, except as necessary to permit findings that the expanded development will comply with the provisions of this title.

7. If an applicant intends to assert that it cannot legally be required, as a condition of site plan approval, to provide easements and improvements at the level otherwise required by LCMC [17.52.230](#), the application shall include the report described in LCMC [17.52.230\(B\)](#).

F. Notice of Receipt of Application.

1. After receipt of a site plan application, the department shall provide written notice of the application to:

- a. Owners of property within 250 feet of the site for which the application is submitted. The list of property owners shall be compiled from the most recent property tax assessment roll.
- b. Any neighborhood association recognized by the city whose boundaries include the site.

2. The written notices of the application shall include the following information:

- a. The date, time, and place where comments are due, if a person wishes to have the comments considered during the site plan review process. The due date shall be at least 14 days after the date of the notice.
- b. A statement that the criteria governing the site plan review decision are those requirements of this section that are applicable to the particular development being proposed.
- c. The street address or another easily understood geographical reference to the site.
- d. A statement that the site plan review application and any other file materials are available for review at the department and that copies can be obtained at cost.
- e. The name and phone number of a department contact person.

3. The written notice shall state that if tenants or lessees reside at the property, the city requests that the owner provide a copy of the notice to each tenant or lessee. The failure of an owner to honor this request shall not constitute a violation of this subsection.

G. Determination of Completeness. Not later than 30 days after the initial filing of the application, the site plan review officials shall have an initial opportunity to review the site plan review application. If the director determines following the initial review:

- 1. That the application is complete, then, not sooner than the due date for comments set out in the written notice of the application, the site plan review officials may proceed immediately to complete their review of the application.
- 2. That the application is not complete, then, not later than 30 days after the initial filing of the application, the department shall give written notice to the applicant that the application is not complete. The notice shall specify what information is missing, shall give the applicant the opportunity to submit the missing information, and shall indicate a date on and after which the city may proceed to complete its review of the application, with or without the missing information.

H. Review and Decision.

1. After the director has determined that the initial application is complete under subsection (G)

(1) of this section, or on or after the date indicated to the applicant under subsection (G)(2) of this section, whichever is applicable, the director shall request that the site plan review officials review the application and any written comments received during the comment period, and that the officials provide their written comments and recommendations on the application to the director not later than the time set by the director for further consideration of the application.

2. Site plan review officials wishing to provide comments and recommendations on the application shall provide written comments and recommendations to the director not later than the time set by the director for further consideration of the application.

3. In reviewing the application and comments received during the comment period, and in making comments and recommendations on the application, site plan review officials shall base their review, and any resulting formal comments and recommendations, on whether the development will comply with the requirements of this title. Site plan review officials also may submit additional informal comments and recommendations that they wish to be provided to the applicant for informational purposes only.

4. On or after the time set by the director for further consideration of the application, after considering the application, comments received during the comment period, and comments and recommendations received from site plan review officials, the director shall prepare a written decision taking one of the following actions:

a. If the director finds that the development, as described in the application, will comply with all of the requirements of this title, the director shall approve the application.

b. If the director does not find that the development, as described in the application, will comply with all of the requirements of this title, the director, in the director's discretion, shall either:

i. Disapprove the application; or

ii. Approve the application, subject to such conditions as are necessary so that the development, as conditioned, will comply with all of the requirements of this title.

The director's decision shall identify each requirement of this title that is applicable to the site plan under review; shall include any findings that are necessary to a determination of whether the site plan complies with the requirement; shall state a conclusion, based on the findings, as to whether the site plan complies with the requirement and, if not self evident, the basis for the conclusion; and, if the decision is to approve the site plan subject to conditions, shall state any findings, conclusions, and basis for conclusions, to demonstrate that compliance with the conditions is necessary in order for the site plan to comply with the requirements of this title.

5. During review of a site plan application, an applicant may revise the site plan under consideration; provided, that the applicant, if required by the director as a condition to revision, signs a written statement in a form approved by the director agreeing that the 120-day period provided for in ORS 227.178 shall commence

from the date the revision is filed with the department.

6. If a condition of approval of a site plan requires a future submittal to be filed for deferred or refined site plan review in relation to the development, then review of the future submittal shall be made pursuant to the procedures set out in this section for approval of the site plan itself, except that the review shall be limited to determining only whether the submittal complies with the requirements of this title applicable to the submittal.

7. A decision of the director under subsection (H)(4) of this section may include, but is not required to include, informal advice to the applicant about other permits or requirements of this title, of the Lincoln City Municipal Code, or of any other local, state, or federal law or authority that are or may be applicable to the proposed development but that are outside the scope of site plan review.

I. Notice of Decision. On approval, approval with conditions, or disapproval of a site plan review application under subsection (H)(4) of this section, the director shall publish, at the applicant's expense, notice of the action in a newspaper of general circulation in the city. In addition, the director shall provide written notice of the decision to:

1. The applicant;
2. Owners of property within 250 feet of the site for which the application is submitted. The list of property owners shall be compiled from the most recent property tax assessment roll;
3. Any neighborhood association recognized by the city whose boundaries include the site; and
4. Any person who submitted written comments during the comment period.

The notices provided shall include an explanation of the means for appealing the action taken. In addition, the notices shall state that if tenants or lessees reside at the property, the city requests that the owner provide a copy of the notice to each tenant or lessee. The failure of an owner to honor this request shall not constitute a violation of this subsection.

J. Appeals. The applicant or any interested person may appeal a decision of the director under subsection (H)(4) of this section. The appeal shall be filed within 10 days of the mailing of the decision and must be filed in the manner set out in LCMC [17.76.040](#). The filing of an appeal of a site plan approval shall suspend any building permit issued based on the approval until the city appeal body, whether the commission or the city council, has decided the appeal.

K. Revisions to Approved Site Plans.

1. Major revisions proposed by the applicant to an approved site plan shall be made only pursuant to the procedures set out in this section for approval of the site plan itself. A major revision is a revision which:

- a. Increases the density of development;
- b. Enlarges any structure on the site by more than 800 square feet, or enlarges the area of the site;
- c. Changes vehicular or pedestrian access to, or circulation patterns on, the site; or

d. Changes the location of, or amount of land devoted to, a specific use on the site.

2. Where a required site plan approval for a development has been granted, it shall be unlawful for any person to cause or permit the construction, alteration, improvement, or use of the development in any manner except in compliance with the approved site plan, subject to any lawfully made non-major revisions.

L. Public Infrastructure Improvements Agreements.

1. If all the public infrastructure improvements required to be provided as part of a site plan approval have not been satisfactorily completed prior to application for issuance of a certificate of occupancy or prior to a proposed commencement of use, and if the city manager or a designated representative determines that a delay in completion of the improvements is appropriate, then the city manager or delegate may require, as a condition of such issuance or use, an improvement agreement signed by the owner, in a form satisfactory to the public works director. An improvement agreement shall:

a. Identify all public infrastructure improvements remaining to be completed and establish a time period within which the owner shall complete the improvements;

b. Provide that if the owner does not complete the identified improvements within the established time period, then the city may complete the improvements and recover the full cost and expense of completion from the owner;

c. Require the owner to reimburse the city for all costs of inspection by the city engineer of the public infrastructure improvements;

d. Require the owner to hold harmless, defend, and indemnify the city and its mayor and council members, officers, boards, commissioners, and employees from claims of any nature arising or resulting from the performance of any acts required to be done by the owner under the agreement;

e. Require the city to tentatively accept the public infrastructure improvements and the easements in which they are located at such time as the city engineer determines that the owner has fully complied with all terms and conditions of the improvement agreement related to the improvements and easements; and to finally accept the improvements and easements on satisfactory completion, as determined by the city engineer, of the one-year warranty period required under subsection (L)(3) of this section.

2. An owner entering into an improvement agreement under subsection (L)(1) of this section shall file with the city, as a condition to city acceptance of the agreement, financial security to assure the full and faithful performance of the agreement by the owner. The financial security shall be in an amount equal to 110 percent of the applicant's estimated cost to complete the public infrastructure improvements, as approved by the city engineer, which amount shall be subject to reduction from time to time in the sole discretion of the city engineer as satisfactory construction of the public infrastructure improvements is completed.

