

**TITLE 17: ZONING**

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**CHAPTER 17.04: TITLE, PURPOSE AND DEFINITIONS**

Section

17.04.010 Title.

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### **§ 17.04.010 TITLE.**

Title 17 of the Municipal Code shall be known as the "Zoning Ordinance" of the City of Sweet Home.

(Ord. 1153, § 1, 2003)

### **§ 17.04.020 PURPOSE.**

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

(Ord. 1153, § 1, 2003)

### **§ 17.04.030 DEFINITIONS.**

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

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

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

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

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

**ADJACENT.** Near or close.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of ownership and/or for development.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **MANUFACTURED DWELLING.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**RESIDENTIAL FACILITY.** A facility licensed by or under the authority of the Department of Human Resources under O.R.S. 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to 15 individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**STRUCTURE.** Anything that is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**SUBSTANTIAL IMPROVEMENTS.**

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

a. Before the improvement or repair is started; or

b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**YARD, REAR.** A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the



nearest point of a main building.

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

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

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

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

## **CHAPTER 17.08: GENERAL PROVISIONS**

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### Section

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

### ***Prior ordinance history:***

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

### **§ 17.08.010 COMPLIANCE WITH TITLE PROVISIONS.**

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

(Ord. 1101, § 1(part), 1997)

### **§ 17.08.020 INTERPRETATION.**

Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by any other

provisions of this title or any other ordinance, the provisions which are more restrictive shall govern.

(Ord. 1101, § 1(part), 1997)

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

An accessory use shall comply with all requirements for a principal use, except where specifically modified by this section. Accessory uses shall not be used for human habitation except as specified elsewhere in this title. Accessory uses shall comply with the following limitations:

- A. [Reserved]
- B. No sales shall be made from a greenhouse or hothouse maintained accessory to a dwelling in a residential zone unless it has been approved as a home occupation under the home occupation provisions of this title.
- C. A guest house may be maintained accessory to a dwelling; provided, there are no cooking facilities in the guest house.
- D. An accessory structure shall be detached from all other buildings by at least six feet. Accessory structures shall have a maximum floor area of 864 square feet.
- E. An accessory structure shall meet minimum setbacks, except that a garage shall be located a minimum of 20 feet from the front and street side property lines in a residential zone and must be included in the lot coverage allowed.
- F. Accessory structures shall be maintained in a condition of reasonable repair and shall not be allowed to become or remain in condition of disrepair or neglect, including noticeable leaning and missing sections.
- G. Boats, trailers, pickup campers, motorized dwellings and similar recreation equipment may be stored, but not used for human habitation, on a lot as an accessory use to a dwelling; provided that:
  1. Parking or storage in a front or street side yard shall be permitted only on a driveway located at least three feet from any property line; and
  2. If the equipment is not kept on a front or street side driveway, parking or storage shall be at least three feet from an interior side or rear lot line or in an enclosed garage or accessory structure.
- H. Accessory structures used for agricultural purposes shall be built no closer than 25 feet from the side or rear lot line.
- I. Mobile/manufactured homes, recreational vehicles, box cars or other equipment commonly used for transporting goods may not be used as an accessory structure.
- J. Recycling provisions for multi-family dwellings with five or more units. New multi-family dwelling units with five or more units must provide the following:
  1. A separate location for recycling containers, which is convenient for collections;
  2. Adequate containers for at least four principal recyclable materials; and
  3. At least every other week (EOW) collection service of the recyclable materials.

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

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

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

B. *Front Yard Definition.* For purposes of this section, "front yard" means a yard extending across the full width of a lot or parcel of land and extending from the front lot line to the entire actual front building line or shall be the same as the respective front setbacks

required by underlying zone, whichever is less. The following standards shall apply to all fences, hedges, and walls.

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

1. *Clear vision areas.* All fences, hedges, and walls adjacent to a roadway intersection shall comply with the requirements of § 17.08.040 (Clear-Vision Areas).

2. *Land use approval.* The Planning Commission may require installation of walls and/or fences as a condition of development in a land use approval. When so conditioned by a land use action, no further land use review is required for the fence or wall.

3. *Measuring Fence Height.* Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm. Where the natural grade changes (i.e., hillside or swale) the fence, hedge, and wall height shall change with the grade.

4. *Temporary Fences.* A temporary fence may be constructed with wire, rolled plastic, wood or other suitable material as determined by the City Manager or designee. The City Manager or designee shall establish the time duration for a temporary fence not to exceed 12 months. All temporary fences, prior to installation, must first have the approval of the City Manager or designee.

5. *Hedges.* Hedges located within five feet of a property line abutting a street shall not exceed a maximum height of three and one-half feet.

6. *Gates.* Gates shall not open or swing into public right-of-way.

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

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

2. *Walls.* Walls shall be constructed of materials specifically designed and manufactured for use as walls, including, but not limited to, masonry, rock, concrete, concrete block, or other similar materials.

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

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

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

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

1) On boundary fences, the electrically charged wires shall be located on the inside face of the fence posts;

2) The electrically charged fence shall not exceed four feet in height;

3) The electrically charged fence shall be a pulsed charge system, and not a continuous charge system; and

4) Warning signs stating, "Warning, Electric Fence" shall be posted at intervals not less than 15 feet.

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

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

a. Fences and Walls

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

2) Side and Rear Yards Abutting Street.

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

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

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

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

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

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

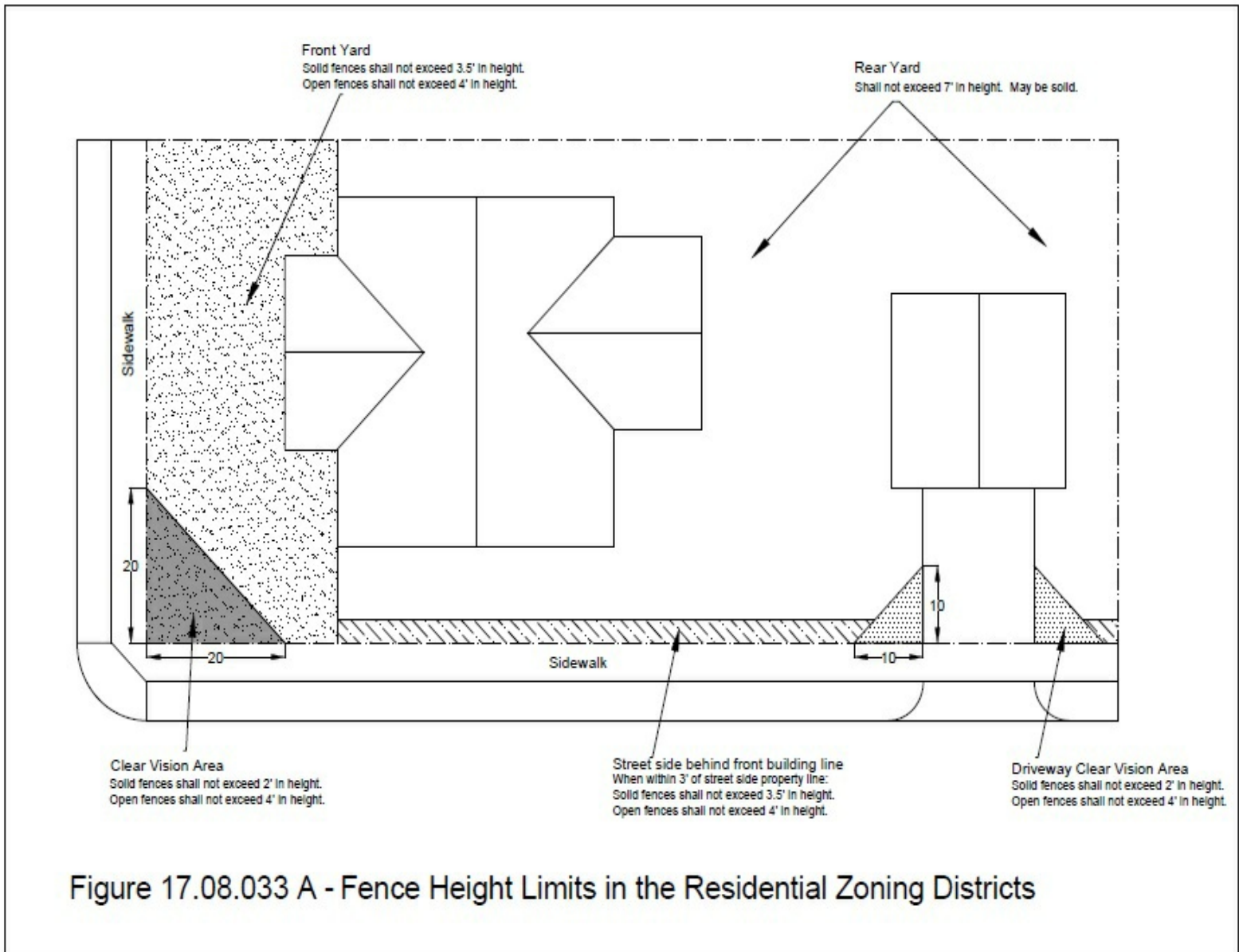


Figure 17.08.033 A - Fence Height Limits in the Residential Zoning Districts

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

a. Fences and Walls

1) *Yards Abutting Street*

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

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

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

(Ord. 1246, § 4, 2015)

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

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

(Ord. 1229, § 2, 2012)

**§ 17.08.040 CLEAR-VISION AREAS.**

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

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

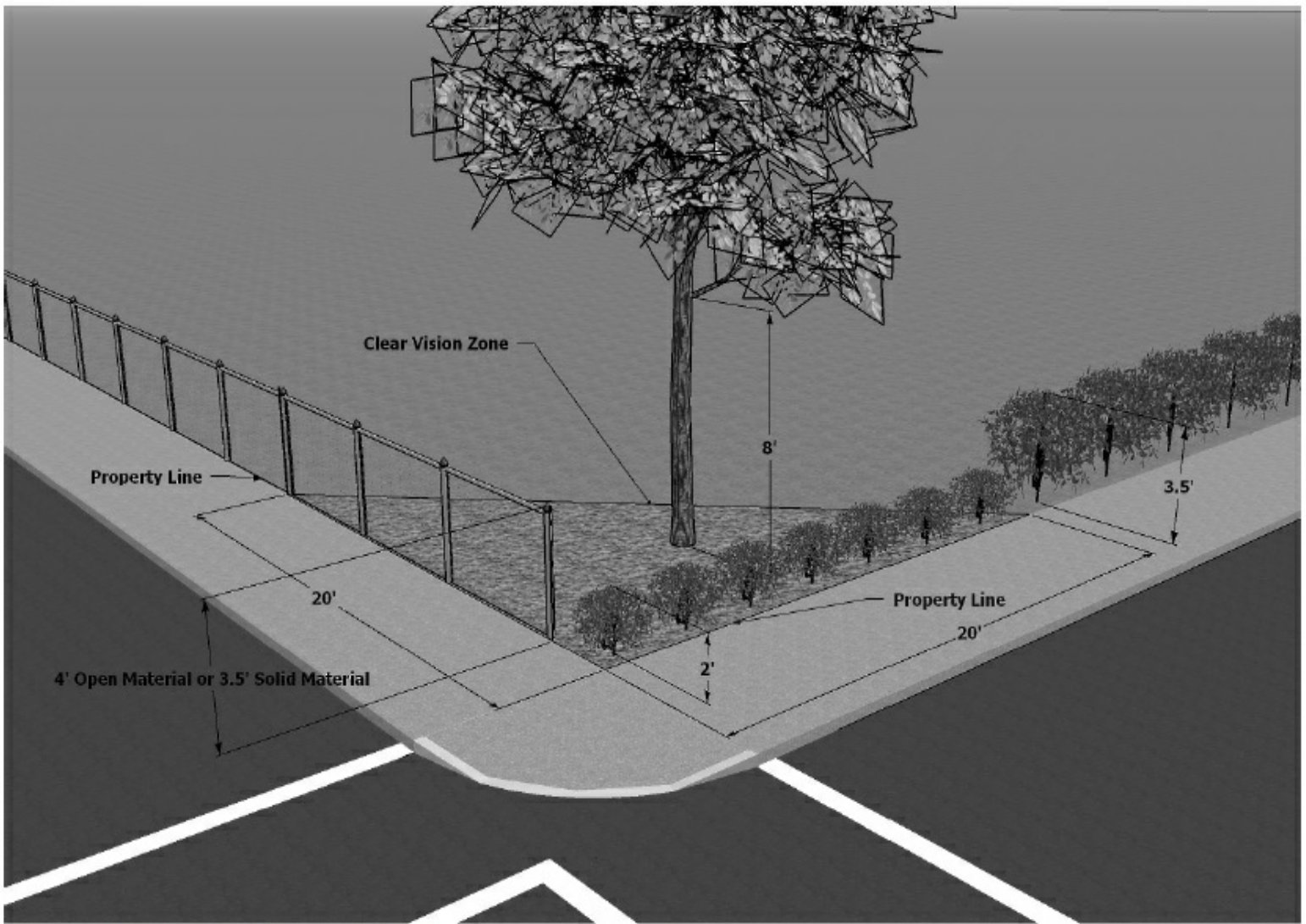


Figure 17.08.040B - Clear Vision Areas at Intersection

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

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

D. *Exceptions.*

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

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

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

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

(Ord. 1101, § 1(part), 1997)

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

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

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

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

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

(Ord. 1101, § 1(part), 1997)

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

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

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

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

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

(Ord. 1101, § 1(part), 1997)

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

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

A. Parking lots:

1. *Design and improvement requirements.*

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

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

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

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

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

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

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

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

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

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

## 2. *Location standards.*

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

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

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

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

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

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

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

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

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



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

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

<i>Use</i>	<i>Space Requirement</i>
1. Single-, two- and multi-family dwelling	Two spaces per dwelling unit
2. Mobile home park	Two spaces per dwelling unit
3. Hotel or motel	Three spaces per two guest accommodations
4. Welfare or correctional institution, convalescent hospital, nursing home, retirement home, home for the aged	One space per two beds for residents, patients or inmates
5. Hospital	Three spaces per two beds
6. Place of public assembly including church, auditorium, gymnasium, community center, theater, club, lodge hall or fraternal organization	One space per four seats or eight feet of bench length in the main auditorium, or if seating is not fixed to the floor, one space per 60 square feet of floor area
7. Library, museum, art gallery	One space per 300 square feet of floor area
8. Preschool nursery, day nursery, kindergarten	Two spaces per teacher
9. Elementary, junior high school	Two spaces per classroom and special instruction area, or the requirement for a place of public assembly, whichever is the greater
10. Senior high school	Eight spaces per classroom and special instruction area or the requirement for a place of public assembly, whichever is greater
11. Bowling alley	Six spaces per alley
12. Dance hall, skating rink, pool hall or similar indoor commercial amusement enterprise	One space per 100 square feet of floor area
13. Retail store, except as provided in subsection 14. of this section	One space per 200 square feet of floor area
14. Retail store exclusively handling bulky merchandise such as automobiles and furniture	One space per 600 square feet of floor area

15. Service or repair establishment	One space per 600 square feet of floor area
16. Bank or office (except medical or dental)	One space per 300 square feet of floor area
17. Medical or dental office, clinic	One space per 250 square feet of floor area
18. Eating or drinking establishment	One space per 100 square feet of floor area
19. Mortuary	One space per four seats or eight feet of bench length in chapels
20. Manufacturing, fabricating, processing, assembling, packing, storage or wholesaling establishment; freight depot; truck terminal	One space per two employees working on the premises during the largest shift at peak season
21. Unspecified uses	Any use not specifically listed in this section shall have a parking requirement determined by the City Manager, based on the parking space requirement for comparable uses listed in this section. The decision of the City Manager may be appealed to the Planning Commission, using procedures as spelled out in this title

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

(Ord. 1101, § 1(part), 1997)

**§ 17.08.100 ACCESSES AND DRIVEWAYS.**

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

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

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

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

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

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

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

C. *Driveway width and placement.*

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

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

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

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

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

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

D. *Distance from intersection.*

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

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

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

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

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

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

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

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

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

**CHAPTER 17.12: ADMINISTRATION AND ENFORCEMENT**

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

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

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

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

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

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

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

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

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

A. The proposed amendment is consistent with the goals and policies of the comprehensive plan;

B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;

C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district; and

D. The proposed amendment to the comprehensive plan map is consistent with Oregon's statewide planning goals.

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

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

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

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

### **§ 17.12.040 LIMITATION.**

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

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

### **§ 17.12.050 ADMINISTRATION.**

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

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

### **§ 17.12.060 FENCE PERMITS.**

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

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

### **§ 17.12.070 [RESERVED].**

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

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

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

### **§ 17.12.090 APPEALS.**

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

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

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

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

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

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

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

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

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

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

### **§ 17.12.110 FILING FEES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I. Reserved.

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

1. Explain the nature of the application and the proposed use or uses which could be approved;
2. List of applicable criteria from this title and the comprehensive plan that apply to the application at issue;
3. Set forth the street address or other easily understood geographic identifier;
4. State the date, time and location of the hearing;
5. State that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
6. Include the name and telephone number of a local government representative to contact for more information;
7. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost;
8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost; and
9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

(Ord. 1235, § 1(part), 2013; Ord. 1111, § 1(part), 1997; Ord. 1069, § 11, 1994; Ord. 1012, § 10, 1990; Ord. 827, 1981; Ord. 644, § 10.070, 1974)

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

A. Order of public hearing procedure.

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

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

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

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

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

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

G. The Chair shall have authority to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **§ 17.12.150 ENFORCEMENT.**



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

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

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

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

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### Section

17.16.010 Adoption of Comprehensive Plan.

17.16.020 Official land use guide.

### **§ 17.16.010 ADOPTION OF COMPREHENSIVE PLAN.**

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

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

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

(Ord. 1172, §§ 1-3, 2005)

### **§ 17.16.020 OFFICIAL LAND USE GUIDE.**

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

(Ord. 1235, § 1(part), 2013)

## **CHAPTER 17.20: ESTABLISHMENT OF ZONES**

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### Section

17.20.010 Classification of zones.

17.20.020 Location of zones.

17.20.030 Zoning maps.

17.20.040 Zoning of annexed areas.

**§ 17.20.010 CLASSIFICATION OF ZONES.**

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

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

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

**§ 17.20.020 LOCATION OF ZONES.**

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

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

**§ 17.20.030 ZONING MAPS.**

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

(Ord. 644, § 30, 1974)

**§ 17.20.040 ZONING OF ANNEXED AREAS.**

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

Commission.