3. At the time the owner completes construction of public infrastructure improvements

required as part of a site plan approval, whether constructed prior to occupancy or use of the site or pursuant to an improvement agreement, as a condition of tentative acceptance of the improvements by the city, the owner shall warrant the materials and workmanship of the improvements for a period of one year from the date of tentative acceptance and shall provide financial security for the warranty in the amount of 20 percent of the applicant's estimated cost to construct the public infrastructure improvements, as approved by the city engineer.

4. The financial security required under subsections (L)(2) and (3) of this section shall be in a form approved by the public works director and may be one or more of the following:

- a. A surety bond executed by a surety company authorized to transact business in the state of Oregon;
- b. Cash; or
- c. An irrevocable standby letter of credit or similar financial security instrument.

5. Decisions of the city manager, city engineer, or designated representatives in the enforcement of agreements entered into under this subsection shall not be subject to appeal under LCMC [17.76.040](#).

M. Time Limitations.

1. A site plan approval shall become void on the thirty-first day after approval unless the applicant and owner, within 30 days after approval, sign and file with the department an acceptance of the approval in the standard form provided by the director. The director may extend the time for signing the acceptance for good cause, whether before or after expiration of the 30-day period. The signing of an acceptance shall not waive any appeal rights of the applicant or owner, but merely shall acknowledge that, unless the approval is revised on appeal, the development must conform to all of the terms and conditions of the approval.

2. A site plan approval shall become void two years after approval unless within that time construction of the approved development has been commenced and thereafter diligently pursued toward completion. The director may extend a site plan approval for an additional period of one year and, if an extension is applied for, shall extend the approval, unless there have been changes in the applicable criteria or in circumstances relevant to the site that would justify re-review of the site plan in relation to the applicable criteria. No more than one extension may be granted.

3. Decisions of the director on whether to approve extensions under this subsection shall not be subject to appeal under LCMC [17.76.040](#). (Ord. 2010-05 §§ 5, 9, 10; Ord. 98-11 § 1; Ord. 97-10 §§ 1, 2; Ord. 95-15 §§ 12, 13; Ord. 93-3 § 1; Ord. 91-7 § 1; Ord. 84-2 § 4.310)

17.52.250 Standards for manufactured homes in residential zones.

All manufactured homes on individual lots in the R-1 and R-M zones shall:

- A. Be multi-sectional (double-wide or wider) and enclose a floor area of not less than

1,000 square feet;

B. Have a backfill style foundation or skirting of pressure-treated wood, masonry, or continuous concrete footing wall construction, complying with the minimum set-up standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918;

C. Have a roof with nominal pitch of three feet in height for each 12 feet of width;

D. Be certified by the manufacturer to have exterior thermal envelopes meeting the performance standards specified in state law for single-family dwellings constructed under the State Building Code;

E. Not have bare metal siding or roofing; and

F. Not be sited adjacent to any structure listed on the Register of Historic Landmarks and Districts. (Ord. 95-15 § 14; Ord. 94-19 § 1; Ord. 91-4 § 6; Ord. 84-2 § 4.320)

17.52.260 Standards for attached single-family dwellings development.

A. There are no minimum lot area or setback standards for individual lots in an attached single-family housing development; provided, that the attached housing development as a whole meets the density, parking, height and landscaping requirements for the underlying zone.

B. Perimeter Yard Requirements. The front, street side, side and rear yards around the perimeter of an attached single-family housing development are those of the underlying zone. Land Coverage. The maximum land coverage by buildings and structures for an attached single-family housing development shall not exceed 45 percent of the total land area.

C. Special yards and distances between buildings shall be provided as follows:

1. The distance between a principal building and any accessory building shall be a minimum of 10 feet.

2. An inner court providing access to double row dwelling groups shall be a minimum of 20 feet in width.

3. The distance between principal buildings shall be at least one-half the sum of the height of both buildings; provided, however, that in no case shall the distance be less than 15 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space.

4. The supplementary regulations and exceptions provisions of this chapter relating to yard requirements may also be applicable.

D. Maximum Building Height. Maximum building height shall be 35 feet except as provided in LCMC [17.52.200](#).

E. Recreation Area. A minimum of 250 square feet of recreation area shall be provided for each living unit. The recreation area may be in one or more locations in the attached single-family housing development. Recreation buildings may be considered as part of these requirements.

F. Storage Area. Storage space (for boats, campers, etc.) shall be provided at the rate of one 10-foot by 20-foot space in size for every four living units. Adequate maneuvering room shall be provided; storage space shall be fenced with a six-foot-high sight-obscuring fence, hedge or wall.

G. Restrictions. No development of attached single-family dwellings or attached single-family housing developments may occur unless all city services (sewer and water) are available to serve such development.

H. Design Features. All attached single-family dwellings shall utilize at least two of the following design features to provide visual relief along the front of the dwelling:

1. Dormers;
2. Gables;
3. Recessed entries;
4. Covered porch entries;
5. Cupolas;
6. Pillars or posts;
7. Bay or bow windows;
8. Eaves (minimum six inches projection);
9. Off-sets on building face or roof (minimum 16 inches). (Ord. 2011-09 § 3; Ord. 94-12 § 5; Ord. 84-2 § 4.330)

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17.52.270 Wireless communications facilities.

A. Purpose. The purpose of this section is to protect the health, safety, and general welfare of the community while accommodating the communication needs of residents and businesses through facilitating the provision of wireless telecommunications services to the residents and businesses of the city, minimizing adverse visual effects of towers through careful design and siting standards, avoiding potential damage to adjacent properties from tower failure through structural standards and setback requirements, providing mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applicants and those existing towers that are physically capable of sharing.

B. Siting Preferences. Wireless communications facilities shall be sited in accordance with the following priorities, in order of their preference:

1. Co-location by placement of antennas or other transmission and reception devices on an existing tower, building, or other structure, such as a utility pole, water tank, or similar structure.
2. Use of mini-cell or other similar alternate technology whereby transmission and reception devices are placed on existing structures or placed on new structures that are consistent in height with and situated similarly to types

normally found in the surrounding area, such as telephone, electrical, or light poles.

3. Siting of a new tower in a visually subordinate manner. In this context, “visually subordinate” refers to the relative visibility of a wireless communication facility where that facility does not noticeably contrast with the surrounding landscape. Visually subordinate facilities may be partially visible, but not visually dominant in relation to their surroundings.

4. Siting of a new tower in a visually dominant location, but employing concealment technology. In this context, “concealment technology” means technology through which a wireless communication facility is designed to resemble an object present in the natural environment or to resemble a building of a type typically and customarily found in the area.

5. Siting of a new tower in a visually dominant location, not employing concealment technology.

C. Standards. All commercial wireless communications facilities shall comply with the following requirements:

1. The maximum height shall be 80 feet.

2. Commercial wireless telecommunications service towers shall be of a monopole design unless the planning commission determines that an alternative design would better blend in to the surrounding environment.

3. The proposed facilities must not exceed or cause other facilities to exceed federal radio frequency emission standards or American National Standards Institute standards, whichever are stricter.

4. The proposed facilities must meet manufacturer's specifications and plans must be certified by an engineer licensed in the state of Oregon.

5. The proposed facilities must meet the requirements of the Uniform Building Code and/or the Oregon Structural Specialty Code, including but not limited to the requirements relating to seismic and wind loads, and must be engineered so that, in the event they fall, the proposed facilities will collapse only within the property lines of the lot on which they are located.

6. The proposed facilities must meet the standards contained in the American National Standards Institute "Structural Standards for Steel Antenna Tower and Steel Supporting Structures" (ANSI EIA/TIA 222 E-1996).

7. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

8. Wireless communications facilities shall not be illuminated by artificial means and shall not display any lighting other than such lighting as is specifically required by the Federal Aviation Administration or the Oregon Department of Aviation. Flashing strobe lighting is not allowed. If flashing strobe lighting otherwise would be required by the Federal Aviation Administration or the Oregon Department of Aviation, the tower height must be reduced to a level at which flashing strobe lighting is not required.

9. Any lighting placed on a wireless communication facility pursuant to a requirement of the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA) may not exceed the minimum required. Prior to the issuance of a building permit, the applicant must submit documentation from the appropriate agency (i.e., the FAA or the ODA) that the lighting is the minimum required. Any required aviation lighting must be shielded to the maximum extent allowed by the Federal Aviation Administration or the Oregon Department of Aviation.

10. A commercial wireless communication facility shall be designed, structurally, electrically, and in all other respects, to accommodate antennas for at least three users, and must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

11. A finish (paint/surface) must be provided for the wireless communication facility that reduces the visibility of the facility, including the antenna arrays. In most circumstances this condition may be satisfied by painting the tower and antenna arrays with flat light haze gray paint. If the tower is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.

12. Red and white or orange and white tower finish is not allowed. If red and white or orange and white tower finish would be required by the Federal Aviation Administration or the Oregon Department of Aviation, the tower height must be reduced to a level at which a red and white or orange and white tower finish is not required.

13. The use of any portion of a wireless communication facility for signs other than warning or equipment information signs is prohibited.

14. Wireless communications facilities, including any modifications to them, must not cause any interference with normal radio and television reception in the surrounding area nor with any public safety agency or organization (including but not limited to police, fire, ambulance, and Coast Guard) radio transmissions. The owner shall bear the costs of immediately eliminating any such interference should any occur, or must immediately shut down the antennas or other equipment or parts of the facility causing the interference.

15. The owner of the wireless communication facility may not deny a wireless provider the ability to co-locate on its wireless communication facility at a fair market rate or at another cost basis agreed to by the affected parties.

16. The wireless communication facility must be removed from the site if no facility on the tower has been in use for more than six months.

D. Application. In addition to the information required elsewhere in this section, development applications for wireless communications facilities shall include the following supplemental information:

1. A report from a qualified and licensed professional engineer which:

a. Describes the tower height and design, including a cross section and elevation;

b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

c. Describes the tower's structural capacity to carry the antennas of at least three wireless carriers, including the number and type of antennas that it can accommodate;

d. Documents what steps the applicant will take to avoid interference with normal radio and television reception in the surrounding area and with any public safety agency or organization (including but not limited to police, fire, ambulance, and Coast Guard) radio transmissions and telecommunications;

e. Includes an engineer's stamp and registration number;

f. Documents that the proposed facilities will not exceed or cause other facilities to exceed federal radio frequency emission standards or American National Standards Institute standards, whichever are stricter;

g. Includes elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site; and

h. Includes other information necessary to evaluate the request.

2. For all commercial wireless telecommunications service towers, a letter of intent committing the tower owner and the owner's successors to allow the shared use of the tower, if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

3. Applicants proposing the siting of wireless communications facilities through means other than co-location shall demonstrate why higher priority alternatives for providing the specific, proposed wireless service are not feasible. In this context, "not feasible" means that the proposed wireless communication service cannot be provided in a reasonable, practicable, and cost effective manner. Factors that may render an alternative not feasible may include:

a. Existing buildings or towers are structurally inadequate to accommodate the proposed facility, and cannot reasonably be retrofitted;

b. The alternative would cause radio frequency interference that would materially impair the functioning of existing or planned equipment at the tower or site, and such interference cannot reasonably be mitigated;

c. The alternative cannot provide the radio frequency coverage required to provide the proposed service;

d. The alternative is precluded by law, rule, regulation, contract, or other legal authority.

4. At least two photo-simulations of the proposed tower, from different points of view and distances from the proposed tower.

5. Before the issuance of a building permit, the following supplemental information shall be submitted:

a. A copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460-1);

b. Proof of compliance with applicable Federal Communications Commission regulations;

c. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the Uniform Building Code and/or the Oregon Structural Specialty Code, including but not limited to the requirements relating to seismic and wind loads, and that in the event it falls the tower will collapse only within the property lines of the lot on which it is located; and

d. A report from a qualified and licensed professional engineer which demonstrates that the tower meets the standards contained in the American National Standards Institute "Structural Standards for Steel Antenna Tower and Steel Supporting Structures" (ANSI EIA/TIA 222 E-1996).

E. Notice. When mailed notice of a public hearing or an administrative action relating to a wireless communication facility is required by LCMC [17.60.040](#), such notice shall be sent to the applicant and

to owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet from the exterior boundary of the subject property.

F. Administrative Approval of Co-Location Application. If an applicant wishes to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, the director may approve the co-location application, or approve it with conditions.

G. Planning Commission Action. In addition to the findings required by Chapter 17.60 LCMC, in order to grant approval, or approval with conditions, of a conditional use permit for a wireless communications facility, the planning commission must find, based upon evidence provided by the applicant, that:

1. For applications proposing the siting of wireless communications facilities through means other than co-location, that higher priority alternatives for providing the specific, proposed wireless service are not feasible.

2. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or significant aesthetic resource.

3. The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.

4. The owner of the wireless communication facility has agreed to permit other persons/providers to attach antennas or other communications apparatus that do not interfere with the primary purpose of the facility.

5. The proposed facility/tower is not to be constructed in such a manner as to result in needless height or mass.

6. The finish of the proposed facility/tower will be of a tone or color that minimizes the tower's visual impact. (Ord. 2003-08 § 1; Ord. 84-2 § 4.340)

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Chapter 17.60

CONDITIONAL USES

17.60.010 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 title and their effect on surrounding properties. (Ord. 92-3 § 2; Ord. 84-2 § 6.010)

17.60.020 Planning commission authority.

The planning commission shall have the authority to approve, approve with conditions, disapprove or revoke conditional use permits subject to the provisions of this chapter. Changes in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional and existing prior to the effective date of the ordinance codified in this title shall conform to all regulations pertaining to conditional uses. (Ord. 92-3 § 2; Ord. 84-2 § 6.020)

17.60.030 Application.

The property owner or his authorized agent may make an application for a conditional use permit by filing an application, at least 45 days prior to the meeting date the matter is intended to be considered, with the department of planning and community development on a form prescribed by the city, which shall include the following information, in addition to that required in Chapter [17.76 LCMC](#):

A. Name and address of applicant;

B. Statement that the applicant is the owner of the property or is the authorized agent of the owner;

C. Address, legal description and Lincoln County assessor's map and tax lot number of the property;

D. The application shall include an accurate scale drawing of the site and improvements proposed. The drawing must be adequate to enable the planning commission to determine the conformance of the proposal with the requirements of this title and shall be prepared in a manner conforming to the requirements and procedures of site plan approval, [LCMC 17.52.240](#);

E. A map (Lincoln County assessor's plat) showing the subject property and surrounding properties and listing of current owners within 100 feet of the property subject to the conditional use permit application, pursuant to Chapter [17.76 LCMC](#);

F. Statement and supportive evidence indicating the precise manner of conformance with each of the applicable provisions of this title together with any other data pertinent to the findings prerequisite to the granting of a conditional use permit as listed in [LCMC 17.60.050\(C\)](#);

G. The application shall be accompanied by a nonrefundable filing fee in the amount established by general resolution of the city council. (Ord. 92-3 § 2; Ord. 84-2 § 6.030)

17.60.040 Public hearings.

Before a conditional use is permitted, the proposed conditional use shall be considered by the planning commission at a public hearing. Notice of the hearing shall be given as provided in LCMC [17.76.020](#). (Ord. 92-3 § 2; Ord. 84-2 § 6.040)

17.60.050 Action by planning commission.

A. Within 60 days after the filing of the application, a public hearing shall be held and the commission shall render its decision. The decision of the planning commission shall be final unless appealed to the city council.

B. The planning commission may approve, approve with conditions or disapprove the conditional use permit application by the entry of a planning commission order, in open meeting, which order shall describe the basis for the decision and state the specific circumstances, findings of fact and evidence presented requiring the application of conditions to the approval.

C. 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:

1. The proposal is in compliance with the comprehensive plan;
2. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this title;
3. 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;
4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing;
5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.