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

### **§ 17.20.050 ZONE BOUNDARIES.**

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

(Ord. 644, § 50, 1974)

## **CHAPTER 17.24: R-1 RESIDENTIAL LOW-DENSITY ZONE**

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Section

- 17.24.010 Purpose.
- 17.24.020 Uses permitted outright.
- 17.24.030 Conditional uses permitted.
- 17.24.040 Lot size and width.
- 17.24.050 Yard setbacks.
- 17.24.060 Lot coverage.
- 17.24.070 Building height.
- 17.24.080 Minimum building size.
- 17.24.090 Homes on individual lots.
- 17.24.100 Garage and off-street parking requirements.

### **§ 17.24.010 PURPOSE.**

The purpose of the R-1 zone is to provide areas suitable and desirable for single-family homes, associated public service uses and duplexes on corner lots. The R-1 zone is most appropriate in areas which have developed or will develop with single-family homes at a density which warrants provision of public water and sewer facilities.

(Ord. 1121, (part), 1998; Ord. 644, § 10(part), 1974)

### **§ 17.24.020 USES PERMITTED OUTRIGHT.**

In an R-1 zone, the following primary residential uses and their accessory uses are permitted outright:

- A. Single-family dwelling;
- B. Two-family dwelling on corner lots where each living unit has access from a separate street; and
- C. Residential facility or home.

(Ord. 1121, (part), 1998; Ord. 1069, 1994; Ord. 1052, 1992; Ord. 1039, §§ 3, 5, 1992; Ord. 644, § 10(part), 1974)

### **§ 17.24.030 CONDITIONAL USES PERMITTED.**

In an R-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- A. Airport;
- B. Cemetery;
- C. Church, religious or philanthropic institution;
- D. Community center;
- E. Hospital;
- F. Private golf course, country club or recreational club;
- G. Public school and private school offering curricula similar to public school;
- H. Public utility facility;
- I. Boarding or rooming house;
- J. Bed and breakfast establishments;
- K. Accessory dwelling;
- L. Secondary use on a lot without a primary use;
- M. Duplexes not meeting § 17.24.020(B);
- N. RV for government facility caretaker; and
- O. Amateur radio, police and fire antennas.

(Ord. 1240, § 31, 2015; Ord. 1160, § 3, 2003; Ord. 1121, (part), 1998; Ord. 1101, 1997; Ord. 1078, 1994; Ord. 1069, 1994; Ord. 1061, 1993; Ord. 1039, 1992; Ord. 905, 1983; Ord. 644, § 10(part), 1974)

#### **§ 17.24.040 LOT SIZE AND WIDTH.**

Except as provided in § 17.08.050, the minimum lot size and width in a R-1 zone shall be as follows:

- A. The minimum lot area shall be 8,000 square feet; and
- B. The minimum lot width at the front building line shall be 80 feet.

(Ord. 1121, (part), 1998; Ord. 905, §§ 4, 5, 1983; Ord. 644, § 10(part), 1974)

#### **§ 17.24.050 YARD SETBACKS.**

Except as provided in § 17.08.060, in a R-1 zone, yard setbacks shall be as follows.

- A. The front yard shall be a minimum of 20 feet.
- B. Each side yard shall be a minimum of five feet, and the total of both side yard setbacks shall be a minimum of 13 feet.
- C. The street side yard shall be a minimum of 15 feet.
- D. The rear yard shall be a minimum of 15 feet.
- E. On a flag lot, or similarly configured lot, the inset front yard setback shall be a minimum of 15 feet.

F. Regardless of the side and rear yard requirements of the zone, an accessory structure may be built to within five feet of side or rear lot line; provided, the structure is more than 70 feet from the street abutting the front yard and 20 feet from the street abutting the street side yard.

(Ord. 1235, § 1(part), 2013; Ord. 1121, (part), 1998; Ord. 1101, 1997; Ord. 644, § 10(part), 1974)

### **§ 17.24.060 LOT COVERAGE.**

In an R-1 zone, buildings shall not occupy more than 35% of the lot area.

(Ord. 1121, (part), 1998; Ord. 905, 1983; Ord. 644, § 10(part), 1974)

### **§ 17.24.070 BUILDING HEIGHT.**

Except as provided in § 17.08.070, in a R-1 zone building heights shall be as follows.

- A. The height of a building for a dwelling shall not exceed a height of 30 feet.
- B. Accessory structures shall not exceed 20 feet in height at the apex of the roof.

(Ord. 1121, (part), 1998; Ord. 644, § 10(part), 1974)

### **§ 17.24.080 MINIMUM BUILDING SIZE.**

Dwellings in the R-1 zone shall be a minimum size of 1,000 square feet.

(Ord. 1121, (part), 1998; Ord. 1069, 1994; Ord. 838, 1981; Ord. 644, § 10(part), 1974)

### **§ 17.24.090 HOMES ON INDIVIDUAL LOTS.**

A. A home shall be placed on a foundation enclosed at the perimeter with no more than 24 inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 24-inch limitation will not apply.

B. The base of a home must be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or combination thereof, or shall have continuous skirting which matches the exterior.

C. A home shall have a nominal width of at least 28 feet.

D. A home shall have a roof with a minimum pitch of three feet in height for each 12 feet in width.

(Ord. 1235, § 1(part), 2013; Ord. 1121, (part), 1998; Ord. 1069, 1994)

### **§ 17.24.100 GARAGE AND OFF-STREET PARKING REQUIREMENTS.**

All dwellings in the R-1 zone will have at minimum the following:

- A. A garage or carport; and
- B. Two hard surfaced off-street parking spaces shall be provided.

(Ord 1121, (part), 1998)

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## **CHAPTER 17.28: R-2 RESIDENTIAL HIGH-DENSITY ZONE**

### Section

17.28.010 Purpose.

17.28.020 Uses permitted outright.

17.28.030 Conditional uses permitted.

17.28.040 Lot size and width.

17.28.050 Yards.

17.28.060 Lot coverage.

17.28.070 Building height.

17.28.080 Minimum building size.

17.28.090 Homes on individual lots.

17.28.100 Garage and off street parking requirements.

17.28.110 Standards for new and expanded manufactured home parks.

### **§ 17.28.010 PURPOSE.**

The purpose of the R-2 zone is to provide areas suitable and desirable for high-density residential development, and particularly for apartments, but where other types of residential and related public service uses are appropriate. The R-2 zone is most appropriate in areas which have been developed for high-density residential use or which are suitable for such use due to proximity to downtown Sweet Home and to highway-related commercial areas inside the city.

(Ord. 1182, § 1, 2006)

### **§ 17.28.020 USES PERMITTED OUTRIGHT.**

In a R-2 zone, the following primary residential uses and their accessory uses are permitted outright:

- A. A use permitted outright in a R-1 zone;
- B. Multi-family dwelling;
- C. Two-family dwellings;
- D. Manufactured home park; and
- E. Single-family attached dwellings.

(Ord. 1182, § 1, 2006)

### **§ 17.28.030 CONDITIONAL USES PERMITTED.**

In a R-2 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- A. A use permitted as a conditional use in a R-1 zone;
- B. Professional office, except for veterinarian;
- C. Club, lodge, fraternal organization; and
- D. Amateur radio, police and fire antennas.

(Ord. 1182, § 1, 2006)

### **§ 17.28.040 LOT SIZE AND WIDTH.**

Except as provided in, Sweet Home Municipal Code § 17.08.050, the minimum lot size and width in a R-2 zone shall be as follows:

- A. The minimum lot area for a multi-family dwelling shall be 2,500 square feet per dwelling unit;

- B. The minimum lot area for a two-family dwelling shall be 6,000 square feet;
- C. The minimum lot area for a single-family dwelling and all other uses permitted in a R-2 zone shall be 5,000 square feet;
- D. Single family attached dwellings shall have a minimum lot area of 2,500 square feet per dwelling unit;
- E. The minimum lot width at the front building line shall be as follows:
  - 1. Seventy feet for a corner lot;
  - 2. Sixty feet for an interior lot; and
  - 3. Twenty five feet for a single-family attached dwelling lot.

(Ord. 1182, § 1, 2006)

#### **§ 17.28.050 YARDS.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in a R-2 zone, yard setbacks shall be as follows:

- A. The front yard setback shall be a minimum of 20 feet;
- B. Each side yard setback shall be a minimum of five feet;
- C. The street yard setback shall be a minimum of 15 feet;
- D. The rear yard setback shall be a minimum of ten feet;
- E. Single-family attached dwellings:
  - 1. Front shall be a minimum of 20 feet;
  - 2. The sides between units shall be zero feet;
  - 3. The sides on exterior boundaries shall be five feet;
  - 4. Street side shall be a minimum of 15 feet; and
  - 5. Rear shall be a minimum of ten feet.
- F. On a flag lot or similarly configured lot, the inset front yard setback shall be a minimum of ten feet.

(Ord. 1235, § 1(part), 2013; Ord. 1182, § 1, 2006)

#### **§ 17.28.060 LOT COVERAGE.**

Building coverage shall meet the following standards: all buildings, except single-family attached dwellings, shall occupy not more than 60% of the lot area.

(Ord. 1182, § 1, 2006)

#### **§ 17.28.070 BUILDING HEIGHT.**

Except as provided in Sweet Home Municipal Code § 17.08.060, in a R-2 zone building heights shall be as follows:

- A. Single-family dwellings shall not exceed a height of 30 feet;
- B. Two-family, single-family attached dwellings and multi-family dwellings shall not exceed a height of 40 feet; and
- C. Accessory structures shall not exceed 20 feet in height at the apex of the roof.

(Ord. 1182, § 1, 2006)

**§ 17.28.080 MINIMUM BUILDING SIZE.**

Dwellings in the R-2 zone shall have a minimum building size of 720 square feet.

(Ord. 1182, § 1, 2006)

**§ 17.28.090 HOMES ON INDIVIDUAL LOTS.**

A. A home shall be placed on a foundation enclosed at the perimeter with no more than 32 inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than 32 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 32 inch limitation will not apply.

B. The base of a home must be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone or combination thereof, or shall have continuous skirting which matches the exterior.

C. A home shall have a nominal width of at least 24 feet.

D. A home shall have a roof with a minimum pitch of three feet in height for each 12 feet in width.

(Ord. 1182, § 1, 2006)

**§ 17.28.100 GARAGE AND OFF STREET PARKING REQUIREMENTS.**

A. All single-family, two-family and single-family attached dwellings will have, at minimum, the following:

- 1. A garage or carport; and
- 2. Two hard surfaced off-street parking spaces shall be provided.

B. Multi-family dwellings will have a minimum of two parking spaces per unit.

(Ord. 1235, § 1(part), 2013; Ord. 1182, § 1, 2006)

**§ 17.28.110 STANDARDS FOR NEW AND EXPANDED MANUFACTURED HOME PARKS.**

<i><b>Description</b></i>	<i><b>City Standard</b></i>
1. Minimum size of park	1 acre (ORS)
2. Minimum size of dwelling space	4,000 square feet
3. Minimum width of dwelling space	40 feet
4. Minimum length of dwelling space	80 feet
5. Minimum distance between dwellings and the public right-of-way	20 feet
6. Minimum distance between dwellings and all other exterior property lines	15 feet
7. Exterior boundary fencing	6' on sides and rear
8. Landscaping	10' at front entrance
9. Must meet the minimum standards set in the Manufactured Dwelling Parks Administrative Rules - Chapter 918 Division 600	



(Ord. 1182, § 1, 2006)

## CHAPTER 17.30: R-3 MEDIUM DENSITY RESIDENTIAL ZONE

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### Section

- 17.30.010 Purpose.
- 17.30.020 Uses permitted outright.
- 17.30.030 Conditional uses permitted.
- 17.30.040 Lot size and width.
- 17.30.050 Yards.
- 17.30.060 Lot coverage.
- 17.30.070 Building height.
- 17.30.080 Minimum building size.
- 17.30.090 Standards for homes on individual lots.
- 17.30.100 Garage and off street parking requirements.

### **§ 17.30.010 PURPOSE.**

The purpose of the R-3 zone is to provide areas suitable and desirable for single-family homes, duplexes on corner lots, condominiums, town houses and appropriate community facilities.

(Ord. 1165, § 1, 2005)

### **§ 17.30.020 USES PERMITTED OUTRIGHT.**

The following primary residential uses and their accessory uses are permitted outright:

- A. A use permitted outright in a R-1 zone;
- B. Two-family dwellings; and
- C. Single-family attached dwellings.

(Ord. 1165, § 1, 2005)

### **§ 17.30.030 CONDITIONAL USES PERMITTED.**

The following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- A. A use permitted as a conditional use in a R-1 zone;
- B. Multi-family dwellings; and
- C. Professional offices.

(Ord. 1165, § 1, 2005)

### **§ 17.30.040 LOT SIZE AND WIDTH.**

The minimum lot size and width shall be as follows: the maximum net density shall not exceed nine dwelling units per acre:

- A. Single-family dwellings shall have a minimum lot area of 5,000 square feet;
- B. Two-family dwellings shall have a minimum lot area of 6,000 square feet;
- C. Single-family attached dwellings shall have a minimum lot area of 4,800 square feet per dwelling unit;
- D. The minimum lot width at the front building line shall be as follows:
  1. Seventy feet for a corner lot; and
  2. Sixty feet for an interior lot.

(Ord. 1165, § 1, 2005)

### **§ 17.30.050 YARDS.**

Yard setbacks shall be as follows:

- A. Single-family and two-family dwelling units:
  1. The front shall be a minimum of 20 feet;
  2. Each side shall be a minimum of five feet;
  3. The street side yard shall be a minimum of 15 feet;
  4. The rear shall be a minimum of ten feet;
  5. On a flag lot, the inset front yard setback shall be a minimum of ten feet; and
  6. No building shall be located closer than one-half the distance of the right-of-way projected for the abutting street, based on the street classification, plus the required front setback from a centerline of a street other than an alley.
- B. Single-family attached dwellings:
  1. Front shall be a minimum of 20 feet;
  2. The sides between units shall be zero feet;
  3. The sides on exterior boundaries shall be five feet;
  4. Street side shall be a minimum of 15 feet; and
  5. Rear shall be a minimum of ten feet.

(Ord. 1165, § 1, 2005)

### **§ 17.30.060 LOT COVERAGE.**

Building coverage shall meet the following standards.

- A. A single-family dwelling shall not exceed 35% of the land area.
- B. Two-family dwellings shall not exceed 50% of the land area.
- C. Single-family attached dwellings shall not exceed 60% of the land area.