D. Conditions of Approval. In permitting a conditional use, the planning commission may impose, in addition to regulations and standards expressly specified in this title, 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:

1. Increasing required lot size, yard dimensions, open spaces or buffer areas;
2. 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;
3. Requiring landscaping and maintenance thereof;
 4. Increasing street widths, controlling the location and number of vehicular access points to the property for ingress/egress;
 5. Requiring means of pedestrian/bicycle access pathways to serve the property;
 6. Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking areas;
 7. Limiting size, location and number of signs;
 8. Limiting the location, coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property;
 9. Limiting or prohibiting openings in sides of buildings or structures;
 10. Enclosure of storage areas and limitation of outside display and/or storage of merchandise;
 11. Requiring maintenance of grounds;
 12. Regulation of noise, vibration, odors, etc.;
 13. Regulation of time for certain activities;
 14. Establishing a time period within which the proposed use shall be developed;
 15. The requirement of a bond for removal of such use within a specified period of time;
 16. Increase the size, type or capacity of any or all utility services, facilities or appurtenances;
 17. Requirements under which any future enlargement or alteration of the use shall be reviewed by the planning commission and new conditions imposed;
 18. 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;
 19. The planning commission may also require that site plan committee review and approval is necessary in any particular situation to accomplish the purposes and objectives of this title;
 20. 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 chapter. (Ord. 92-3 § 2; Ord. 84-2 § 6.050)

17.60.060 Burden of proof.

The specific findings made by the planning commission in granting a conditional use permit must 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 conditional use. If no evidence is produced concerning any of the findings listed in LCMC 17.60.050(C), the application may be denied based upon improper or

inadequate findings. All evidence produced must be recited in the findings for approval of any conditional use permit application. (Ord. 92-3 § 2; Ord. 84-2 § 6.060)

17.60.070 Entry of order.

Where the planning commission is of the opinion that the conditional use permit shall be granted, it shall, in open public meeting, by a majority of its members in attendance, enter a planning commission order granting the conditional use permit, which order shall include specific findings of fact, conclusions and supportive evidence pertaining to LCMC [17.60.050](#)(C), and any conditions of approval as authorized by LCMC [17.60.050](#)(D). The chairman or, in his absence, the officer presiding over the planning commission meeting in which the above described order is enacted shall forthwith sign the order and cause the same to be filed with the city recorder. Upon the filing of the order with the city recorder, the order shall be in full force and effect. An order denying a conditional use permit shall be entered and filed in a like manner, with the necessary findings of fact, where the planning commission, based on the standards specified herein, determines that the conditional use permit should not be granted. (Ord. 92-3 § 2; Ord. 84-2 § 6.070)

17.60.080 Time limitation.

A conditional use permit shall become void one year after approval, or after such greater or lesser time as may be specified as a condition of 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. The planning commission may extend a use permit for an additional period of one year, subject to the requirements of this title. No more than one such extension may be granted. (Ord. 92-3 § 2; Ord. 84-2 § 6.080)

17.60.090 Appeal.

The applicant or any party to the proceeding may, within the time period specified in LCMC [17.76.040](#), after the decision of the planning commission is filed with the city recorder, appeal the same to the city council in the form prescribed by the city. The appeal procedure shall be as set forth in LCMC [17.76.040](#). (Ord. 92-3 § 2; Ord. 84-2 § 6.090)

17.60.100 Effect.

No building or other permit shall be issued in any case where a conditional use permit is required by the terms of this title until after the appeal period after the decision of the planning commission is filed with the city recorder. 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 the conditional use permit, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on the permit. (Ord. 92-3 § 2; Ord. 84-2 § 6.100)

17.60.110 Violation of conditions.

The planning commission, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of the permit after first holding a public hearing and giving notice of such hearing as provided in LCMC [17.76.030](#). The foregoing shall not be the exclusive remedy, and it is unlawful and punishable hereunder for any person to

violate any condition imposed by a conditional use permit. (Ord. 92-3 § 2; Ord. 84-2 § 6.110)

17.60.120 Limitation on new applications.

In a case where an application is denied by the planning commission, or denied by the city council on appeal from the planning commission, unless specifically stated to be without prejudice, it shall not be eligible for resubmittal for a period of one year from the date of said denial unless, in the opinion of the planning commission, new evidence is submitted or conditions have changed to an extent that further consideration is warranted. (Ord. 92-3 § 2; Ord. 84-2 § 6.120)

17.60.130 Notification of action.

The city manager or his designee shall notify the applicant for a conditional use permit of the planning commission's action within the time period specified in LCMC [17.76.030](#) after entry of the final order. A copy of the order shall be provided to the applicant. (Ord. 92-3 § 2; Ord. 84-2 § 6.130)

17.60.140 Mapping.

Within 30 days after the entry of the final order of a conditional use permit, the permit application file number shall be indicated on the official zoning map on the lot or lots affected by such permit. (Ord. 92-3 § 2; Ord. 84-2 § 6.140)

17.60.150 Use permit to run with the land.

A conditional use permit granted pursuant to the provisions of this chapter 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 chapter. (Ord. 92-3 § 2; Ord. 84-2 § 6.150)

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Chapter 17.64 NONCONFORMING SITUATIONS

17.64.010 General provisions.

These provisions apply to nonconforming sites, structures, and uses, including accessory uses, commercial design standards, but not signs. See LCMC [17.72.090](#) for nonconforming sign regulations.

A. Purpose. The purpose of this chapter is to allow nonconforming structures and nonconforming uses to continue, but not to encourage their perpetuation, and ultimately to bring them into conformance with this code and the comprehensive plan.

B. Pre-Existing Conditional Use Permit or Variance. A use or structure that was lawful by reason of a conditional use permit or variance may continue only on the terms of the approved permit or variance and subject to all conditions and limitations under which the permit or variance was approved or subsequently amended.

C. Determination That Nonconforming Use, Site, or Structure Is Lawful. The city may make a determination of whether a nonconforming use on a particular property is lawful, if necessary for staff review of an application. Determination will be based on evidence submitted into the record that shows whether the nonconforming situation was permitted by the standards and regulations in existence at the time established and continued without any period of discontinuance or abandonment as provided under this chapter. This determination shall be an administrative process.

D. Restoration of a Damaged Lawful, Nonconforming Structure or Use. A lawful, nonconforming structure or use that has been damaged may be restored to its previous extent, if the value of the damage, as determined by the city, is less than 50 percent of the appraised value of the building or structure, as determined by the records of the county assessor for the year preceding destruction.

E. Restoration of a Substantially Damaged Lawful, Nonconforming Structure or Use. If damaged to an extent of 50 percent or more, as determined by the city, a lawful nonconforming structure or use may be restored to its former height and footprint only, as approved by the city. The planning and community development director has authority to review an application to restore a lawful, nonconforming single-family dwelling or duplex use as an administrative decision. The planning commission has authority to review an application to restore a lawful, nonconforming multi-family dwelling, mixed use structure or commercial structure or use and shall conduct a public hearing on the application. A decision to approve an application to restore a nonconforming structure must include findings of all the following:

1. The damage was not intentionally caused by the property owner;

2. The restoration does not increase the degree of nonconformity or add new nonconformity, and except as specified above, restored structures conform to requirements of this code;

3. Restoration is according to plans approved by the fire marshal, building inspector and floodplain manager, and, if required, in conformance with a geo-technical report;

4. The restored structure or use does not encroach unlawfully on adjacent properties;

5. The restoration complies with reasonable conditions imposed by the city on a building permit in order to mitigate any new or increased adverse impact on adjacent property; and

6. In the case of a multifamily dwelling, mixed-use structure, or commercial structure, the reconstructed use or structure would not interfere with the intent and purpose of the zone in which it is located.

F. Time Limit on Restoration of Lawful Nonconformity. The owner of a damaged lawful, nonconforming use or structure shall apply for a building permit for restoration no later than 24 months from the date of the damage. After 24 months following the date of damage, the building will be subject to current zoning regulations for the district in which the land and buildings are located, including residential density standards.

G. Routine Repairs and Maintenance. Routine maintenance and repairs may be performed on structures, buildings, or sites that are nonconforming or that house nonconforming uses. Examples of maintenance and repairs are painting, repairing dry rot, and re-roofing. Routine repairs and maintenance do not include expansion of the square foot area of a structure or use, or creation of new units within residential structures. Routine repairs and maintenance performed in any 12-month period may not exceed 50 percent of the assessed value of the existing building, structure or use. (Ord. 2011-03 § 4)

17.64.020 Nonconforming structures.

A. Alteration of a Nonconforming Structure. A nonconforming building or structure may be enlarged or altered to the extent that such alteration or enlargement conforms to current regulations. An alteration made to provide safe access to a building for persons with disabilities is not considered an enlargement. Alteration of a nonconforming residential structure shall not change the number of dwelling units, if the change would increase nonconformity.

B. Moving a Nonconforming Structure. A nonconforming structure may be moved within the same lot, if the move decreases the level of nonconformity. A nonconforming structure may be moved to a different lot only if the relocated structure conforms to the regulations of its new location and applicable state law, including but not limited to ORS 455.410 (2010).

C. Completion of Structure. Nothing contained in this chapter shall require any change in the plans, construction, alteration or designated use of a structure for which a valid approval has been granted prior to the effective date of the ordinance codified in this chapter, except that if the structure will be nonconforming, it shall be considered abandoned for the purposes of LCMC 17.64.030(B), if not operational within 24 months of the date of issuance (or any extension) of the building permit. (Ord. 2011-03 § 4)

17.64.030 Nonconforming uses.

A. Lawful Nonconforming Uses Allowed to Continue. A lawful nonconforming use of land may continue as long as it remains otherwise lawful, provided the nonconforming use does not cease for any reason for a period of more than six months. For purposes of calculating the six-month period, a use is discontinued or abandoned on the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;
2. For commercial uses, on the date the sale of merchandise or the provision of services ceases;
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.

B. Discontinuance of a Nonconforming Use. If a conforming use has replaced a nonconforming use, or if the nonconforming use of a building, structure or site ceases for a period of six months or more, as described in subsection (A) of this section, the planning and community development director shall deem the nonconforming use discontinued, and the building, structure or land area shall be occupied only by uses conforming to the regulations for the zone in which it is located. If a nonconforming use has ceased, but the owner is marketing the property continually and actively for sale or lease, the planning and community development director may allow the lawful nonconforming status to continue for up to 18 additional months. The director's determination shall be an interpretation, subject to appeal to the planning commission. Following an evidentiary hearing, the planning commission decision will be final, unless called up by the city council under LCMC [17.76.040\(B\)](#).

C. Alteration of a Nonconforming Use. No building, structure, or land area devoted to or accessory to a nonconforming use may be used, moved or expanded unless the movement or expansion reduces nonconformity. Alteration of a nonconforming residential use shall not change the number of dwelling units, if the change would increase nonconformity.

D. Change of Nonconforming Use. The planning commission may approve an application for conversion to another nonconforming use in accordance with the provisions of LCMC [17.76.010](#), if, on the basis of the application and the evidence submitted, it finds the proposed use is suitable to the site and location and will not have greater adverse effect on the neighborhood or community than the previous use with regard to traffic, parking demand, hours of operation, noise, dust, and customer and/or residential activity. The commission may place conditions on the new nonconforming use to ensure compatibility and maximize conformance to current regulations. (Ord. 2011-03 § 4)

17.64.040 Nonconforming commercial site development.

The purpose of this section is to upgrade elements of nonconforming commercial development that affect the appearance of a site and create adverse impact on adjacent sites. The intent is to make commercial development closer to conformance with design

standards in Chapter [17.74 LCMC](#), but not to require extensive changes that would be impractical or extremely expensive, such as moving, lowering or structurally altering buildings.

A. Subject to the other provisions of this chapter, when the owner of a use or structure located on a commercially zoned lot that contains nonconforming site development elements converts to a different use, enlarges or structurally alters the use or structure, the owner also shall alter the nonconforming site development elements to conform to standards in Chapter [17.74 LCMC](#) to the maximum extent feasible within a cost not to exceed 25 percent of the cost of the conversion, enlargement, or structural alteration.

B. The following elements shall be made compliant with the commercial design standards in Chapter [17.74 LCMC](#), or, as approved by the planning and community development director, as close to compliant as possible within the cost limitation defined in subsection (A) of this section.

1. Pedestrian circulation, as set out in LCMC [17.74.070](#);
2. Materials and colors as set out in LCMC [17.74.080\(B\)\(13\)](#);
3. Pedestrian spaces as set out in LCMC [17.74.100](#);
4. Screening and parking area landscaping as set out in LCMC [17.74.120](#);
5. Water quality as set out in LCMC [17.74.120\(B\)\(5\)](#);
6. Exterior lighting as set out in LCMC [17.74.130](#);
7. Transparency as set out in LCMC [17.74.080\(B\)\(3\)](#); and
8. Landscaping of existing setbacks and yard areas. (Ord. 2011-03 § 4)

17.64.050 Nonconforming lots of record.

If a lot or the aggregate of contiguous lots as recorded in the office of the county clerk has an area or dimension that does not meet the lot size requirements of the zone in which the property is located, such lot or lots may be occupied by a use or uses permitted in the zone, subject to the other requirements of the zone; provided, such lots in residential zones shall be limited to a single-family dwelling and such lots in the R-R zone shall be limited to a single-family dwelling or a recreational vehicle. (Ord. 2011-03 § 4)

17.64.060 Violation – Enforcement.

Any modification of a nonconforming use, site or structure that according to this chapter requires city approval shall not be initiated before such approval is obtained. Failure to obtain an approval required by this chapter is a violation punishable as a class A violation under Chapter [1.16 LCMC](#), with each day the property is used in violation of this section considered a separate infraction. Notice provisions

of LCMC [17.84.020\(B\)](#) shall not apply in any enforcement of violation of this chapter, and the city may at its option proceed to file a complaint or take other remedial action as provided in Chapter [17.84 LCMC](#) without prior notice of violation to the property owner or any opportunity to correct. (Ord. 2011- 03 § 4)

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Chapter 17.68 VARIANCES

17.68.010 Authorization to grant or deny variances.

The planning commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. 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 and otherwise achieve the purposes of this title. (Ord. 84-2 § 8.010)

17.68.020 Circumstances for granting a variance.

A variance may be granted only in the event that all the following circumstances exist:

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 the ordinance codified in this title, 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 which is substantially the same as owners of other property in the same zone or vicinity possess;

C. The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy;

D. The variance requested is the minimum variance which would alleviate the hardship. (Ord. 84-2 § 8.020)

17.68.030 Variance procedure.

A. A property owner may initiate a request for a variance by filing an application with the city manager or his designated representative, using forms prescribed pursuant to LCMC [17.80.030](#). The application shall be accompanied by a site plan, drawn to scale, showing the condition to be varied and the dimensions and arrangements of the proposed

development. The planning commission may request other drawings or material essential to an understanding of the variance request.

B. The planning commission shall hold a public hearing before it may act on a request for a variance.

C. Within five days after a decision has been rendered with reference to a request for a variance, and the order documenting said decision has been approved by the planning commission, the city manager or his designated representative shall provide the applicant with written notice of the decision of the planning commission. (Ord. 84-2 § 8.030)

17.68.040 Time limit on variance.

Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the planning commission may in its discretion extend authorization for an additional six months on request. (Ord. 91-18 § 5; Ord. 84-2 § 8.040)

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Chapter 17.80

PROVISIONS APPLYING TO SPECIAL USES

17.80.010 Schools.

A. Nursery schools, day care centers and kindergartens shall have a minimum site size of 10,000 square feet and shall provide and thereafter maintain outdoor play areas with a minimum area of 100 square feet per child of total capacity. In all zones, a sight-obscuring fence of at least five feet but not more than six feet in height shall be provided separating the play area from abutting lots. Adequate off-street parking and loading shall be provided pursuant to Chapter [17.56](#) LCMC.

B. Elementary schools shall provide one acre of site area for each 90 pupils or one acre for every three classrooms, whichever is greater.