(Ord. 1165, § 1, 2005)

**§ 17.30.070 BUILDING HEIGHT.**

Building heights shall be as follows.

- A. Single-family dwellings shall not exceed a height of 30 feet.
- B. Two-family and single-family attached dwellings shall not exceed a height of 40 feet.
- C. Accessory structures shall not exceed 20 feet in height at the apex of the roof.

(Ord. 1165, § 1, 2005)

**§ 17.30.080 MINIMUM BUILDING SIZE.**

Primary use buildings shall have a minimum building size of 850 square feet.

(Ord. 1165, § 1, 2005)

**§ 17.30.090 STANDARDS FOR HOMES ON INDIVIDUAL LOTS.**

A. A home shall be placed on a foundation enclosed at the perimeter with no more than 32 inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than 32 inches of the enclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the 32-inch limitation will not apply.

B. The base of a home must be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone or combination thereof, or shall have continuous skirting which matches the exterior.

C. A home shall have a nominal width of at least 24 feet.

D. A home shall have a roof with a minimum pitch of three feet in height for each 12 feet in width.

(Ord. 1165, § 1, 2005)

**§ 17.30.100 GARAGE AND OFF STREET PARKING REQUIREMENTS.**

All dwellings will have at minimum the following:

- A. A garage or carport; and
- B. One hard surfaced off-street parking spaces shall be provided.

(Ord. 1165, § 1, 2005)

**CHAPTER 17.31: R-4 RESIDENTIAL MIXED USE ZONE**

---

Section

- 17.31.010 Purpose.
- 17.31.020 Uses permitted outright.
- 17.31.030 Conditional uses permitted.
- 17.31.040 Development standards.

**§ 17.31.010 PURPOSE.**

The purpose of the R-4 Zone is to provide a zone for primarily medium to high density residential mixed-use developments, with limited commercial, institutional, office and service uses distributed on site in a manner sensitive to the street environment and adjacent residential uses.

(Ord. 1166, § 1, 2005)

#### **§ 17.31.020 USES PERMITTED OUTRIGHT.**

The following uses and their accessory uses shall be permitted outright: residential uses: a use permitted outright in any residential zone.

(Ord. 1166, § 1, 2005)

#### **§ 17.31.030 CONDITIONAL USES PERMITTED.**

The following uses and their accessory uses may be permitted subject to the provisions of this section and Chapter 17.80.

- A. Church, non-profit religious or philanthropic institution;
- B. Community center;
- C. Governmental structure or use of land or public utility facility;
- D. Food store, restaurant, and retail, except marijuana facilities are prohibited;
- E. Drug store;
- F. Barber or beauty shop;
- G. Laundromat, clothes cleaning establishment;
- H. Rooming or boarding house;
- I. Bed and breakfast establishment;
- J. Professional office;
- K. Veterinary; and
- L. Amateur radio, police and fire antenna.

(Ord. 1255, § 2, 2017; Ord. 1166, § 1, 2005)

#### **§ 17.31.040 DEVELOPMENT STANDARDS.**

- A. The following special standards shall apply.
  - 1. Residential uses shall be subject to a maximum density of 35 dwelling units per acre.
  - 2. Residential uses shall be subject to the lot size and width, yard, lot coverage and building height requirements of the R-2 zone.
  - 3. The residential uses are required to be developed prior to or concurrently with non-residential uses, with the exception of non-residential uses that are in existence as of the adoption of this R-4 Zone.
  - 4. Non-residential uses shall be subject to the following standards.
    - a. Off-street parking will be based on the city parking standards.
    - b. Building height shall not exceed 45 feet.
    - c. Yard setbacks:

(1) Front, from either a public or private street, shall be 20 feet;

(2) Sides, none, except if abutting residential zones, and then the side yard shall be at least ten feet. The required side yard shall be increased by one-half foot for each foot the building height exceeds 20 feet; and

(3) Rear, none, except if abutting residential zones, and then the rear yard shall be at least ten feet. The required rear yard shall be increased by one-half foot for each foot the building height exceeds 20 feet.

d. A maximum of 10,000 square feet per acre of non-residential uses listed in § 17.31.030 shall be permitted; provided that a minimum of 20 dwelling units per acre are built prior to or in conjunction with these uses.

5. No establishment situated within a R-4 zone shall exceed a size of 10,000 square feet, including building, storage, sales and off-street parking and loading areas, unless allowed as a part of an approved planned development.

6. R-4 areas will be situated on either an arterial or collector street as indicated in the Transportation System Plan.

7. Areas zoned R-4 shall normally be located on only one side of a street or on one corner of an intersection.

8. Vehicular ingress and egress points shall be limited to one ingress point and one egress point. These points shall be a minimum of 50 feet from an intersection.

9. All parking areas and service drives shall be hard surfaced and clearly marked.

10. Off-street parking areas intended for five or more cars shall be provided with screening consisting of a fence, wall, hedge or similar sight-obscuring material.

11. No more than one sign, not to exceed 25 square feet in area, shall be permitted for each commercial use. The sign shall be placed flat against the side of the building.

B. Therefore, this chapter shall be in full force and effect after the passage by the Council and approval by the Mayor.

(Ord. 1166, § 1, 2005)

## **CHAPTER 17.32: C-1 COMMERCIAL CENTRAL ZONE**

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### Section

17.32.010 Purpose.

17.32.020 Uses permitted outright.

17.32.030 Conditional uses permitted.

17.32.040 Yards.

17.32.050 Building height.

17.32.060 Open storage.

17.32.070 Use of residential structures in commercial zones.

17.32.090 Exterior lighting.

### **§ 17.32.010 PURPOSE.**

The purpose of the C-1 zone is to provide an area suitable and desirable for retail and service enterprises, offices, financial institutions and public service uses which are appropriate in the intensively developed commercial center of the community in order to meet shopping and other business needs of area residents. The C-1 zone is appropriate only in the downtown area of the city.

(Ord. 644, § 10(part), 1974)

## **§ 17.32.020 USES PERMITTED OUTRIGHT.**

In a C-1 zone, the following uses and their accessory uses are permitted outright:

- A. Two-family dwellings, multi-family dwellings and residential facilities shall be subject to the requirements of the R-2 zone;
- B. Parking lot;
- C. Family day care center;
- D. Community center;
- E. Bus depot, taxicab stand;
- F. Club, lodge, fraternal organization;
- G. Newspaper office, print shop;
- H. Motel, hotel, rooming/boarding house, bed and breakfast establishment;
- I. A commercial enterprise which may be classified as belonging to one of the following use groups:
  - 1. Retail store or shop, such as food store, drug store, apparel store, hardware store or furniture store;
  - 2. Automobile, boat, truck or trailer sales establishment; provided any associated repair shall be incidental to the operation and that all sales, service, storage, repair and display shall occur within an enclosed building;
  - 3. Personal or business service establishment such as barber or beauty shop, drycleaning establishment, tailor shop or locksmith;
  - 4. Repair shop for the type of goods offered for sale in retail trade establishment permitted in a C-1 zone, such as shoe repair shop, small appliance repair shop, television repair shop or watch repair shop;
  - 5. Eating or drinking establishments such as restaurant, tavern or cocktail lounge;
  - 6. Office, business or professional;
  - 7. Financial institution, such as bank; and
  - 8. Indoor commercial amusement or recreation establishment such as bowling alley, theater or pool hall.
- J. Antique shop or second-hand store; provided, all business, service, storage, sales, repair and display shall be conducted entirely within an enclosed building; and
- K. The following shall apply to single-family dwellings and related accessory structures existing as of June 1996:
  - 1. Single-family dwellings may be replaced within one year following fire or other catastrophic loss. Single-family dwellings must meet the standards of the R-1 zone;
  - 2. Single-family dwellings may be maintained, altered or enlarged, provided such work shall not cause the structure to deviate further from the standards of the R-1 zone.

(Ord. 1235, § 1(part), 2013; Ord. 1182, § 5, 2006; Ord. 1111, 1997; Ord. 1097, 1996; Ord. 1061, 1993; Ord. 1039, 1992; Ord. 1012, 1990; Ord. 905, §§ 9, 10, 1983; Ord. 644, § 10(part), 1974)

## **§ 17.32.030 CONDITIONAL USES PERMITTED.**

In a C-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

- A. Church, nonprofit religious or philanthropic institution;
- B. Governmental structure or use of land;
- C. Public utility facility;
- D. Automobile service station; provided, that no major automobile repair, overhaul or reconstruction shall be permitted; and

provided, further, that any incidental automobile repair shall be performed entirely within an enclosed building;

- E. Any use permitted in a C-1 zone with customer drive-in service facilities;
- F. Veterinarian office, animal hospital; provided, all animals shall be kept at all times within an enclosed building;
- G. Amateur radio antennas;
- H. Commercial radio stations and antennas; and
- I. Marijuana retailer or medical dispensary.

(Ord. 1255, § 3, 2017; Ord. 1160, § 5, 2003; Ord. 1061, 1993; Ord. 644, § 10(part), 1974)

#### **§ 17.32.040 YARDS.**

Except as provided in Chapter 17.80, in a C-1 zone yards shall be as follows.

- A. A front yard abutting a residential zone shall be a minimum of 20 feet.
- B. A street side yard abutting a residential zone shall be a minimum of 15 feet.
- C. A side or rear yard abutting a residential zone shall be a minimum of ten feet.
- D. Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.
- E. Setbacks for automobile service stations. Freestanding gasoline pumps and pump islands may occupy a required front or street side yard; provided, they are a minimum of 15 feet from the property line separating the yard from the street.

(Ord. 1101, 1997; Ord. 644, § 10(part), 1974)

#### **§ 17.32.050 BUILDING HEIGHT.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in a C-1 zone no building shall exceed a height of 40 feet.

(Ord. 644, § 10(part), 1974)

#### **§ 17.32.060 OPEN STORAGE.**

In a C-1 zone, there shall be no open storage.

(Ord. 1235, § 1(part), 2013; Ord. 1026, 1991)

#### **§ 17.32.070 USE OF RESIDENTIAL STRUCTURES IN COMMERCIAL ZONES.**

In a C-1 zone, preexisting residential structures may be occupied by uses permitted in the zone provided the structure meets minimum building and safety standards as outlined in the building codes.

(Ord. 1235, § 1(part), 2013; Ord. 1101, 1997)

#### **§ 17.32.090 EXTERIOR LIGHTING.**

Exterior lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a lot in a residential zone.

(Ord. 1101, 1997)

Section

- 17.36.010 Purpose.
- 17.36.020 Uses permitted outright.
- 17.36.030 Conditional uses permitted.
- 17.36.040 General standards.
- 17.36.050 Yards.
- 17.36.060 Lot coverage.
- 17.36.070 Building height.
- 17.36.080 Open storage.
- 17.36.090 Exterior lighting.
- 17.36.100 Use of residential structures in commercial zones.

**§ 17.36.010 PURPOSE.**

The purpose of the C-2 zone is to provide areas suitable and desirable for highway related commercial enterprises intended to meet the business needs of area residents and highway travelers. The C-2 zone is appropriate in areas along or near U.S. Highway 20 east and west of downtown Sweet Home which have developed with commercial activities or which have potential for such activity as long as sufficient vehicular access control is maintained.

(Ord. 644, § 20(part), 1974)

**§ 17.36.020 USES PERMITTED OUTRIGHT.**

In a C-2 zone, the following uses and their accessory uses are permitted outright:

- A. A use permitted outright in the C-1 zone provided that the limitations which apply to the conduct of activities in enclosed buildings in the C-1 zone shall not apply in the C-2 zone.
- B. Commercial enterprises with customer drive-in service facilities;
- C. Antique shop, second-hand store;
- D. Automobile service station;
- E. Automobile, boat, truck, trailer sales, service, rental, display, storage and repair;
- F. Cabinet or similar woodworking shop;
- G. Cold storage plant, ice processing plant;
- H. Feed, seed store;
- I. Heavy equipment, implement, machinery sales, service, rental, display, storage and repair;
- J. Lumber, building materials sales and storage;
- K. Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but excluding uses such as race track or automobile speedway;
- L. Plumbing, heating, electrical or paint contractors storage, sales or repair shop;



- M. Tire sales, repair shop;
- N. Truck terminal, freight depot;
- O. Warehouse, storage area;
- P. Wholesale establishment;
- Q. Rooming or boarding house; and
- R. Bed and breakfast establishment.

(Ord. 1235, § 1(part), 2013; Ord. 1182, § 6, 2006; Ord. 1054, 1993; Ord. 1039, 1992; Ord. 905, 1983; Ord. 644, § 20(part), 1974)

### **§ 17.36.030 CONDITIONAL USES PERMITTED.**

In a C-2 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.36:

- A. Church, non-profit religious or philanthropic institution;
- B. Governmental structure or use of land;
- C. Public utility activity;
- D. Veterinarian office, animal hospital;
- E. Single-family residences or manufactured homes meeting standards of § 17.24.090;
- F. Machine and welding shops, sheet metal, wood, fiberglass manufacturing and other similar uses;
- G. A single-family dwelling occupied by the owner, manager, night watchman or caretaker of the commercial establishment may be permitted accessory to the commercial use;
- H. Amateur radio antennas;
- I. Commercial radio stations and antennas; and
- J. Marijuana retailer or medical dispensary.

(Ord. 1255, § 4, 2017; Ord. 1160, § 7, 2003; Ord. 1101, 1997; Ord. 1069, 1994; Ord. 1054, 1993; Ord. 1012, 1990; Ord. 853, 1981; Ord. 644, § 20(part), 1974)

### **§ 17.36.040 GENERAL STANDARDS.**

In a C-2 zone, the following shall apply to all uses permitted outright except two-family and multi-family dwellings.

- A. A development plan shall be submitted to the city as a part of a building permit or a change of use of the property.
- B. The development plan shall show the locations of all existing and proposed buildings and structures, all parking areas and vehicular ingress and egress points, lighting, signs, screening, landscaping and such other data as may have a bearing on adjacent properties.
- C. Vehicular ingress and egress, signs, lighting, and landscaping and screening must meet the standards of this title.

(Ord. 1235, § 1(part), 2013; Ord. 1111, 1997; Ord. 644, § 20(part), 1974)

### **§ 17.36.050 YARDS.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in a C-2 zone yards shall be as follows:

- A. The front yard shall be a minimum of 20 feet;

B. The street side yard shall be a minimum of 20 feet;

C. A side or rear yard abutting a residential zone shall be a minimum of ten feet;

D. Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line;

E. Setbacks for automobile service stations. Freestanding gasoline pumps and pump islands may occupy a required front or street side yard; provided, they are a minimum of 15 feet from the property line separating the yard from the street.

(Ord. 1235, § 1(part), 2013; Ord. 1101, 1997; Ord. 644, § 20(part), 1974)

#### **§ 17.36.060 LOT COVERAGE.**

In a C-2 zone, buildings shall not occupy more than 50% of the lot area.

(Ord. 644, § 20(part), 1974)

#### **§ 17.36.070 BUILDING HEIGHT.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, no building shall exceed a height of 35 feet.

(Ord. 644, § 20(part), 1974)

#### **§ 17.36.080 OPEN STORAGE.**

There shall be no open storage in the C-2 zone at any business or upon other property excluding residences without first obtaining an annual open storage permit.

(Ord. 1235, § 1(part), 2013; Ord. 1026, 1991)

#### **§ 17.36.090 EXTERIOR LIGHTING.**

Exterior lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a lot in a residential zone.

(Ord. 1101, 1997)

#### **§ 17.36.100 USE OF RESIDENTIAL STRUCTURES IN COMMERCIAL ZONES.**

Preexisting residential structures may be occupied by uses permitted in the zone provided the structure meets minimum building and safety standards as outlined in the building codes.

(Ord. 1235, § 1(part), 2013; Ord. 1101, 1997)

### **CHAPTER 17.40: C-3 COMMERCIAL NEIGHBORHOOD ZONE**

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#### Section

17.40.010 Purpose.

17.40.020 Uses permitted outright.

17.40.030 Conditional uses permitted.

**§ 17.40.010 PURPOSE.**

The purpose of the C-3 zone is to provide areas suitable and desirable for retail and service enterprises which are appropriate to meet the convenience shopping needs of people living within the immediate surrounding area. Areas designated for this purpose are intended to be extremely limited in size. They should be spaced at intervals of at least one-half mile from each other in order to assure their compatibility with surrounding areas and that the areas will be developed and maintained at a suitable neighborhood scale.