C. Secondary schools shall provide one acre of site area for each 75 pupils or one acre for every two and one-half classrooms, whichever is greater. (Ord. 92-3 § 4; Ord. 84-2 § 10.010)

17.80.020 Utility substation or pumping substation.

In the case of a utility substation or pumping substation, the planning commission may waive the minimum lot size requirement of the underlying zone only if it is determined that the waiver will not have a detrimental effect on adjacent property. (Ord. 92-3 § 4; Ord. 84-2 § 10.020)

17.80.030 Automobile service station.

Automobile service stations shall comply with the following development standards:

A. Site and Location.

1. The minimum area for a service station site shall be 14,000 square feet.
2. The minimum street frontage on a corner lot shall be 120 feet.
3. The minimum street frontage on an interior lot shall be 150 feet. (Ord. 92-3 § 4; Ord. 84-2 § 10.030)

17.80.040 Standards for mobile home parks and recreational vehicle parks.

A. Mobile Home Park Standards.

1. All mobile home parks shall be so designed so as to comply with state statutes.
2. If space for a mobile home in the park is located more than 500 feet from a public fire hydrant, the park shall be provided with hydrants so that no mobile home within the park shall be more than 500 feet from a hydrant when the park is fully occupied. Each hydrant shall be located on a vehicular way within the park and shall conform in design and capacity to the public hydrant standards in the city.

3. Except for the accessory roadway(s) of the park, a decorative, sight-obscuring fence at least five but no more than six feet in height shall be located 10 feet back from the outer boundary of the mobile home park. The area between the sight-obscuring fence and mobile home park boundary shall be landscaped. The fence and landscaping plan shall be approved by the planning commission.

4. Storage space (for boats, campers, etc.) shall be provided within the mobile home park at the rate of one 10-foot by 20-foot space in size for every four mobile homes within the park's designed maximum capacity. Adequate maneuvering room shall be provided.

5. In any mobile home park, no more than 20 percent of the total spaces shall be available to and used by recreational vehicles. Such spaces shall be designed, constructed and maintained under the standards for a recreational vehicle park in this title. Furthermore, all such spaces shall be contiguous in one area of the park.

6. In every mobile home park there shall be a resident manager. The resident manager shall maintain a permanent residence within the park and shall be either the owner or his agent charged for the care and control of the mobile home park. The owner of the park shall notify the planning commission of the name of the original resident manager and all changes thereto within 14 days after any change takes place.

B. Recreational Vehicle Park Standards.

1. Surface drainage plans for the entire park shall be reviewed by the city manager or his designee. Exposed ground surfaces in all parts of the park shall be paved, or covered with stone screening or other solid materials, or protected with a vegetative growth capable of preventing soil erosion and of eliminating objectionable dust.

2. The space provided for each recreational vehicle shall not be less than 1,200 square feet. To the greatest extent possible, parks should be developed to preserve their natural character.

3. Each site for an individual recreational vehicle shall contain a paved pad of at least 400 square feet.

4. Recreational vehicles shall be separated from each other and from other structures by at least 10 feet. Any accessory structure attached to the recreational vehicle shall, for purposes of this separation requirement, be considered to be part of the recreational vehicle. Off-street parking spaces shall be provided and improved in accordance with the requirements of Chapter [17.56 LCMC](#).

5. Roadways shall not be less than 30 feet in width if parking is permitted on the margin of the roadway or less than 20 feet in width if parking is not permitted on the edge of the roadway. All such roadways shall be paved with asphalt or concrete and be designed to permit easy access to each recreational vehicle space for recreational vehicles of at least 35 feet in length.

6. Except for the accessory roadway(s) of the park, a decorative sight-obscuring fence at least five but no more than six feet in height shall be located five feet back from the outer boundary of the recreational vehicle park. The area between the sight-obscuring fence and the recreational vehicle park boundary shall be landscaped. The

fence and landscaping shall be approved by the planning commission.

7. Permanent occupancy is prohibited. No recreational vehicle shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to be permanent occupancy.

8. Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of guests of the park in such number and of such capacity that there is no uncovered accumulation of trash at any time, and that such containers shall be surrounded by sight-obscuring fence.

9. The park is to be maintained in a neat appearance at all times. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest of the park. (Ord. 92-8 § 12; Ord. 92-3 § 4; Ord. 84-2 § 10.040)

17.80.050 Vacation rental dwelling use criteria.¹

A. Purpose.

1. Purpose. Vacation rental dwellings are allowed in recognition of the fact that property owners may desire to allow others to use a vacation home on occasions when the owners themselves are not using it, and the accommodation option that best fulfills the desires of many guests visiting Lincoln City is the rental of a private home during their stay.

2. Basis. The city council finds:

a. The use of vacation rental dwellings can have a perceived negative cumulative effect on Lincoln City neighborhoods by creating nuisances including but not limited to excessive loud noise, excessive numbers of parked vehicles interfering with vehicle access along public roadways and blocking private drives, and litter migrating onto adjacent properties from untended solid waste receptacles.

b. An absentee owner may not be aware of the extent to which use of a vacation rental dwelling potentially causes negative effects on neighboring properties and the livability of a neighborhood.

c. All owners of property in the city have a common interest in maintaining and promoting livable and viable neighborhoods for residents and visitors alike.

B. Vacation Rental Dwelling Standards. Except where noted, the following standards apply to all vacation rental dwellings in the city:

1. Ownership. The approved use of the vacation rental dwelling in any zone is in the name of the property owner and the approval, including any license, is not transferable. When the owner sells or transfers the property occupied or rented as a vacation rental dwelling, the approved use shall cease.

a. For purposes of this chapter, "sale or transfer" means any change of ownership during the lifetime of the owner, whether or not there is consideration, or after the death of the owner, except a change in ownership where title is held in survivorship with a spouse or domestic partner, or

transfers on the owner's death to a trust which benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner. An owner may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to loss of approval of the vacation rental dwelling use so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the approval for the use held by the transferor shall terminate.

b. For purposes of this chapter, "person" means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his or her property to a trust of which the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit in a residential zone that has a vacation rental dwelling permit. If the owner is a business entity such as a partnership, corporation, limited liability company, limited partnership, limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit in a residential zone that has a vacation rental dwelling permit.

2. Accessory or Permitted Use. A VRD is allowed as an accessory use in a residential zone and a permitted use in a commercial zone, provided the VRD meets the applicable standards of this chapter and obtains a license under Chapter 5.14 LCMC.

3. Parking. In any residential or commercial zone, one off-street parking space will be provided for each bedroom in the dwelling unit, and no less than two spaces will be provided for each dwelling unit. If the proposed VRD use cannot provide the required parking and also meet the other standards of subsection (B) of this section, including required landscaping, the vacation rental occupancy of the dwelling shall be reduced to conform to the available amount of off-street parking and made a condition of licensing under Chapter 5.14 LCMC.

a. The planning and community development director has the discretion to require such changes as are necessary to conform the dwelling to available approved parking and shall inspect the dwelling as necessary to confirm the occupancy has been so conformed prior to approving the use in any allowed zone. An example is changing a bedroom to another use.

b. No more vehicles shall be parked on the property than there are designated off-street parking spaces.

c. Outside the garage or carport, no triple stack of vehicles is allowed on the property. "Triple stacking" means parking in such a way as to require a vehicle to cross all or part of two other parking spaces.

d. No variance from the parking standards is allowed.

4. Solid Waste. The owner must provide securable receptacles of sufficient size for the deposit of solid waste generated by the vacation rental dwelling use and subscribe to a solid waste collection service for service sufficient for the vacation

rental dwelling during all months the dwelling is used for vacation rental. No dumpsters are allowed.