(Ord. 644, § 30(part), 1974)

**§ 17.40.020 USES PERMITTED OUTRIGHT.**

In a C-3 zone, the following uses and their accessory uses shall be permitted outright:

- A. A use permitted outright in an R-3 zone;
- B. Food store;
- C. Drug store;
- D. Variety store;
- E. Barber or beauty shop;
- F. Laundromat, clothes cleaning establishment;
- G. Indoor snack bar, if accessory to, and an internal part of, a drug or variety store;
- H. Rooming or boarding house; and
- I. Bed and breakfast establishment.

(Ord. 905, 1983; Ord. 687, (part), 1977; Ord. 644, § 30(part), 1974)

**§ 17.40.030 CONDITIONAL USES PERMITTED.**

In a C-3 zone, the following uses and their accessory uses may be permitted subject to the provisions of this section and Chapter 17.80:

- A. Church, non-profit religious or philanthropic institution;
- B. Community center;
- C. Governmental structure or use of land, or public utility facility. All equipment and material storage shall be within an enclosed building. No workshop areas shall be permitted; and
- D. Office, business or professional, but not including veterinarian.

(Ord. 687, (part), 1977; Ord. 644, § 30(part), 1974)

**§ 17.40.040 SPECIAL STANDARDS.**

In a C-3 zone, the following special standards shall apply.

- A. Residential uses shall be subject to the requirements of the R-2 zone.
- B. Uses other than residential shall be subject to the requirements of the C-2 zone.

C. The maximum size of any C-3 zoned area shall be two acres. No establishment situated within a C-3 zone shall exceed a size of 10,000 square feet, including building, storage, sales and off-street parking and loading areas.

D. Areas zoned C-3 shall be located no closer than one-half mile to each other.

E. Areas zoned C-3 shall be situated on either an arterial or collector street as indicated on the city comprehensive plan.

F. All parking areas and service drives shall be permanently surfaced and clearly and permanently marked.

G. Off-street parking areas intended for five or more cars shall be provided with screening consisting of a fence, wall, hedge or similar sight-obscuring material installed within six months of completion of the parking area and shall be maintained in good condition.

H. Marijuana facilities are prohibited.

(Ord. 1255, § 5, 2017; Ord. 1235, § 1(part), 2013; Ord. 905, 1983; Ord. 687, (part), 1977; Ord. 644, § 30(part), 1974)

## **CHAPTER 17.44: M INDUSTRIAL ZONE**

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### Section

17.44.010 Purpose.

17.44.020 Uses permitted outright.

17.44.030 Conditional uses permitted.

17.44.040 Limitation on use.

17.44.050 Yards.

17.44.060 Lot coverage.

17.44.070 Building height.

17.44.090 Exterior lighting.

### **§ 17.44.010 PURPOSE.**

The purpose of the M zone is to provide areas suitable and desirable for all types of industrial activity; provided that, development controls are utilized to minimize possible harmful effects related to air and water pollution and to potential nuisance hazards such as fire, explosion or noise. The M zone is appropriate in those large areas already developed for industrial use and in those areas possessing site characteristics suitable for industry, such as good access to highway and rail facilities, readily available water and sewer systems, level and well drained sites, and little or no potential hazard to nearby residential or commercial areas.

(Ord. 644, § 10(part), 1974)

### **§ 17.44.020 USES PERMITTED OUTRIGHT.**

In an M zone, the following uses and their accessory uses are permitted outright:

A. Truck terminal, freight depot;

B. Wholesale establishment;

C. A use involving manufacture, research, warehousing, assembly, processing or fabricating, except the following:

1. A use listed as a conditional use in the M zone; and

2. A use which has been declared a nuisance by statute, ordinance or a court of competent jurisdiction.

D. Amateur radio antennas; and

E. Commercial radio stations and antennas.

(Ord. 1160, § 7, 2003; Ord. 644, § 10(part), 1974)

### **§ 17.44.030 CONDITIONAL USES PERMITTED.**

In an M zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

A. Manufacturing and related uses including:

1. Cement, lime or similar products manufacture;

2. Explosives storage or manufacture;

3. Petroleum products manufacture or refining;

4. Pulp mill;

5. Rendering plant, tannery, slaughterhouse;

6. Smelting, refining of metallic ore; and

7. Other uses similar to the above which may possess characteristics injurious to public health and safety due to emission of smoke, noise, dust, odor, refuse, fumes, vibration or similar hazard.

B. Airport;

C. Automobile wrecking yard, junkyard;

D. Public utility or safety facility;

E. Retail sales or repair when secondary to the outright use;

F. Heavy equipment repair;

G. Feed, seed store;

H. Plumbing, heating, electrical or paint contractor's storage, sales or repair shop;

I. Controlled recreation;

J. A single-family dwelling occupied by the owner, manager, night watchperson or caretaker of the industrial establishment may be permitted accessory to the industrial use; and

K. Marijuana producer, marijuana processor, marijuana wholesaler, a marijuana laboratory, a marijuana test facility, a marijuana grow site, and a marijuana processor site.

(Ord. 1255, § 6, 2017; Ord. 1101, 1997; Ord. 1061, 1993; Ord. 905, 1983; Ord. 644, § 10(part), 1974)

### **§ 17.44.040 LIMITATION ON USE.**

Uses permitted outright involving manufacture and all conditional uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, the Mid-Willamette Valley Air Pollution Authority and any other public agency having appropriate regulatory jurisdiction. Prior to approval of conditional use permits or zoning permits, evidence shall be submitted to the city indicating that the proposed activity has been approved by all appropriate regulatory agencies.

(Ord. 644, § 10(part), 1974)

### **§ 17.44.050 YARDS.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in an M zone yards shall be as follows.

- A. The front yard shall be a minimum of 20 feet.
- B. The street side yard shall be a minimum of 20 feet.
- C. A side or rear yard abutting a residential zone shall be a minimum of 20 feet.
- D. Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.

(Ord. 1235, § 1(part), 2013; Ord. 1101, 1997; Ord. 644, § 10(part), 1974)

#### **§ 17.44.060 LOT COVERAGE.**

In an M zone, buildings shall not occupy more than 50% of the lot area.

(Ord. 644, § 10(part), 1974)

#### **§ 17.44.070 BUILDING HEIGHT.**

Except as provided in Chapter 17.80 and §§ 17.08.030 through 17.08.130, in an M zone building heights shall not be restricted. However, all buildings exceeding 35 feet in height to be constructed or substantially altered or extended shall meet all applicable state of Oregon and city standards related to public safety and fire protection.

(Ord. 644, § 10(part), 1974)

#### **§ 17.44.090 EXTERIOR LIGHTING.**

Exterior lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a lot in a residential zone.

(Ord. 1101, 1997)

### **CHAPTER 17.48: PD PLANNED DEVELOPMENT ZONE**

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#### Section

- 17.48.010 Purpose.
- 17.48.020 Establishment in combination with the underlying zone.
- 17.48.030 Standards and requirements.
- 17.48.040 Application.
- 17.48.050 Review criteria.
- 17.48.060 Action and findings by the Planning Commission.
- 17.48.070 Changes to approved plans.
- 17.48.080 Effective date of development plan approval.
- 17.48.090 Noncompliance with the approved development plan.

#### **§ 17.48.010 PURPOSE.**

The purpose of Planned Development Zone is to make possible a greater variety and diversification in the relationships between buildings and open spaces in planned building groups, while insuring compliance with the purposes and objectives of the zoning regulations and the intent and purpose of this chapter.

(Ord. 1154, § 1, 2003)

#### **§ 17.48.020 ESTABLISHMENT IN COMBINATION WITH THE UNDERLYING ZONE.**

A PD zone is an overlay zone that can be applied in conjunction with any other zone designation. Although this overlay designation permits modifications to the site development standards of the underlying zone standards, it does not permit changes in uses specified by the underlying zone. The following subsections allow for Planning Commission review of a detailed development plan. When a planned development project is proposed without a Planned Development Zone designation, the Official Zoning Map shall be amended with a planned development overlay designation for the subject development site.

(Ord. 1154, § 1, 2003)

#### **§ 17.48.030 STANDARDS AND REQUIREMENTS.**

Approval of a request for a planned development is dependent upon the submission of an acceptable plan and satisfactory assurance that it will be carried out. The following minimum standards and requirements shall apply.

- A. A use permitted in an underlying zone may be permitted in a planned development.
- B. A planned development must meet the applicable requirements of Oregon Revised Statutes for planned developments.
- C. Public and private streets shall be developed to city standards.
- D. Pedestrian walkways and bikeways shall be provided for adequate internal pedestrian and bicycle traffic and shall connect to any adjacent existing or planned sidewalks, bikeways, access corridors or public trails.
- E. All utility facilities shall be installed underground and in accordance with city standards.
- F. Open space areas and facilities include such things as landscaped areas, natural areas, golf courses and other recreational facilities, but does not include streets, sidewalks, bikeways, access corridors or trails.
- G.
  1. A facility providing services in support of uses within a planned development may be permitted in any zone within the planned development. Services in support may include such services as housekeeping, landscape maintenance, security, meeting rooms, clubhouses, swimming pools, tennis courts, catered food service facilities, parking, offices and related facilities for staff, administrators, owners associations and owners and their guests.
  2. Provisions shall be made to buffer these uses from incompatible uses on adjoining properties.
- H. Phases, if proposed, shall be:
  1. Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces and similar physical features; capable of substantial occupancy, operation and maintenance upon completion of construction and development;
  2. Arranged to avoid conflicts between higher and lower density development;
  3. Properly related to other services of the community as a whole and to those facilities and services yet to be provided; and
  4. Provided with such temporary or permanent transitional features, buffers or protective areas as may be required to prevent damage or detriment to any completed phases and to adjoining properties not in the planned development.

(Ord. 1154, § 1, 2003)

#### **§ 17.48.040 APPLICATION.**

The person filing the application must be the owner or his or her agent. If the planned development is to include land in more than one ownership, the application must be submitted jointly by all of the owners of the separately owned properties to be included.

A. *Application requirements.*

1. One copy of the narrative on eight and one-half inches by 11 inches sheets;
2. Four sets of scaled drawings of the conceptual development plan, with sheet size not to exceed 24 inches by 36 inches. Where necessary, an overall plan with additional detail sheets may be submitted;
3. One set of the development plan shall be reduced to fit on eight and one-half inches by 11 inches sheets of paper. Names and numbers must be legible on this sheet size; and
4. After the application is accepted as complete, any revisions may require a new application, additional filing fees and rescheduling of the public hearing.

B. *Development plan required.* All applications shall be accompanied by a development plan drawn to scale showing the following:

1. Use or uses;
2. Dimensions and locations of proposed structures and of areas to be reserved for vehicular and pedestrian circulation, parking, public uses, open spaces, including landscaping;
3. Drawings and sketches demonstrating the design and character of the proposed uses and the physical relationships of the uses; and
4. Such other pertinent information shall be included as may be considered necessary by the review authority to make a determination that the contemplated arrangement or use makes it necessary and desirable to apply regulations and requirements differing from those ordinarily applicable under this ordinance and Title 16 of this code of ordinances.

C. *Narrative requirements.* A written statement shall include the following information:

1. A description of the character of the proposed development;
2. Analysis of how the application meets the review criteria;
3. Intentions with regard to ownership in the planned development;
4. Quantitative data for the following where appropriate:
  - a. Total number and type of dwelling units;
  - b. Parcel sizes;
  - c. Proposed lot coverage of buildings and structures where known;
  - d. Gross densities per acre;
  - e. Total amount of open space; and
  - f. Total amount of nonresidential construction.
5. General statement of intentions concerning timing, responsibilities and assurances for all public and non-public improvements; and
6. Statement describing project phasing, if proposed.

(Ord. 1154, § 1, 2003)

**§ 17.48.050 REVIEW CRITERIA.**

- A. Requests for approval of a planned development shall be reviewed to assure consistency with the purposes of this chapter, policies and density requirements of the Comprehensive Plan, and any other applicable policies and standards adopted by the city.
- B. The project will be compatible with adjacent developments, with consideration of the following factors, if applicable:
  1. Basic site design, including the organization of uses on a site;



2. Visual elements (scale, structural design and form, materials and so forth);
3. Noise reduction;
4. Noxious odors;
5. Lighting;
6. Signage;
7. Landscaping for buffering and screening;
8. Traffic;
9. Effects on off-site parking; and
10. Effects on air and water quality.

C. The applicant has, through investigation, planning and programming, demonstrated the soundness of the proposal and their ability to carry out the project as proposed.

D. Construction can begin within six months of the conclusion of any necessary action by the city, or within such longer period of time as may be established by the Planning Commission.

E. The proposal conforms with location and general development standards of the city.

F. The project will benefit the city and the general public in terms of need, convenience, service and appearance so as to justify any necessary variances to the regulations of Titles 16 and 17 of this code of ordinances.

G. The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points and additional street right-of-way and improvements and any other traffic facilities required on or off site.

H. The project will satisfactorily take care of sewer and water needs consistent with city policy and plans.

I. A planned development in a residential zone will not result in a higher density than permitted by the Comprehensive Plan for the underlying zone.

(Ord. 1154, § 1, 2003)

#### **§ 17.48.060 ACTION AND FINDINGS BY PLANNING COMMISSION .**

The Planning Commission shall conduct a public hearing in accordance with Chapter 17.12 of this code of ordinances. Following the close of the hearing, the Planning Commission shall either approve, conditionally approve or deny the development plan. The Commission's decision shall include findings that specify how the application has or has not complied with the above review criteria. A planned development as authorized shall be subject to all conditions imposed and shall be varied from other provisions of this chapter only to the extent specified in the approval.

(Ord. 1154, § 1, 2003)

#### **§ 17.48.070 CHANGES TO APPROVED PLANS.**

An applicant may petition for review of an approved development plan for the purpose of modifying that plan. The petition must include a statement of the reasons for any changes, as well as graphical and text representations of the proposed changes.

A. *Major changes.* When determined by the Community Development Director that the proposed change is a major change from one or more of the review criteria listed above, a hearing with notice as required in Chapter 17.12 of this code of ordinances shall be scheduled before the Planning Commission. In reviewing the proposed modification, the Planning Commission shall follow the procedure required for submittal and review of a new plan. The Planning Commission may consider the redesign of the development plan in whole or in part.

B. *Minor changes.* When the Community Development Director determines that proposed modifications of a plan reduce negative effects or have no effect on the surrounding area, they may be reviewed and approved as an administrative action.

(Ord. 1154, § 1, 2003)

### **§ 17.48.080 EFFECTIVE DATE OF DEVELOPMENT PLAN APPROVAL.**

A. The following effective dates apply to a planned development approval. The Planning Commission may establish different time frames.

1. Construction must begin within six months of the conclusion of any necessary action by the city.
2. Approval of a development plan shall be valid for a three-year period from the date of approval without documented progress to complete implementation of an approved development plan.
3. The Planning Commission may permit implementation of the development plan in phases.

B. At its discretion and without a public hearing, the Commission may extend the approval one time for a period not to exceed two additional years.

(Ord. 1154, § 1, 2003)

### **§ 17.48.090 NONCOMPLIANCE WITH THE APPROVED DEVELOPMENT PLAN.**

If the Community Development Director determines that the development substantially differs from the approved plans, the Community Development Director shall notify the developer, Code Enforcement Officer and the Building Official in writing. Enforcement of the approved development plans will proceed under the available processes.

(Ord. 1154, § 1, 2003)

## **CHAPTER 17.52: MI MOBILE HOME INFILL OVERLAY ZONE**

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### Section

- 17.52.010 Purpose.
- 17.52.020 Establishment.
- 17.52.030 Uses permitted.
- 17.52.040 Designation on the zoning map.

### **§ 17.52.010 PURPOSE.**

The mobile home infill overlay is intended to meet the requirements of O.R.S. 197.295 through O.R.S. 197.313, by allowing the permanent placement of mobile homes on individual, residentially zoned lots. This overlay zone will complement the city's other procedures for reviewing mobile home placement applications by establishing an expedited procedure for the placement of better quality doublewide mobile homes in designated areas of the city.

(Ord. 1028, (part), 1991)

### **§ 17.52.020 ESTABLISHMENT.**

The M-I overlay is applied to three areas of the city.

A. The first area consists of residentially zoned lots east of Clark Mill Road to the city limits and north of Highway 20 to the city limits (excluding lots directly abutting Highway 20).

B. The second area consists of residentially zoned lots east of 35th Avenue to the city limits and south of Highway 20 to the city limits (excluding lots directly abutting Highway 20).

C. The third area consists of residential lots west of 18th Avenue to the city limits and north of the railroad tracks to the city limits.

(Ord. 1028, (part), 1991)

### **§ 17.52.030 USES PERMITTED.**

In an area where a M-I zone is combined, in addition to the uses permitted in the underlying zone, a doublewide mobile home on an individual lot is permitted outright, subject to the placement standards of § 17.80.080J. All other uses permitted in the basic or underlying zone with which an M-I overlay is combined are subject to the provisions of the underlying zone.

(Ord. 1028, (part), 1991)

### **§ 17.52.040 DESIGNATION ON THE ZONING MAP.**

The mobile home infill area shall be designated by an M-I symbol on the zoning map and shall be in addition to the symbol for the underlying zone.

(Ord. 1028, (part), 1991)

## **CHAPTER 17.60: RC RECREATION COMMERCIAL ZONE**

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### Section

17.60.010 Purpose.

17.60.020 Uses permitted outright.

17.60.030 Conditional uses permitted.

17.60.040 Special standards.

17.60.050 Development Plan Review.

### **§ 17.60.010 PURPOSE.**

The purpose of the RC zone is to provide and maintain areas which possess unique characteristics for recreation-related commercial and residential development, and which are suitable and desirable for recreation businesses for tourists and recreationists in the area. A high standard is essential in order to maintain and enhance the appearance of the area and its unique value to the community.

(Ord. 1155, § 1, 2003)

### **§ 17.60.020 USES PERMITTED OUTRIGHT.**

In an RC zone, the following uses and their accessory uses are permitted outright:

- A. Motel, hotel or resort;
- B. Recreational vehicle park;
- C. Recreational vehicle park with owner time share;
- D. Museum or art gallery;

- E. Community center, meeting facility, convention center or similar use;
- F. Residential uses related to or in conjunction with a recreational development;
- G. Eating and drinking establishment;
- H. Bed and breakfast establishment;
- I. Recreational retail;
- J. Arts and crafts workshops and retail sales;
- K. Amusement or recreation services;
- L. Recreational teaching facilities;
- M. Single-family dwellings on legal lots of record at the time of enactment of this chapter; and
- N. Residential facilities.

(Ord. 1155, § 1, 2003)

### **§ 17.60.030 CONDITIONAL USES PERMITTED.**

In an RC zone, the following uses and their accessory uses may be permitted as a part of a planned development (PD), or subject to the provisions of this section and Chapter 17.80:

- A. Aggregate extraction;
- B. Light industrial uses;
- C. Recreation oriented uses or activities not listed above;
- D. Residential uses not related to or in conjunction with a recreational development;
- E. Public storage facility;
- F. Non-recreational retail;
- G. Governmental structure or use of land, or public utility facility. All equipment and material storage shall be within an enclosed building; and
- H. Marijuana retailer or medical dispensary.

(Ord. 1255, § 7, 2017; Ord. 1155, § 1, 2003)

### **§ 17.60.040 SPECIAL STANDARDS.**

In an RC zone, the following special standards shall apply unless modified as a part of a planned development.

- A. Single-family dwellings and accessory uses shall meet the following minimum standards.
  - 1. Minimum lot size shall be 8,000 square feet.
  - 2. Minimum lot width shall be 80 feet.
  - 3. Minimum yard setbacks:
    - a. Front, from either a public or private street, shall be a minimum of 20 feet;
    - b. Side shall be a minimum five feet with a combined minimum of 13 feet;
    - c. Street side shall be minimum of 15 feet;

- d. A garage shall have a minimum setback of 20 feet from the point of access to the vehicle doors; and
  - e. Rear shall be a minimum of 15 feet.
4. Building height shall not exceed 30 feet.
  5. Building coverage shall not exceed 35% of the land area.
  6. A carport or garage is required.
  7. Off-street parking will be based on the city parking standards.
- B. Two-family dwellings and accessory uses shall meet the following standards.
1. Minimum lot size shall be 5,000 square feet.
  2. Minimum lot width shall be 60 feet.
  3. Minimum yard setbacks:
    - a. Front, from either a public or private street, shall be a minimum of 20 feet;
    - b. Side shall be a minimum of five feet;
    - c. Street side shall be minimum of 15 feet;
    - d. A garage shall have a minimum setback of 20 feet from the point of access to the vehicle doors; and
    - e. Rear shall be a minimum of ten feet.
  4. Building height shall not exceed 40 feet.
  5. Building coverage shall not exceed 50% of the land area.
  6. A carport or garage for each unit is required.
  7. Off-street parking will be based on the city parking standards.
- C. Multi-family dwellings and accessory uses shall meet the following standards.
1. Minimum lot size shall be 1,245 square feet per unit.
  2. Minimum yard setbacks:
    - a. Front, from either a public or private street, shall be 20 feet;
    - b. Side shall be a minimum ten feet;
    - c. Street side shall be minimum of 15 feet;
    - d. A garage shall have a minimum setback of 20 feet from the point of access to the vehicle doors; and
    - e. Rear shall be a minimum of ten feet.
  3. Building height shall not exceed 40 feet.
  4. Building coverage shall not exceed 60% of the land area.
  5. Off-street parking will be based on the city parking standards.
- D. Single-family attached dwellings shall meet the following standards.
1. Minimum lot size shall be 1,245 square feet per unit.
  2. Minimum yard setbacks:
    - a. Front, from either a public or private street, shall be 20 feet;
    - b. Sides between units shall be zero;

- c. Sides on exterior boundaries shall be five feet;
  - d. Street side shall be a minimum of 15 feet;
  - e. A garage shall have a minimum setback of 20 feet from the point of access to the vehicle doors; and
  - f. Rear shall be a minimum of ten feet.
- 3. Building height shall not exceed 40 feet.
  - 4. Building coverage shall not exceed 60% of the land area.
  - 5. Off-street parking will be based on the city parking standards.
- E. Commercial establishments shall meet the following standards.
- 1. Off-street parking will be based on the city parking standards.
  - 2. A minimum of 15% of the land area shall be designed as open space with appropriate landscaping. To the maximum extent feasible, natural features of the land shall be preserved.
  - 3. Building height shall not exceed 45 feet.
  - 4. Yard setbacks:
    - a. Front, from either a public or private street, shall be 20 feet; and
    - b. (1) Sides, none, except if abutting residential zones, and then the side yard shall be at least ten feet.  
(2) The required side yard shall be increased by one-half foot for each foot the building height that exceeds 20 feet.
    - c. (1) Rear, none, except if abutting residential zones, and then the rear yard shall be at least ten feet.  
(2) The required rear yard shall be increased by one-half foot for each foot that the building height exceeds 20 feet.

(Ord. 1155, § 1, 2003)

#### **§ 17.60.050 DEVELOPMENT PLAN REVIEW.**

In the RC Zone, submittal of a plan for development on a specific piece of property shall comply with the following.

- A. The site plan, with proposed land uses, shall include accurate measurements from property lines to and between all structures.
- B. Building types, with approximate dimensions should be submitted. The plans should indicate the general height, bulk and appearance of buildings.
- C. Vehicular and pedestrian access and circulation must be included on the plan.
- D. The configuration, including a count and size of all spaces and aisle widths, of all parking areas should be included.
- E. Existing natural features such as streams, riparian zone, wetlands and topography must be shown before construction and include proposed impacts to the natural resources.
- F. Proposals for landscaping, fencing or other barriers should be included on the plan.
- G. Proposals for the location, size, height and lighting of signs should be submitted.
- H. Proposals for the provision of water, fire suppression, sewage, storm drainage, exterior lighting and solid waste must be submitted.

(Ord. 1155, § 1, 2003)

## Section

- 17.68.010 Purpose.
- 17.68.020 Establishment.
- 17.68.030 Uses permitted.
- 17.68.040 Conditional uses permitted.
- 17.68.050 Limitations.

### **§ 17.68.010 PURPOSE.**

The R/M(T) zone is a transitional zone which provides a process that allows for the consideration of converting property in a residential area to industrial uses (e.g., sites for small industry, expansion to existing industry, etc.). It is not the intent of the zone to allow industrial development to occur at the cost of existing residential development. Industrial development should be allowed only when measures have been taken to protect remaining residential property from nuisances which may result from industrial activities (i.e., noise, smoke, odor, dust, fire or explosion hazard or pollution of air and water). In order to protect existing residential development from potential industrial nuisances and to facilitate an orderly and efficient conversion of land from residential to industrial uses, it is intended that all industrial uses in the zone shall be subject to conditional use process.

(Ord. 791, (part), 1980; Ord. 644, § 20(part), 1974)

### **§ 17.68.020 ESTABLISHMENT.**

An R/M(T) zone may be applied to any residential zoned neighborhood or area which is adjacent to industrial zoned land and has been designated industrial by the city's Comprehensive Plan.

(Ord. 791, (part), 1980; Ord. 644, § 20(part), 1974)

### **§ 17.68.030 USES PERMITTED.**

In an R/M(T) zone, the following uses and their accessory uses are permitted outright:

- A. Single-family dwelling;
- B. Residential facility; and
- C. Manufactured homes meeting the standards of § 17.24.090.

(Ord. 1069, 1994; Ord. 1039, (part), 1992; Ord. 791, (part), 1980; Ord. 644, § 20(part), 1974)

### **§ 17.68.040 CONDITIONAL USES PERMITTED.**

In the R/M(T) zone, all uses allowed in the industrial zone and accessory uses may be permitted subject to the provisions of this section and Chapter 17.80. In addition, rooming and boarding houses shall be permitted subject to the provisions of this chapter and Chapter 17.80.

(Ord. 905, 1983; Ord. 791, (part), 1980; Ord. 644, § 20(part), 1974)

### **§ 17.68.050 LIMITATIONS.**

- A. Single-family dwellings and residential facilities shall be subject to the standards of the R-1 zone except building size for which R-2 standards shall apply.

B. Uses permitted conditionally involving manufacture shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality and any other public agency having appropriate regulatory jurisdiction. Prior to approval of conditional use permits or zoning permits, evidence shall be submitted to the city indicating that the proposed activity has been approved by appropriate regulatory agencies.

C. All industrial uses shall be subject to the yard lot coverage and building height standards of the M zone.

D. Marijuana facilities are prohibited.

(Ord. 1255, § 8, 2017; Ord. 1069, 1994; Ord. 1039, 1992; Ord. 905, §§ 2, 3, 1983; Ord. 791, (part), 1980; Ord. 644, § 20(part), 1974)

## **CHAPTER 17.72: NR NATURAL RESOURCES**

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### Section

- 17.72.010 Purpose.
- 17.72.020 Establishment.
- 17.72.030 Applicability.
- 17.72.040 Activities subject to review.
- 17.72.050 Exceptions in the riparian zone.
- 17.72.060 Agency review.
- 17.72.070 General development standards.
- 17.72.080 Variances.
- 17.72.090 Mitigation standards.
- 17.72.100 Plan amendment option.

### **§ 17.72.010 PURPOSE.**

The NR zone is designed to protect identified significant natural resources in the City of Sweet Home. The intent of this zone is to ensure reasonable economic use of property while protecting valuable natural resources.

(Ord. 1156, § 1, 2003)

### **§ 17.72.020 ESTABLISHMENT.**

An NR zone is an overlay zone that can be applied in conjunction with any other zone designation. The NR zone is applied to natural resource areas identified in this chapter.

(Ord. 1156, § 1, 2003)

### **§ 17.72.030 APPLICABILITY.**

The procedures and requirements of the NR Zone apply to any parcel designated as having one of the following identified natural resources:

- A. Significant wetlands, as mapped in the city's Local Wetlands Inventory (LWI); and
- B. Riparian corridors, as mapped in the city's Riparian Inventory.



(Ord. 1156, § 1, 2003)

#### **§ 17.72.040 ACTIVITIES SUBJECT TO REVIEW.**

In an NR zone, the following actions are subject to the review:

- A. New structural development;
- B. Exterior expansion of any building or structure;
- C. Increases in impervious surfaces or storage areas;
- D. Grading, excavation or fill; and
- E. Removal of native vegetation.

(Ord. 1156, § 1, 2003)

#### **§ 17.72.050 EXCEPTIONS IN THE RIPARIAN ZONE.**

The following activities may be excepted from the requirements of this chapter upon administrative review approval that they are designed to meet the standards listed in this chapter.

- A. Drainage facilities, utilities and irrigation pumps;
- B. Streets, roads, driveways or paths;
- C. Water-related and water-dependent uses;
- D. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area;
- E. Removal of non-native vegetation and replacement with native plant species; and
- F. Alteration of the area by placement of structures or impervious surfaces within the Riparian Zone upon demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment or similar measures; providing that, the alterations not exceed 50% of the width of the riparian area, measured from the upland edge of the Zone.

(Ord. 1156, § 1, 2003)

#### **§ 17.72.060 AGENCY REVIEW.**

Decisions made by the City of Sweet Home under this chapter do not supercede the authority of the state or federal agencies which may regulate or have an interest in the activity in question.

- A. It is the responsibility of the landowner or applicant to ensure that any necessary state or federal permits or clearances are obtained.
- B. The city will notify the Division of State Lands for development permits and other land use decisions affecting inventoried wetlands.

(Ord. 1156, § 1, 2003)

#### **§ 17.72.070 GENERAL DEVELOPMENT STANDARDS.**

- A. The City of Sweet Home has adopted safe harbor setback methodology for the identification of significant riparian corridors and significant wetlands. These resources are identified on the Local Wetlands Inventory and Riparian Inventory Maps. Property owners are responsible to have a qualified professional identify the wetlands boundary on the affected property.
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<i>Natural Area</i>	<i>Width of Vegetated Corridor, per side</i>
South Santiam River	75'
Ames Creek and Wiley Creek	50'

- B. Setbacks for structures within a riparian corridor are measured from the top of bank, which is the line of ordinary high water in a two-year event.
- C. For an exception to be allowed, the applicant shall comply with the following requirements:
1. Demonstrate that no other practicable access to the buildable area exists;
  2. Design roads, driveways and paths to be the minimum width necessary while allowing for safe passage of vehicles and/or pedestrians;
  3. Consider the need for future extensions of shared access, access easements or private streets in order to avoid subsequent encroachments into a significant natural resource;
  4. During construction, no stockpiling of fill materials, parking or storage of equipment shall be allowed within a significant natural resource;
  5. Erosion control measures, such as silt fences and biofilter bags, shall be used to reduce the likelihood of sediment and untreated stormwater entering a significant natural resource;
  6. Utilities and drainage facilities: Public and private utilities or drainage facilities may be placed when it is shown that no other practicable alternative location exists. If a utility or drainage facility is allowed, the following standards shall apply:
    - a. Demonstrate that no other practicable access exists;
    - b. The corridor necessary to construct utilities shall be the minimum width practical so as to minimize intrusion into a significant natural resource;
    - c. Removal of trees and native vegetation shall be avoided unless absolutely necessary. Native vegetation shall be used to restore the vegetative character of the construction corridor;
    - d. The existing grade of the land shall be restored after construction; and
    - e. No stockpiling of fill materials, parking or storage of equipment shall be allowed within a significant natural resource.
  7. Structures or other non-conforming alterations existing fully or partially within a significant Natural Resource may be expanded provided the expansion occurs outside of a significant natural resource. Substantial improvement of a non-conforming structure in a significant natural resource shall require compliance with the standards of this chapter.
  8. Existing lawn within a significant natural resource may be maintained, but not expanded within the limits of a significant natural resource. Development activities shall not justify replacement of native vegetation, especially riparian vegetation, with lawn.
- D. 1. Removal of non-native vegetation and replacement with native plant species is allowed and shall comply with the following requirements.
2. The replacement vegetation shall at a minimum:
    - a. Cover the area from which vegetation was removed;
    - b. Maintain or exceed the density of the removed vegetation; and
    - c. Maintain or improve the shade provided by the vegetation.
- E. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from the Community Development Director.

F. The control or removal of nuisance plants should primarily be by non-chemical means (e.g. hand-pulling).

1. If non-chemical means fail to adequately control nuisance plant populations, a glyphosate based herbicide, or other environmentally safe herbicide, may be used.

2. No pre-emergent herbicides or auxin herbicides that pose a risk of contaminating water should be used.

3. Herbicide applications must be applied according to manufactured specifications.

(Ord. 1156, § 1, 2003)

### **§ 17.72.080 VARIANCES.**

A variance to the provisions of this chapter may be applied for to consider hardships, claims of map errors verified by DSL, and when necessary to allow reasonable economic use of the subject property. Permanent alteration of the significant natural resource by an action requiring a variance is subject to the mitigation procedures and criteria of this chapter.

(Ord. 1156, § 1, 2003)

### **§ 17.72.090 MITIGATION STANDARDS.**

When impacts to any identified significant natural resource occur, mitigation will be required.