5. Landscaping.

a. Residential Zones. The owner must landscape all yards. Landscaping must meet the following standards:

i. Area. A minimum of 40 percent of the lot must be landscaped.

ii. Front Yard. A minimum of 50 percent of the front yard (the area between the side lot lines, the front lot line, and the front of the dwelling) must be landscaped.

iii. Hardscape Features. A maximum of 50 percent of the required landscape area may consist of hardscape features such as patios and decks, but not swimming pools, sport courts, driveways, or parking areas.

iv. Nonliving Plant Ground Covers. Bark dust, chips, aggregate, or other nonliving plant ground covers may be used on an area covering no more than 25 percent of the area to be landscaped.

v. Plants. The use of native and drought-tolerant plant species is encouraged. Plants shall be species that are known to thrive in the Northern Oregon coastal environment, and either listed in the Lincoln City Tree Planting Guide and List of Recommended Species, or recommended by a licensed nurseryman as being suitable for the local climate, as approved by the planning and community development director. The use of noxious or invasive plant species is prohibited.

vi. Shrub Size. Shrubs shall be planted from three gallon containers or larger.

vii. Ground Cover Size. Ground cover plants shall be sized and spaced so that they grow together to cover a minimum of 50 percent of the landscaped area within three years of planting.

viii. Maintenance and Irrigation. Adequate irrigation shall be temporarily provided for all plants until they are established and permanently provided for all plants that are not drought tolerant. The owner must maintain all plantings in good condition and must replace with like plants any plants that are removed or die for any reason.

b. Commercial Zones. The owner shall install and maintain the landscaping as approved in the approved site plan for the commercial use or mixed-use application, or at a minimum meet the landscaping standards of subsection (B)(5)(a) of this section if site plan approval is not required.

6. Signs. In both residential and commercial zones, any sign on the property shall be in compliance with the sign requirements for the use in the R-1 zone, as established in LCMC [17.72.060\(B\)](#).

7. TRT. The owner shall comply with Chapter [3.04](#), Transient Room Tax.

8. VRD License. Prior to making a VRD available for use, including advertising by

any means or otherwise offering the VRD for use, the owner shall obtain a valid VRD License as provided in Chapter [5.14 LCMC](#).

C. Application and Review.

1. Application Requirements.

- a. The owner of the property or authorized agent shall apply for a vacation rental dwelling on a form provided by Lincoln City. The owner shall sign the application. No application shall be accepted without payment of the application fee.
- b. At a minimum, the names, mailing addresses, and telephone numbers of all persons holding an ownership interest in the property, or holding an ownership interest in the entity that owns the property, shall be provided in the application.
- c. The applicant shall certify that the person identified as the owner on the application does not own other property in the city that is used as a vacation rental dwelling or is approved by the city for vacation rental dwelling use, if the application is for a vacation rental dwelling in a residential zone.
- d. The applicant shall certify solid waste collection service is provided to the property.
- e. The application shall demonstrate parking and landscaping standards of this section are met.
- f. Providing false information in the application shall be a violation and grounds to deny the application, void the approval, enjoin the use, and revoke a vacation rental dwelling license issued for the dwelling under Chapter [5.14 LCMC](#).

2. Administrative Review and Decision.

- a. The planning and community development director shall review an application for VRD in any zone under the applicable standards of subsection (B) of this section and shall issue an administrative decision on the application.
- b. Notice of administrative decision shall be provided as required in LCMC [17.76.020](#) and mailed at applicant's expense to all owners of property of record as indicated on the most recently available tax assessment roll, located within 250 feet of the exterior boundary of the property for which the application is made. Where 50 percent or more of the number of properties in the area subject to notice are owned by the same person, as defined in this section, the notice area shall be expanded until the number of properties owned by the same person constitutes 20 percent or less of the properties in the notice area. The notice shall contain the information required by LCMC [17.76.020\(A\)](#) and allow any person opportunity to appeal the decision within 20 days of mailing of the notice. The mailed notice shall state that if tenants or lessees are in possession of the property, the city requests the owner to provide a copy of the notice to each tenant or lessee.
- c. The authorization for VRD use shall remain valid provided the use is conducted lawfully, under a valid revocable vacation rental dwelling license issued under Chapter [5.14 LCMC](#), and in compliance with Chapter [3.04 LCMC](#), Transient Room Tax.

3. Appeal. The decision of the planning and community development director on an application for vacation rental dwelling use may be appealed as provided in LCMC [17.76.040\(A\)](#). Appeal of the decision of the planning and community development director shall be in the form of an evidentiary hearing before the planning commission. The planning commission decision shall be final and is not subject to further appeal.

4. Fees. The city is authorized to adopt fees in an amount established by resolution to recover the actual costs of processing and reviewing an application for vacation rental dwelling use including fees for appeals of such decisions.

D. Violation – Penalties – Sanction.

1. Offering or making available a vacation rental dwelling for occupancy, use, or rent, with or without an exchange of value or other consideration, without first obtaining city approval of the use under this section, is a violation and enforceable as a Class A civil infraction.

a. Proof the dwelling is advertised, listed with an agent, or publicly described in any manner by the owner or owner's agent as a vacation rental dwelling creates a rebuttable presumption that a vacation rental dwelling exists and is available for use, rent, or occupancy.

b. Oral or written statements indicating a vacation rental dwelling is or was made available for use, rent, or occupancy, including but not limited to an advertisement, offer, agreement, or correspondence in any medium, made on or about the date of an alleged violation, are admissible in court for the purpose of establishing a presumption that the vacation rental dwelling was available for occupancy on the date of the alleged violation, whether or not the dwelling was actually rented, used or occupied on such date.

c. When a vacation rental dwelling is shown to be made available on a particular date, it is presumed the VRD continues to be made available unless the defendant proves otherwise.

2. Operating a vacation rental dwelling in violation of any of the standards of subsection (B) of this section is a Class A violation enforceable as provided in Chapter [1.16](#) LCMC, grounds to suspend or revoke a license under Chapter [5.14](#) LCMC, and a nuisance.

3. A person convicted of violating this section is subject to a fine as a penalty as established in Chapter [1.16](#) LCMC. Each day of violation is a separate violation.

E. Prior Existing Use.

1. Application of Chapter [17.60](#) LCMC, Conditional Uses. Any vacation rental dwelling accessory approved by the city under the conditional use standards of Chapter [17.60](#) LCMC as in effect prior to November 21, 2007, and lawfully conducted may continue as a nonconforming use after such date, provided the occupancy of the vacation rental dwelling is lawfully conducted under a valid vacation rental dwelling license or renewal license as required by this section. The owner of the dwelling has the burden of establishing a prior approved conditional use when applying for a vacation rental dwelling license or license renewal.

2. A vacation rental dwelling accessory use that is not a conditional use and was approved by the city prior to November 21, 2007, shall be allowed to continue provided the owner obtains an annual vacation rental dwelling license or renewal license as required by this section. Provided the occupancy is otherwise lawfully conducted, the use may continue until such time as the license holder sells, transfers or conveys the property to which the approved use and license apply. The owner of the dwelling has the burden of establishing a prior approved use when applying for a vacation rental dwelling license or license renewal.

3. Except as specifically provided in this subsection, any use conducted under subsection (E) of this section must otherwise conform to all requirements of this section and other applicable code provisions, including but not limited to Chapters [3.04](#) and [5.14](#) LCMC. (Ord. 2009-11 § 4; Ord. 2009-02 § 1; Ord. 2008-17 § 1; Ord. 2008-07 § 1; Ord. 2007-11 § 1; Ord. 2002-02 § 2; Ord. 95- 15 § 16; Ord. 92-3 § 4; Ord. 84-2 § 10.050)

17.80.060 Bed and breakfast accommodation standards.

Bed and breakfast accommodations shall comply with the following standards:

A. All residences used for bed and breakfast accommodations shall be owner-occupied. No separate structures shall be allowed.

B. No more than 25 percent of the entire structure but no more than two bedrooms shall be used as a part of the bed and breakfast accommodation.

C. Each room rented shall not be rented for a period to exceed 15 consecutive days.

D. Maximum signage of one and one-half square feet shall be allowed in residentially zoned areas of the city.

E. Bed and breakfast accommodations must maintain the residential lawn nature of front and side yards. (Ord. 95-15 § 17; Ord. 84-2 § 10.060)

17.80.070 Essential emergency communications and warning facilities.

A. Essential emergency communications and warning facilities are not required to comply with the minimum lot size, parking, landscaping, city services availability, or yard requirements of the zone in which they are located.