A. For impacts to wetlands, the following standards and criteria shall apply.

1. The applicant must obtain a fill and removal permit from the Oregon Division of State Lands and U.S. Army Corps of Engineers.

2. The applicant must provide an approved mitigation plan that complies with all Oregon Division of State Lands and U.S. Army Corps of Engineers wetland regulations.

B. For impacts to riparian corridors, the following standards and criteria shall apply:

1. A mitigation plan prepared by a qualified professional shall be submitted to the city. The mitigation plan shall meet the following criteria:

a. Mitigation for impacts to a non-wetlands riparian area shall require a minimum mitigation area ratio of one to one;

b. The mitigation plan shall document:

(1) The location of the impact;

(2) The existing conditions of the resource prior to impact;

(3) The location of the proposed mitigation area;

(4) A detailed planting plan of the proposed mitigation area with species and density; and

(5) A narrative describing how the resource will be replaced.

2. Mitigation shall occur on-site and as close to the impact area as possible. If this is not feasible, mitigation shall occur within the same drainage basin as the impact.

3. All vegetation planted within the mitigation area shall be native to the region. Species to be planted in the mitigation area shall replace those impacted by the development activity.

4. Trees shall be planted at a density of not less than five per 1,000 square feet. Shrubs shall be planted at a density of not less than ten per 1,000 square feet.

(Ord. 1156, § 1, 2003)

## **§ 17.72.100 PLAN AMENDMENT OPTION.**

A. Any owner of property affected by the NR Zone may apply for a Zone amendment. The amendment must be based on a specific development proposal. The effect of the amendment would be to remove the NR Zone from all or a portion of the property. The applicant shall demonstrate that such an amendment is justified by completing an Environmental, Social, Economic and Energy (ESEE) Consequences Analysis prepared in accordance with Oregon Administrative Rules. If the application is approved, then the ESEE analysis shall be incorporated by reference into the applicable Sweet Home Inventory and the Maps shall be amended.

B. The ESEE analysis shall adhere to the following requirements.

1. The ESEE analysis must demonstrate to the ultimate satisfaction of the Sweet Home City Council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource.
2. The ESEE analysis must demonstrate why the use cannot be located on land outside of the natural resource area.
3. The ESEE analysis shall be prepared by a qualified professional experienced in the preparation of Goal 5 ESEE analyses, with review by DLCD.

(Ord. 1156, § 1, 2003)

## **CHAPTER 17.80: CONDITIONAL USES**

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### Section

17.80.010 Purpose.

17.80.020 Process.

17.80.030 Application requirements.

17.80.040 Use criteria.

17.80.050 Conditions of approval.

17.80.060 Modification to approved plans and developments and transfers.

17.80.070 Expiration of approval.

17.80.080 Termination of a conditional use.

### **§ 17.80.010 PURPOSE.**

Certain uses require a case-by-case review and analysis due to the nature of their potential impacts on surrounding land uses and public facilities. These are identified as conditional uses. A conditional use is an activity which is basically similar to other uses permitted in the zone. It is the intent of this chapter to provide standards and procedures so that these uses may be permitted, enlarged or altered in a manner that will not be detrimental to the public health, safety and general welfare, or to adjacent properties. Nothing in this chapter guarantees that a conditional use permit will be issued.

(Ord. 1225, § 1, 2011)

### **§ 17.80.020 PROCESS.**

An application for a conditional use permit shall be processed as a quasi-judicial land use decision. Notice will be provided as per § 17.12.120. The Planning Commission will hold a public hearing following the procedures in § 17.12.130. Ministerial decisions will be made without public notice or hearing.

(Ord. 1225, § 1, 2011)

### **§ 17.80.030 APPLICATION REQUIREMENTS.**

An application for a conditional use must meet the submittal requirements and the decision criteria noted below.

A. The applicant shall file an application with the city. Within 30 days following the filing of the application, the City Planner will make a determination of completeness regarding the application. If deemed complete, the application will be processed in accordance with this title.

B. The application form shall be accompanied by the following information:

1. A site plan drawn to scale showing the dimensions and arrangement of the proposed development on the subject lot;
2. Narrative describing the proposed use and the impacts on the neighborhood;
3. For commercial activities, a proposed plan of business operation;
4. Off street parking and on-site circulation plans for vehicles, bicycles, and pedestrians;
5. The location and dimensions of entrances and exits;
6. A Traffic Impact Study, if required by the City Engineer and the City Planner;
7. Landscape plans;
8. A signage plan, if applicable;
9. Drawings of the exterior for new buildings;
10. Photographs of existing buildings if no changes are to be made to the exterior of the building.

(Ord. 1225, § 1, 2011)

### **§ 17.80.040 USE CRITERIA.**

The criteria that will be used in approving, approving with conditions, or denying an application, or to enlarge or alter a conditional use, will be based on findings with respect to each of the following standards and criteria.

A. The request complies with the requirements of the underlying zone or overlay zone, city codes, state and federal laws.

B. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering, but not limited too, the following:

1. Building size;
2. Parking;
3. Traffic;
4. Noise;
5. Vibration;
6. Exhaust and emissions;
7. Light and glare;
8. Erosion;
9. Odor;
10. Dust;
11. Visibility;
12. Safety;

13. Building, landscaping or street features.

C. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval that include but are not limited to those listed in this chapter.

D. All required public facilities have adequate capacity, as determined by the city, to serve the proposed use.

E. Home occupations must meet the following standards:

1. The home occupation shall be secondary to the residential use.

2. All aspects of the home occupation shall be contained and conducted within a completely enclosing building.

3. No materials or mechanical equipment shall be used which are detrimental to residential use of the dwelling or nearby dwellings because of vibration, noise, dust, smoke, odor, interference with the electrical grid, radio or television reception or other similar factors.

4. Vehicles related to the home occupation shall be parked in a manner so as to not block any driveway or impede the safe flow of traffic.

F. Marijuana facilities must be located in a fixed location. No temporary or mobile sites of any sort are allowed.

G. Marijuana facilities may not have any drive up services.

H. Marijuana facilities must be located at least 1,000 feet from the property boundary of any school.

I. Marijuana facilities must be sited on a property so as to be at least 100 feet from the boundary of any residentially zoned property.

(Ord. 1255, § 9, 2017; Ord. 1235, § 1(part), 2013; Ord. 1225, § 1, 2011)

### **§ 17.80.050 CONDITIONS OF APPROVAL.**

In approving a conditional use permit application, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this chapter, additional conditions determined to be necessary to assure that the proposed development meets the decision criteria as well as the best interests of the surrounding properties, the neighborhood, and the city as a whole.

A. These conditions may include, but are not limited to, the following:

1. Requiring larger setback areas, lot area, and/or lot depth or width;

2. Limiting the hours, days, place and/or manner of operation;

3. Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor or dust;

4. Limiting the building height, size or lot coverage, or location on the site;

5. Designating the size, number, locations and/or design of vehicle access points, parking areas, or loading areas;

6. Increasing the number of required parking spaces;

7. Requiring street right-of-ways to be dedicated and streets, sidewalks, curbs, planting strips, pathways or trails to be improved, so long as findings in the development approval indicate how the dedication and/or improvements, if not voluntarily accepted by the applicant, are roughly proportional to the impact of the proposed development;

8. Limiting the number, size, location, height and lighting of signs;

9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

10. Requiring fencing, screening, landscaping, berms, drainage, water quality facilities or other facilities to protect adjacent or nearby property, and the establishment of standards for their installation and maintenance;

11. Designating sites for open space or outdoor recreation areas;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, and historic or cultural resources;
13. Requiring ongoing maintenance of buildings and grounds;
14. Setting a time limit for which the conditional use is approved.

B. Uses existing prior to the effective date of this chapter and classified in Title 17 as a conditional use shall meet the criteria for modification of approved plans and developments.

C. The Planning Commission may require the applicant of an approved conditional use permit to enter into an agreement with the city for improvements in accordance with the provisions of Chapter 16.24. This is to assure that the conditions of approval are completed according to the plans as approved by the Planning Commission.

(Ord. 1225, § 1, 2011)

### **§ 17.80.060 MODIFICATION TO APPROVED PLANS AND DEVELOPMENTS AND TRANSFERS.**

A. Acceptable modification requests of an approved plan or existing development may be processed as a ministerial decision with, no notice or hearing, by the City Planner only if the following threshold criteria can be met:

1. There will be no change in land use;
2. The proposed change does not result in an increase in the overall impacts to adjacent properties;
3. There is no increase in the amount of operational activity;
4. The proposed change does not violate the standards of the land use zone;
5. The proposed change does not result in a change to lot or parcel boundary lines.

B. Proposed changes that do not meet the above criteria shall be processed as a new application.

C. Transfers.

1. A conditional use permit is transferable to an applicant's successors within six months of a change in ownership or management of an approved use if it complies with the approval of the original application and meet the criteria for an acceptable modification.

2. Between six months and one year from a change of ownership or management, the City Planner may review and approve a transfer of the conditional use permit if it complies with the approval of the original application and meets the criteria for an acceptable modification.

(Ord. 1225, § 1, 2011)

### **§ 17.80.070 EXPIRATION OF APPROVAL.**

A conditional use permit shall be void one year after the date of the Planning Commission approval if the use has not been substantially established within that time period.

A. Substantial establishment of a use will be determined based on the following:

1. The approved use has been lawfully established; or
2. New construction required for the operation of the conditional use permit has been permitted and construction has progressed in a timely manner as determined by the building permit process.
3. All conditions of approval have been met or any failure to fully comply is not the fault of the applicant and progress continues to be made towards compliance.

B. The City Planner may grant one extension of up to one year for a conditional use permit that contained a one year initial duration upon written request of the applicant and prior to the expiration of the approved period.

C. Requests other than a one year request made prior to the expiration of the approved period must be approved by the Planning Commission.

D. A conditional use permit not meeting the above time frames will be expired and a new application will be required.

(Ord. 1225, § 1, 2011)

### **§ 17.80.080 TERMINATION OF A CONDITIONAL USE.**

A conditional use permit may be terminated by the Planning Commission. A termination will be processed in the same manner as a new conditional use application.

A. The following persons may initiate a termination hearing:

1. The owner of the subject property;
2. The Planning Commission;
3. The city.

B. A termination shall be based on facts including any one or more of the following:

1. Approval of the conditional use was obtained by misrepresentation;
2. The use does not meet the conditions specifically established in the conditional use approval;
3. The use is in violation of any provision of this title or any other applicable city codes, or statutes;
4. The use has been inactive for a period exceeding one year.

(Ord. 1225, § 1, 2011)

## **CHAPTER 17.84: NONCONFORMING USES**

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### Section

- 17.84.010 Purpose.
- 17.84.020 Continuation of a nonconforming use.
- 17.84.030 Nonconforming structure.
- 17.84.035 Nonconforming parcels.
- 17.84.040 Discontinuance of a nonconforming use.
- 17.84.050 Change of a nonconforming use.
- 17.84.060 Destruction of a nonconforming use or structure.
- 17.84.070 Repairs and maintenance.
- 17.84.080 Completion of structure.

### **§ 17.84.010 PURPOSE.**

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



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

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

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

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

(Ord. 1235, § 1(part), 2013)

#### **§ 17.84.030 NONCONFORMING STRUCTURE.**

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

(Ord. 644, § 7.030, 1974)

#### **§ 17.84.035 NONCONFORMING PARCELS.**

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

(Ord. 1235, § 1(part), 2013)

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

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

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

(Ord. 644, § 7.040, 1974)

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

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

(Ord. 644, § 7.050, 1974)

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

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

(Ord. 644, § 7.060, 1974)

#### **§ 17.84.070 REPAIRS AND MAINTENANCE.**

Any building housing a nonconforming use may be maintained or restored to conform with the standards of the Building Code, including repair or replacement of fixtures, wiring or plumbing; provided, the building is not increased in cubic content or floor area.

(Ord. 644, § 7.070, 1974)

### **§ 17.84.080 COMPLETION OF STRUCTURE.**

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

(Ord. 644, § 7.080, 1974)

## **CHAPTER 17.88: VARIANCES**

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### Section

- 17.88.010 Purpose.
- 17.88.020 Process.
- 17.88.030 Application requirements.
- 17.88.040 Criteria.
- 17.88.050 Considerations.
- 17.88.060 Expiration of approval.
- 17.88.070 Extensions.
- 17.88.080 Termination of a variance.

### **§ 17.88.010 PURPOSE.**

The purpose of this chapter is to provide flexibility to development standards in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to permit efficient use of land while ensuring that the purpose of each development standard is met.

(Ord. 1229, § 1, 2012)

### **§ 17.88.020 PROCESS.**

An application for a variance shall be processed as a quasi-judicial land use decision. Notice will be provided as per § 17.12.120. The Planning Commission will hold a public hearing following the procedures in § 17.12.130. Ministerial decisions that do not require interpretation or the exercise of policy or legal judgment will be made without public notice or hearing.

(Ord. 1229, § 1, 2012)

### **§ 17.88.030 APPLICATION REQUIREMENTS.**

An application for a variance must meet the following submittal requirements.

A. The applicant shall file an application with the city. Within 30 days following the filing of the application, the city will make a determination of completeness of the application. If deemed complete, the application will be processed in accordance with this title.

B. The application form shall be accompanied by the following information:

1. A site plan drawn to scale, considering, but not limited to, the following:
  - a. The dimensions and arrangement of the existing and proposed development on the subject property;
  - b. Adjoining properties, streets, alleys, structures and drainage ways;
  - c. Identification of all requested variations;
  - d. Vehicle and pedestrian access ways;
  - e. Fences and walls;
  - f. Off street parking areas;
  - g. Natural features, such as waterways, floodplain, floodway or riparian areas, wetlands, trees, topography, etc.
2. Narrative describing the requested variation(s), alternatives considered, and the reason for the choices made.
3. A review of how the application meets the review criteria.

(Ord. 1229, § 1, 2012)

#### **§ 17.88.040 CRITERIA.**

The criteria that shall be used in approving, approving with conditions, or denying a requested variance will be based on findings with respect to compliance with each of the following criteria, if applicable.

- A. The development resulting from an approved variance will not be detrimental to public health or safety;
- B. The request is not in conflict with the Comprehensive Plan;
- C. The request is the minimum variance necessary to make reasonable use of the property;
- D. The requested variance is consistent with the purposes of the zone;
- E. If more than one variance is requested or needed, the cumulative effect of the variances will result in a project that remains consistent with the purposes of the zone;
- F. Identified negative impacts resulting from the variance can be mitigated to the extent practical;
- G. The location, size, design characteristics and other features of the proposal shall have minimal adverse impacts on property values, livability of the permitted development in the surrounding area, and the natural environment;
- H. The property has a physical circumstance or condition that makes it difficult to develop.

(Ord. 1229, § 1, 2012)

#### **§ 17.88.050 CONSIDERATIONS.**

A determination that the criteria have been met involves the balancing of competing and conflicting interests. The following considerations may be used as guidelines in the granting authority's deliberations.

- A. Whether the situation that created a need for a variance was created by the person requesting the variance;
- B. The economic impact upon the person requesting the variance if the request is denied;
- C. An analysis of the physical impacts the development could have, such as visual, noise, traffic, and increased potential for drainage, erosion or landslide hazards;
- D. Preservation of native tree species such as Oregon White Oak and Pacific Madrone over eight inches in caliper or Douglas Fir, Willamette Valley Ponderosa Pine, Big Leaf Maple, Incense and Western Red Cedar over 12 inches in caliper, measured at four and

one-half feet above grade on the uphill side;

E. Whether the proposal impacts the aesthetics of the property.

(Ord. 1229, § 1, 2012)

#### **§ 17.88.060 EXPIRATION OF APPROVAL.**

A variance shall be void one year, or other time specifically set by the Planning Commission, after the date of the Planning Commission approval if the development has not been substantially established within that time period.

A. Substantial establishment of a development will be determined based on the following:

1. The approved development has been lawfully established; or
2. New construction required in association with the variance has been permitted and has progressed in a timely manner as determined by the building permit process;
3. All conditions of approval have been met or any failure to fully comply is not the fault of the applicant and progress continues to be made towards compliance.

(Ord. 1229, § 1, 2012)

#### **§ 17.88.070 EXTENSIONS.**

A. The City Planner may grant one extension of up to one year for a variance that contained a one year initial duration upon written request of the applicant and prior to the expiration of the approved period. This must be a ministerial decision.

B. The Planning Commission may grant one extension of up to two years upon written request of the applicant and prior to the expiration of the approved period. This must be a ministerial decision.

C. A variance not meeting the above standards for extensions shall expire and a new application will be required.

(Ord. 1229, § 1, 2012)

#### **§ 17.88.080 TERMINATION OF A VARIANCE.**

A variance may be terminated by the Planning Commission. A termination will be processed in the same manner as a new variance application.

A. The following may initiate a termination hearing:

1. The owner of the subject property;
2. The Planning Commission;
- c. The city.

B. A termination shall be based on findings including any one or more of the following:

1. The approval of the variance was obtained by misrepresentation; or
2. The development does not meet the conditions specifically established in the variance approval; or
3. The development is in violation of any provision of this title or any other applicable city codes or state statutes.

(Ord. 1229, § 1, 2012)

17.92.010 Generally.

17.92.020 Abatement.

17.92.030 Violation-Penalty.

**§ 17.92.010 GENERALLY.**

The open storage of property in C-1 and C-2 zones shall be in accordance with the following rules, guidelines and standards.

A. No person shall have, allow or permit open storage of property in C-1 or C-2 zones without first obtaining an open storage permit from the city.

B. **OPEN STORAGE OF PROPERTY** means to put aside or accumulate property, for use when needed or later sale or disposal, in an area that is exposed to the public view from a public street (not alley). For purposes of this title, an annual permit is not required for:

1. Two or fewer enclosed trash/waste receptacles;
2. Operable vehicles that are parked not exceeding 30 days on the property;
3. Merchandise displayed for sale or rent by a business for less than 24 hours at a time;
4. Displays of new or used automobiles, trailers, trucks, boats or other mobile equipment, that are for sale or rent, but not parts thereof;
5. Nursery plants, shrubs or trees;
6. Permanent in place storage fuel tanks; and
7. Operable and in use (maintained and stocked) vending machines.

C. A nonrefundable fee to recover the cost of processing the permit shall be charged by the city in the amount of zero dollars per year. The fee shall not be charged for subsequent years if the permit conditions are not changed. The permit may be updated during the year at no extra charge. If the city initiates a permit review, no fee will be charged.

D. Each person wishing to obtain a permit shall apply for the permit on forms provided by the city before January 30 of each year or before any open storage is permitted.

E. The permit shall contain at least the following information and provisions:

1. The name, address and phone number of the owner of the real property and personal property;
2. The name, address and phone number of applicant, if other than the owner;
3. The address of the real property;
4. The type of business to be conducted on the premises;
5. The area to be used for open storage;
6. The kinds of property to be stored;
7. How the property is to be stored;
8. The terms, conditions and restrictions of the permit; and
9. The city can require further information if needed to make a decision on the permit.

F. The following standards shall be used in issuing a permit and no permit shall be issued unless the minimum standards are met:

1. When practicable, open storage of property is to be confined to an area on the property that is the furthest from the public street so that it has the least visual impact, e.g., at the rear of a building if less exposed to the public view;

2. When practicable, open storage shall not occur within 20 feet of a public street;
3. Property that is dirty, greasy, broken or dismantled is not appropriate for open storage;
4. Parts of vehicles, equipment or other property that is disassembled, disconnected or separated from its primary, central or main component or part is not appropriate for open storage;
5. Merchandise displayed for sale or rent shall be displayed in a way that does not look cluttered or haphazard, e.g., stacked firewood vs. piled firewood;
6. Property that by its use, design or construction is or was to be used inside a structure (out of the elements) is not appropriate for open storage, e.g., bed springs and mattress; appliances; plumbing fixtures; sofa; household furniture; and
7. Property that is waste product or scrap material of the business is not appropriate for open storage, e.g., worn out tires even if they have economic value.

G. If a permit is given to allow certain open storage for one year, that does not waive or forfeit the right of the city to initiate in the annual renewal process further improvements and upgrading of the premises to accomplish the goals of this title and §§ 17.32.060 and 17.36.080 in succeeding years.

H. In considering an open storage permit for C-1 or C-2 zones, the City Manager shall either approve the permit, deny the permit, or refer it to the Planning Commission for a decision. A decision of either the City Manager or Planning Commission may be appealed, using procedures as specified in § 17.12.090.

(Ord. 1027, § 1, 1991)

### **§ 17.92.020 ABATEMENT.**

Abatement of violations of this title can be accomplished by any remedy open to the city, including using the procedures for abatement of nuisances set out in other city ordinances, including Sweet Water Municipal Code Chapter 8.04 and 10.16 of this code. If abatement is performed by the city, the cost thereof shall become a lien on the property and/or an obligation of the owner of the property, as set out in the procedures followed for abatement.

(Ord. 1027, § 3, 1991)

### **§ 17.92.030 VIOLATION-PENALTY.**

Violations of this chapter constitute an infraction and may be prosecuted under the provisions of Chapter 9.36 as now enacted or hereafter amended. It is the duty of the owner of the property (both personal and real) as well as the applicant and possessor of the premises to abide by the terms, conditions and restrictions of the permit.

(Ord. 1027, § 2, 1991)

## **CHAPTER 17.96: SIGNS**

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### Section

- 17.96.010 Purpose.
- 17.96.020 Definitions.
- 17.96.030 General standards.
- 17.96.040 Design and construction.
- 17.96.050 Types of signs.
- 17.96.060 Exemptions.

17.96.070 Marquee signs.

17.96.080 Temporary signs.

17.96.090 Prohibited signs.

17.96.100 Signs in residential zones.

17.96.110 Signs in commercial and industrial zones.

17.96.120 Signs on public property.

17.96.130 Special signs.

17.96.140 Enforcement.

17.96.150 Interpretation.

17.96.160 Violation-Penalty.

### **§ 17.96.010 PURPOSE.**

A. The purpose of this chapter is to provide reasonable and necessary regulations for the design, construction, placement and maintenance of signs to protect the public health, safety and general welfare of the community. The regulations allow a variety of sign types and sizes. The sign standards are intended to allow for signs with adequate visibility to adjacent streets, but not necessarily to streets farther away.

B. The regulations for signs have the following specific objectives:

1. To ensure that signs are designed, constructed, installed and maintained to ensure public and traffic safety and enhance the appearance of the city;
2. To reflect and support the desired character and development patterns of the community;
3. To provide for adequate and effective signs without dominating the visual landscape;
4. To balance the needs of business with the desire to preserve and enhance the visual character of the city;
5. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections and other necessary clear vision areas.

(Ord. 1222, § 1, 2010)

### **§ 17.96.020 DEFINITIONS.**

**ABANDONED SIGN.** A sign structure with a display surface associated with a use of a property that has ceased for a period of at least six months.

**ALTERED.** The modification of the size, shape, or height of a sign, including the replacement of the display surface materials with other comparable materials and the sign structure. This does not include normal maintenance and repair of an existing sign.

**AWNING.** A permanent roofed structure which may be free-standing or partially attached to a building for the purpose of providing shelter.

**CLEARANCE.** The distance measured from the highest point of the grade below the sign to the lowest point of the sign.

**CURB LINE.** The face of the curb that delineates the roadway line from block to block, excluding pedestrian and parking bulb outs.

**DISPLAY SURFACE.** The area made available by the sign structure for the purpose of displaying the message.

**ERECT.** To build, construct, attach, place, suspend or affix, including the painting of wall signs.

**HEIGHT.** The distance measured from the highest point of the natural grade below the sign to the highest attached component of

the sign.

**ILLUMINATED.** A sign that contains or consists of lights or a light source including the following:

**EXPOSED ILLUMINATION.** A light source that is seen such as neon, fiber optics, LED, bare bulbs, or similar light sources.

**EXTERNAL ILLUMINATION.** An external light source directed to illuminate the exterior surface of the sign.

**INTERNAL ILLUMINATION.** A source of illumination from within a sign.

**MARQUEE.** A permanent roofed structure attached to and supported by the building and projecting over public property.

**MURAL.** Artwork on the inventory of and under the ownership of the Sweet Home Active Revitalization Effort (SHARE) - Mural Committee, a part of the Sweet Home Economic Development Group (SHEDG).

**NATURAL GRADE.** The elevation of the original or undisturbed natural surface of the ground.

**NONCONFORMING SIGN.** A sign lawfully existing at the time this chapter becomes effective which does not conform to the requirements of this chapter.

**PERMANENT.** Any sign intended to be used for a period greater than 60 days.

**SIGN.** Any object or device or part thereof that is used to advertise or identify an object, person, institution, organization, business, product, service, event or location by means including words, pictures, graphics, logos, symbols, colors, motion, illumination or projected images.

**SIGN STRUCTURE.** Any structure which supports a sign.

**WORK OF ART.** A work made and/or valued primarily for an artistic rather than practical function.

(Ord. 1222, § 1, 2010)

### **§ 17.96.030 GENERAL STANDARDS.**

A. It is unlawful for any person to erect, repair, alter, relocate or maintain within the city, any sign except as provided in this chapter.

B. Signs shall not be attached to an approved sign without permits to ensure compliance with this chapter.

C. Signs, along with their supports, braces, guys, anchors and electrical equipment, shall be kept fully operable, in good repair and maintained in a safe condition.

D. The display surfaces of signs shall be kept clean and legible.

E. Signs which do not conform to this chapter but which existed and were maintained as of the effective date of the ordinance codified in this chapter shall be considered nonconforming signs.

F. Any nonconforming sign that is altered or relocated shall immediately comply with all provisions of this chapter.

G. Sign area includes the area within a perimeter enclosing the limits of words, pictures, graphics, logos, symbols, colors, motion, illumination or projected images used to advertise or identify an object. The area of a sign with no such perimeter or the area of a sign with irregular shape shall be computed by enclosing the surface area within a known geometric size or shape. The measurable area shall not include the essential sign structure, foundations, supports, pole covers, or decorative roofing provided there is no advertising copy, symbols or logos present.

(Ord. 1222, § 1, 2010)

### **§ 17.96.040 DESIGN AND CONSTRUCTION.**

Signs shall be designed and constructed to comply with the provisions of this chapter and of building codes, as adopted in Title 15 for the use of materials, loads and stresses. Illuminated signs may require an electrical permit that must be obtained from the appropriate



governmental agency, currently the Linn County Building Department.

- A. All signs are subject to Sweet Home Building Inspection Program permit or a zoning permit, unless specifically exempted by this chapter.
- B. Where a permit is required, construction documents shall include a site plan and show the dimensions, material and required details of construction, including loads, stresses and anchors.
- C. Signs shall be designed and constructed for wind and seismic load and working stresses to meet building codes.
- D. LED signs shall have photocell(s) that dim to 50% levels during the night hours.
- E. Guy wires are permitted for support of a sign only in instances in which no other means of safe support exists.
- F. Trusses and frames which support signs, excepting sandwich board signs, will be enclosed with the supporting structures constructed as a part of the continuation of the sign.

(Ord. 1222, § 1, 2010)

### **§ 17.96.050 TYPES OF SIGNS.**

- A. *Awning sign.* Any sign that is displayed on or is a part of a fabric, metal or other structural awning material supported entirely from the exterior wall of a building.
- B. *Directional sign.* An on-premise sign designed to be read by a person already on the premises and used only to identify and locate an office, entrance, exit, telephone or similar place, service or route.
- C. *Double faced sign.* When two display surfaces supported by the same sign structure are placed back-to-back, or the distance between each sign face does not exceed two feet at any point, the display surfaces shall be regarded as a single sign.
- D. *Flexible sign.* A windsock, flag, pennant, streamer, banner or similar sign or structure that identifies the building or the business and/or attracts attention to the business and is constructed of cloth, canvas or similar material.
- E. *Group sign.* A sign identifying a group of businesses located on the same property, such as a shopping center shall be considered independent of the permitted sign area for the individual businesses.
- F. *Household sign.* A sign placed at a single family residence identifying the occupants.
- G. *Marquee sign.* A sign placed under a marquee or awning.
- H. *Projecting sign.* A sign that projects from and is supported by a wall of a building or structure and perpendicular or nearly perpendicular to the structure or wall.
- I. *Reader board.* A sign designed so that the message may be changed by removal or addition of specially designed letters that attach to the display surface of the sign.
- J. *Sandwich board sign.* A temporary sign of A-frame construction, usually two sided, designed for placement on the sidewalk in front of a place of business.
- K. *Temporary sign.* Any sign, regardless of construction material, which is not permanently mounted.
- L. *Wall sign.* A display surface attached flat onto a building or structure.
- M. *Window sign.* A sign placed in or on a window or glass door in a building.

(Ord. 1222, § 1, 2010)

### **§ 17.96.060 EXEMPTIONS.**

- A. The following are not included as signs:
  - 1. Flags of nations, states, and cities;

2. Window displays that are not signs;

3. Works of art.

B. Signs exempt from the Building Inspection Program permits include the following:

1. Signs painted directly on a structure. The Planning Office will issue a sign permit for these signs;

2. Signs erected by a transportation authority;

3. Signs under two and a half square feet in area.

(Ord. 1222, § 1, 2010)

### **§ 17.96.070 MARQUEE SIGNS.**

No part of a sign located under a marquee or awning shall project more than 12 inches below the marquee or awning and shall be at least eight feet above grade.

(Ord. 1222, § 1, 2010)

### **§ 17.96.080 TEMPORARY SIGNS.**

A. Temporary signs in a residential zone must be removed within 60 days of being placed on a property.

B. Temporary signs may not be located on private property without consent of the property owner or their agent.

(Ord. 1222, § 1, 2010)

### **§ 17.96.090 PROHIBITED SIGNS.**

No sign shall be constructed, erected or maintained that:

A. Intends to be, is an imitation of, or resembles an official traffic sign or signal;

B. By reason of its size, location, movement, content, coloring or manner of illumination:

1. May be interpreted as a traffic control device;

2. Blocks from view any traffic signal or street sign; or

3. May pose a hazard to pedestrians or vehicular traffic.

C. Is affixed to a utility pole without special approval from City Council and the appropriate utility;

D. Is affixed to a mural;

E. Is attached to or painted on vehicles visible from the right-of-way unless the vehicle is used for transport in the normal day-to-day operations of a business;

F. Is illuminated by flashing, chasing, intermittent effects or that has any movement or animation that may create a safety hazard;

G. Projects any sound that may create a safety hazard;

H. Shines directly into any adjacent residential quarters or onto vehicle drivers;

I. Obstructs any fire escape, window, door or opening used as a means of egress;

J. Prevents free passage from one part of a roof to any other part of the roof or any opening required for ventilation;

K. Substantially obstructs the view of a sign on adjoining property when viewed from a distance of 200 feet at any point four feet above the grade of the traffic lane closest to the street property line.

(Ord. 1222, § 1, 2010)

### **§ 17.96.100 SIGNS IN RESIDENTIAL ZONES.**

In an R-1 and R-2 zone, the following signs shall be allowed:

- A. A household sign not exceeding six inches by 18 inches in size, is not illuminated and is located entirely within the property lines of the lot;
- B. The maximum square footage of signs in a residential zone shall not exceed 60 square feet;
- C. Neighborhood organizations may place signs on private property with owner approval, provided that the sign does not exceed 18 inches by 24 inches in size, and is not illuminated;
- D. Commercial and professional uses and residential care facilities allowed in a residential zone may have one of the following principal signs:
  - 1. One monument or ground-mounted sign with up to 32 square feet of sign area and a maximum of five feet in height, or
  - 2. Signs attached to the structure not to exceed a maximum combined sign area of 12 square feet for each principal use in the building;
- E. Multi-family dwellings and subdivisions may have two monument or ground-mounted signs up to a total of 32 square feet of sign area and a maximum of five feet in height located at the principal entrances to the multi-family dwelling or subdivision;
- F. A temporary sign shall not exceed six square feet in area;
- G. A directional sign shall not exceed two square feet in area.