B. Essential emergency communications and warning facilities are not required to comply with the requirements of LCMC [17.52.240](#). (Ord. 2005-14 § 13; Ord. 84-2 § 10.070)

17.80.080 Animals and gardens.²

A. Animals. The keeping of small animals, farm animals, domestic fowl, and worms is permitted in all zones as an accessory use to any principal use permitted outright or to a permitted conditional use, in each case subject to the standards of this section.

1. Small Animals. Up to three small animals may be kept accessory to each business establishment or dwelling unit on a lot, except as follows:

a. In no case is more than one miniature potbelly pig allowed per business establishment or dwelling unit.

b. In single-family zones:

i. Accessory dwelling units shall not be considered separate dwelling units for the purpose of this section;

ii. Up to four small animals are permitted on lots of at least 20,000 square feet; and

iii. One additional small animal is permitted for each 5,000 square feet of lot area in excess of 20,000 square feet. Accessory structures, including kennels, for four or more animals must be at least 10 feet from any other lot in a residential zone.

2. Domestic Fowl. Up to five domestic fowl may be kept accessory to any principal use on any lot in addition to the small animals permitted in subsection (A)(1) of this section. For each 1,000 square feet of lot area in excess of the minimum lot area required for the zone or, if there is no minimum lot area, for each 1,000 square feet of lot area in excess of 5,000 square feet, one additional domestic fowl may be kept. The keeping of peafowl is prohibited.

3. Farm Animals. Cows, horses, sheep and other similar farm animals are permitted accessory to any principal use only on lots of at least 20,000 square feet. The keeping of swine is prohibited, except for miniature potbelly pigs allowed under subsection (A)(1)(a) of this section.

a. One farm animal for every 10,000 square feet of lot area is permitted.

b. Farm animals and structures housing them must be kept at least 50 feet from any lot in a residential zone.

4. Vermiculture. Vermiculture is allowed accessory to any principal use on any lot; provided, that the surface area of all bins used for vermiculture does not exceed two square feet for each 1,000 square feet of lot area. Vermiculture bins must be located at least 10 feet from any abutting properties.

B. Gardens. Gardens are permitted in all zones as an accessory use to any principal use permitted outright or to a permitted conditional use, in each case subject to the standards of this section.

1. Personal Gardens. Personal gardens are allowed as an accessory use on any lot. Personal gardens may be used to meet part or all of any landscaping requirement set out in this code. Personal gardens may include structures such as cold frames, greenhouses, and hoop houses in any yard other than a required front yard or street side yard and do not count against the allowed building coverage in any zone, even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line.

2. Community Gardens. Community gardens, including those allowed as a principal use under the regulations of any zone, may include structures such as cold frames, greenhouses, and hoop houses. If the community garden is a use accessory to a principal use involving a building, such structures may be located in any yard other than a required front yard or street side yard and do not count against the allowed

building coverage in any zone, even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line (five feet in a residential zone). Community gardens may include a tool house or other storage building not exceeding 10 feet by 10 feet or 10 feet in height and not located closer than three feet to any property line. No off-street parking spaces are required for a community garden.

3. Market Gardens. Market gardens, including those allowed as a principal use under the regulations of any zone, may include structures such as cold frames, greenhouses, and hoop houses. If the market garden is a use accessory to a principal use involving a building, such structures may be located in any yard other than a required front yard or street side yard and do not count against the allowed building coverage in any zone, even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line (five feet in a residential zone). Market gardens may include a tool house or other storage building not exceeding 10 feet by 10 feet or 10 feet in height and not located closer than three feet to any property line. No off-street parking spaces are required for a market garden that is accessory to a principal use that requires parking. If a market garden is a principal use at least one parking space must be provided for the first 5,000 square feet of garden area or portion thereof, and for each 5,000 square feet of garden area beyond the first 5,000 square feet. Market gardens are not subject to the home occupation requirements of LCMC [17.52.010\(E\)](#). Operators of market gardens are subject to the occupation tax requirements of Chapter [5.04](#) LCMC. (Ord. 2010-06 § 9; Ord. 2009-05 § 19)

17.80.090 Small wind energy systems.³

A. Accessory Use. A small wind energy system is allowed as an accessory use in all zones in which structures are permitted.

B. General Standards.

1. The minimum distance between the ground and any part of a rotor blade must be at least 20 feet.
2. Small wind energy systems may not be illuminated, nor may they bear any signs or advertising.
3. Small wind energy systems must have automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the support structure, rotor blades, and turbine components.
4. All wiring serving small wind energy systems must be underground.
5. Noise produced by small wind energy systems may not exceed 55 dBA measured at the property line.
6. Small wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, with any public safety agency or organization (including but not limited to police, fire, ambulance, and Coast Guard) radio transmissions, or with any microwave communications link. The owner shall

bear the costs of immediately eliminating any such interference should any occur, or must immediately shut down the system or parts of the system causing the interference.

7. A finish (paint/surface) must be provided for the small wind energy system that reduces the visibility of the facility, including the rotors. In most circumstances this condition may be satisfied by painting the support structure and rotors with flat light haze gray paint. If the support structure is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.

8. The diameter of the area swept by the rotors may not exceed 25 feet.

C. Freestanding Systems – Additional Standards. Small wind energy systems may be mounted on a tower detached from other structures on the lot.

1. Setback. The minimum setback from any property line, overhead utility line, or public right-of-way shall be a distance equal to the vertical distance from the ground to the tip of a wind generator blade when the tip is at its highest point unless the affected utility, property owner, or governmental entity grants written permission for a lesser setback. In addition to the system's structures, guy wires associated with towers shall meet applicable setbacks for the zone district.

2. Height. Support structures for freestanding systems may not exceed 80 feet in height.

3. Security. Support structures for freestanding systems must be unclimbable from the ground to a height of at least 15 feet.

4. Number. A maximum of one freestanding small wind generator system may be allowed on a parcel of 25,000 square feet or less. One additional freestanding system is allowed for each 12,500 square feet of lot area above 25,000 square feet.

D. Roof-Mounted Systems – Additional Standards. Small wind energy systems may be mounted on the roof of a structure as an appurtenance.

1. Height. Roof-mounted systems may not be more than five feet over the maximum allowed height for the structure.

2. Number. There is no maximum number of roof-mounted systems permitted.

3. Engineering Report. Before any roof-mounted system is mounted the property owner must submit a report prepared by an Oregon licensed professional engineer attesting to the fact that the structure to which the system will be mounted is or will be sufficiently strong to support the system and to withstand the wind, vibratory, and other loads to which it would be subjected as a result of mounting the system on it. This report is subject to approval by the planning and community development director prior to the mounting of the system. (Ord. 2009-06 § 2)

17.80.100 Small solar energy systems.⁴

A. Accessory Use. A small solar energy system is allowed as an accessory use in all zones in which structures are permitted.

B. General Standards.

1. Ground-mounted solar energy systems are considered structures and must meet applicable setbacks for the zone district.

2. Roof-mounted systems shall be mounted as flush as possible to the roof but in any case not more than three feet above the existing roof. (Ord. 2009-06 § 3)

¹ Editor's note: Ordinance 2009-11 §§ 2, 3 provide:

The provisions of Ordinance Nos. 2007-11 and 2008-07 as readopted in Section 1 will continue to apply to all vacation rental dwelling permits issued under those ordinances as of June 21, 2009, until such time as the permits expire under their terms or on the latest possible renewal date, or expire by operation of law under Ordinance Nos. 2007-11 and 2008-07, whichever comes first.

A vacation rental permit due to expire December 31, 2009, will be subject to renewal only as a license under the provisions of Ordinance Nos. 2009-02 and 2009-03.

²

This section was added by Ord. 2009-05 as LCMC [17.80.070](#). It was editorially renumbered to avoid duplication.

³

This section was added by Ord. 2009-06 as LCMC [17.80.080](#). It was editorially renumbered to avoid duplication.

⁴

This section was added by Ord. 2009-06 as LCMC [17.80.090](#). It was editorially renumbered to avoid duplication.

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