(Ord. 1222, § 1, 2010)

### **§ 17.96.110 SIGNS IN COMMERCIAL AND INDUSTRIAL ZONES.**

*Size:*

- A. The total square footage of signs for each property may not exceed an area equal to one square foot for each linear foot of public frontage of the property. Regardless of frontage, all properties are allocated at least 50 square feet of signage.
- B. In addition to square footage authorized for each property based on public frontage, an additional square footage for each business, as identified by a current certificate of occupancy, located on that property, is authorized as follows:
  - 1. If a business is located less than 50 feet from a public right-of-way, that business is allocated an additional 16 square feet of sign area, regardless of frontage.
  - 2. If a business is located more than 50 feet but less than 100 feet from a public right-of-way, that business is allocated an additional 32 square feet of sign area, regardless of frontage.
  - 3. If a business is located more than 100 feet but less than 200 feet from a public right-of-way, that business is allocated an additional 100 square feet of sign area, regardless of frontage.
  - 4. If a business is located more than 200 feet from a public right-of-way, that business is allocated an additional 200 square feet of sign area, regardless of frontage.
- C. A group sign, excluded from any square footage authorized, may not exceed an area equal to one square foot for each foot of public frontage of the property or 200 square feet, whichever is the least.
- D. Temporary and flexible signage is not included in the allocated square footage on a property in these zones.
- E. Signs in these zones may be illuminated.
- F. Signs in the Central Commercial (C-1) zone must conform to the following standards:

1. Every sign must maintain a minimum horizontal distance between the sign and the curb line of not less than two feet;
2. A sign projecting more than two-thirds of the distance from the property line to the curb line shall have a minimum clearance of at least 12 feet;
3. A sign projecting less than two-thirds of the distance from the property line to the curb line shall have a minimum clearance of at least eight feet.

G. Signs in the Highway Commercial (C-2) and Recreational Commercial (RC) and Industrial(M) zones must conform with the following standards:

1. No sign shall be located so it will extend beyond the property lines;
2. Signs shall meet one of the following standards:
  - a. The display surface of the sign must have a minimum clearance of 12 feet if located within five feet of the property line;
  - b. If a display surface has a clearance of less than 12 feet, all parts of the sign shall be located a minimum of five feet behind the property line.

H. Signs in the Neighborhood Commercial (C-3) zone must conform with the following standards:

1. No more than one sign, not to exceed 25 square feet in area.
2. The sign shall be placed flat against the building.

(Ord. 1235, § 1(part), 2013; Ord. 1222, § 1, 2010)

#### **§ 17.96.120 SIGNS ON PUBLIC PROPERTY.**

A. The city or another public agency sign shall be allowed to be erected, installed, replaced, or maintained in or on any public property, including streets.

B. Temporary signs may not be located in public right-of-ways, except as allowed by this section:

1. Flexible signs in existing pole hole locations in sidewalks, or as approved in the future by the appropriate jurisdiction, as long as the display surface does not exceed 12 inches in width, three feet in length, and is not located in an area that will block the view of vehicular or pedestrian traffic;

2. In the Central Commercial zone, sandwich board signs may be placed on the sidewalk as long as they do not exceed six square feet in size, three feet in height, and are not located in an area that will block the view of vehicular or pedestrian traffic. Placement of a sandwich board must maintain a clear pedestrian passage area of at least four feet for Americans with Disabilities Act passage clearance. Placement should take into consideration curb parking and the ability to open car doors.

C. Banners for special events may be placed over right-of-ways at locations with permanent attachments with approval of the jurisdictions having authority of the right-of-way and the structure where the banner will be attached.

(Ord. 1222, § 1, 2010)

#### **§ 17.96.130 SPECIAL SIGNS.**

Signs that either do not lend themselves to the ordinary processes of measurement because they are integrated into the design of the building structure or signs designed for a special purpose that makes strict application to this chapter difficult may be permitted as a conditional use when the Planning Commission finds such signs conform with the intent of this chapter and are appropriate to the type of development or structure to which they are related.

(Ord. 1222, § 1, 2010)

#### **§ 17.96.140 ENFORCEMENT.**

A. All required permits must be obtained prior to placement of the sign.

B. Signs that do not comply with this chapter or that are abandoned are declared a nuisance and the city may cause the removal of the sign.

C. The city may use Chapter 8.04 Article II for the abatement procedures for this chapter.

D. If the owner of the sign, or the owner of the premises upon which the sign was located, does not pay the costs of removal, the city may dispose of the sign.

(Ord. 1222, § 1, 2010)

### **§ 17.96.150 INTERPRETATION.**

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

(Ord. 1222, § 1, 2010)

### **§ 17.96.160 VIOLATION-PENALTY.**

Violation of this chapter constitutes a violation and may be prosecuted under the provisions of Chapter 9.36. Each day the violation continues will be considered a separate offense.

(Ord. 1222, § 1, 2010)

## **CHAPTER 17.98: WIRELESS TELECOMMUNICATIONS FACILITIES**

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### Section

- 17.98.010 Purpose.
- 17.98.020 Definitions.
- 17.98.030 Review procedures.
- 17.98.040 Siting preferences.
- 17.98.050 Standards and requirements.
- 17.98.060 Attached telecommunications facilities.
- 17.98.070 Abandonment of facilities.
- 17.98.080 Application.
- 17.98.090 Special review criteria.

### **§ 17.98.010 PURPOSE.**

The purpose of this section is:

A. To minimize adverse health, safety, public welfare or visual impacts of towers, through careful design, siting, landscaping and innovative visual compatibility techniques;

B. To encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers;

C. To encourage utilization of technological designs that will either eliminate or reduce the need for construction of new tower facilities;

D. To avoid potential damage to property caused by facilities, by ensuring such structures are sound and carefully designed, constructed, modified, maintained and removed when no longer used or are determined to be structurally unsound; and

E. To ensure that towers are compatible with surrounding land uses.

(Ord. 1160, § 1, 2003)

## **§ 17.98.020 DEFINITIONS.**

For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ANTENNA, WIRELESS TELECOMMUNICATIONS.** The physical device, commonly in the form of a metal rod, wire panel or dish, through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. **ANTENNAS** used by amateur radio operators, police, fire and AM radio are excluded from this definition.

**ATTACHED WIRELESS TELECOMMUNICATIONS FACILITY.** A wireless telecommunications facility that is affixed to an existing structure, other than a wireless telecommunications tower.

**CO-LOCATION.** A wireless telecommunications facility comprised of a single telecommunications tower or building supporting one or more antennas, dishes or similar devices owned or used by more than one provider.

**LATTICE TOWER.** A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

**MONOPOLE.** A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

**PROVIDER.** A company holding a Federal Communications Commission (FCC) license that is in business to provide telecommunications services.

**WIRELESS TELECOMMUNICATIONS.** The transmission, via radio frequency electromagnetic waves, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**WIRELESS TELECOMMUNICATIONS ACCESSORY STRUCTURE/EQUIPMENT.** Equipment shelters or radio equipment necessary for the operation of wireless telecommunications in addition to the antenna and tower.

**WIRELESS TELECOMMUNICATIONS EQUIPMENT SHELTER.** The structure in which the electronic radio equipment and relay equipment for a wireless telecommunications facility is housed.

**WIRELESS TELECOMMUNICATIONS FACILITY (WTF).** A facility consisting of the equipment and structures involved in receiving and or transmitting telecommunications or radio signals.

**WIRELESS TELECOMMUNICATIONS SUPPORT FACILITY.** A wireless telecommunications tower.

**WIRELESS TELECOMMUNICATIONS TOWER.** A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice towers, but not excluding any other approved structure.

**VISUAL COMPATIBILITY CHARACTERISTICS.** Characteristics that minimize the visual impact of a tower or antennas.

(Ord. 1160, § 1, 2003)

## **§ 17.98.030 REVIEW PROCEDURES.**

A. Wireless telecommunications facilities, hereby referred to as "WTFS" and/or "facilities" within this section, require a conditional use permit.

B. The process of review is dependent on the type of facility proposed (i.e. co-located/attached or freestanding) and its proposed

location.

1. *Notice.* When mailed notice of a public hearing or an administrative action relating to a wireless communication facility is required by this chapter, the notice shall be sent to owners of record of property where the property is located as follows:

a. Within 300 feet from the exterior boundary of the subject property when the proposed WTF meets the height requirement of this chapter; and

b. For WTFs that exceed the height requirement of this chapter, an additional 50 feet of notice area is required for every ten-foot increment in height.

2. *Action and findings by Planning Commission.* For applications proposing the siting of wireless telecommunications facilities through means other than attachment, the Planning Commission shall conduct a public hearing in accordance with Chapter 17.12 of this code. Following the close of the hearing, the Planning Commission shall either approve, conditionally approve or deny the development plan. A wireless communication facility, as authorized, shall be subject to all conditions imposed and shall be varied from other provisions of this chapter only to the extent specified in the approval.

3. *Conditional uses permitted.* Wireless telecommunications facilities shall be permitted upon granting of a conditional use permit in all zones, except subsection B.4. of this section.

4. *Uses prohibited.* Wireless telecommunications facilities shall be prohibited in the Natural Resources Overlay Zone.

(Ord. 1160, § 1, 2003)

#### **§ 17.98.040 SITING PREFERENCES.**

WTFs shall be sited in accordance with the following priorities, in order of their preference. If the applicant proposes a facility on lower priority preferences, the applicant shall prove conclusively, that each of the higher priorities has been considered and found to be not feasible.

A. *Priority #1.* Use of an attached wireless communication facility whereby transmission and reception devices are placed on existing structures which are consistent in height with and situated similarly to types normally found in the surrounding area, such as telephone, electrical or light poles.

B. *Priority #2.* 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 existing structure.

C. *Priority #3.* Siting of a new tower, in a visually subordinate manner, using visual compatibility techniques.

D. *Priority #4.* Siting of a new tower in a visually dominant location, but employing visual compatibility techniques.

E. *Priority #5.* Siting of a tower in a visually dominant location, not employing visual compatibility techniques.

(Ord. 1160, § 1, 2003)

#### **§ 17.98.050 STANDARDS AND REQUIREMENTS.**

A. *General; conflict.* All facilities shall meet all requirements established by the other provisions of SHMC that are not in conflict with the requirements contained in this chapter.

B. *General; compliance.* All facilities shall comply with all federal, state and city codes, including, but not limited to, Federal Communication Commission and Federal Aviation Administration standards.

C. *Access.* Access shall meet the standards of the underlying zone.

D. *Height.*

1. Height of a facility shall be measured from the natural, undisturbed ground surface below the center of the base of the proposed facility to the top of the facility or if higher, the tip of the highest antenna or other transmission or reception device.

2. No WTF shall exceed the height standard of this chapter, except where attached to an existing structure that exceeds that

height and the attached antennas do not increase the total height of that structure by more than ten feet.

E. *Co-location.*

1. New facilities, if technically feasible, will be designed and constructed for three antennas/providers to co-locate on the facility and to allow antennas mounted at varying heights.
2. The owner of a facility may not deny a wireless telecommunications provider the ability to co-locate on its wireless communication facility at a fair market rate or at another cost agreed to by the affected parties.
3. A facility may be attached to any existing structure as long as the height of that structure is not increased by more than ten feet and so long as it meets all relevant requirements of this section.
4. Co-location shall not be precluded simply because a reasonable fee or shared use is charged or because reasonable costs necessary to adopt the existing or proposed uses to a shared tower. The Planning Commission may consider expert testimony to determine whether the fees and costs are reasonable.
5. Co-location costs that exceed new tower development costs are considered to be unreasonable.

F. *Construction.* All facilities must meet the requirements of the *Uniform Building Code* and/or the *Oregon Structural Specialty Code*.

G. *Design.* Where possible new facilities will be located in such a manner that they blend in with the background around them, using techniques to ensure visual compatibility characteristics.

1. All new WTF towers shall be a monopole or lattice tower structure constructed out of metal or other nonflammable material.
2. All accessory structures (i.e vaults, equipment rooms, utilities and equipment enclosures) shall be concealed, camouflaged, shall be consistent with the underlying zone or shall be placed underground.
3. Visible exterior surfaces of accessory facilities (i.e. vaults, equipment rooms, utilities and equipment enclosures) shall be constructed out of nonreflective materials.
4. WTFs shall be initially painted and thereafter repainted as necessary with a "flat" paint. The color shall be one that will minimize the facility's visibility to the maximum extent feasible.

H. *Landscaping.* All WTFs shall be installed in such a manner as to maintain and enhance existing vegetation. Where no vegetation exists, a landscaping plan must be submitted for the site.

I. *Lighting.* No lighting shall be permitted on a WTF except as required for security and as required by the Federal Aviation Administration. Security lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto any street or a lot in a residential zone.

J. *Location.* No telecommunications facility shall be installed on an exposed ridge line unless it blends with the surrounding existing natural and human-made environment in such a manner as to be visually compatible with the environment.

K. *Setbacks.* Facilities shall be set back at least 25% of the tower height from all property lines or shall meet the setbacks of the underlying zone, which ever is greater.

L. *Safety.* All WTFs shall maintain in place a security program that will deter unauthorized access and vandalism.

M. *Underground equipment shelters.* Underground equipment shelters should be considered.

N. *Signs.*

1. Signs shall comply with the requirements set forth in this chapter.
2. All telecommunications facilities shall be clearly identified as to the location and operator so as to facilitate emergency response.

(Ord. 1160, § 1, 2003)

**§ 17.98.060 ATTACHED TELECOMMUNICATIONS FACILITIES.**



All attached facilities shall be located and designed to appear an integral part of the structure.

- A. Roof mounted antennas and all building mounted accessory equipment shall be located no closer to the nearest edge of the roof than the height of the antenna or accessory equipment, whichever is greater.
- B. Wall mounted antennas shall be architecturally integrated into the building.
- C. Wall mounted antennas shall be located no more than four feet from the face of the wall.
- D. Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

(Ord. 1160, § 1, 2003)

#### **§ 17.98.070 ABANDONMENT OF FACILITIES.**

Wireless telecommunications facilities that do not have functioning antennas for a period of six months shall be considered abandoned and shall be removed by the owner or operator within 60 days thereafter.

(Ord. 1160, § 1, 2003)

#### **§ 17.98.080 APPLICATION.**

##### *A. Application requirements.*

- 1. One copy of the narrative on eight and one-half inch by 11-inch sheets;
- 2. A development site plan drawn to scale with sheet size not to exceeding 24 inches by 36 inches. Where necessary, an overall plan with additional detail sheets may be submitted;
- 3. All information necessary to evaluate the request;
- 4. One set of the plan shall be reduced to fit on eight and one-half inch by 11-inch sheets of paper. Names and numbers must be legible on this sheet size; and
- 5. After the application is accepted as complete, any revisions may require a new application, additional filing fees and rescheduling of the public hearing.

*B. Development plan required.* All applications shall be accompanied by a development plan drawn to scale showing the following:

- 1. Use or uses;
- 2. Location of the proposed facility and relevant dimensions;
- 3. Height of the proposed facility;
- 4. Setbacks for the proposed facility;
- 5. A photo simulation of the proposed WTF for the maximum number of providers;
- 6. Dimensions and location of areas to be reserved for vehicular and pedestrian access and circulation;
- 7. A landscaping plan that indicates how the facility will be screened from adjoining uses;
- 8. A fencing plan that indicates the location, height and design of any proposed fencing;
- 9. A lighting plan that indicates the type and location of any proposed lighting;
- 10. A sign plan that indicates the size, location, and design of any proposed signage;
- 11. Drawings demonstrating the materials, color and design of the proposed facility;

12. A map showing all existing wireless communication facility sites operated by the provider within two miles of the Sweet Home boundary, or the top of the nearby ridges, whichever is greater, including a description of the facility at each location;

13. A propagation study indicting proposed facility and the adjacent hand-off sites;

14. If provider proposes to construct a new facility (tower), all applications shall include findings that demonstrate that it is not legally or technically feasible to co-locate:

a. Documentation of the efforts that have been made to co-locate on existing or previously approved towers;

b. Each provider shall make a good faith effort to contact the owner(s) of all existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form of contact and the result of contact; and

c. Documentation as to why co-locating on an existing or proposed tower or attachment to existing structures within one-half mile of the proposed site is not feasible.

15. Such other pertinent information shall be included as may be considered necessary by the review authority to make a determination that the contemplated arrangement or use makes it necessary and desirable to apply regulations and requirements differing from those ordinarily applicable under this chapter and the subdivision ordinance.

C. *Narrative required.* A written statement shall include the following information:

1. The name and contact information for the provider;

2. A description of the character of the proposed facility;

3. Analysis of how the application meets the review criteria;

4. Applicants/providers shall provide evidence of legal access to the proposed wireless telecommunications facility;

5. The applicant/provider shall provide evidence that legal access to the facility site will be maintained for the duration of the facility's operation;

6. Where a proposed wireless telecommunications facility is located on a property not owned by the provider, the applicant/provider shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility;

7. The applicant shall provide evidence that describes the facility tower's structural capacity to carry the antennas of at least three wireless telecommunications providers;

8. The applicant shall provide evidence of steps the provider will take to avoid interference with normal radio and television reception in the surrounding area and with any public safety agency or organization, per FCC requirements;

9. a. The applicant shall demonstrate that the WTF is intended to provide service primarily within the community.

b. The city reserves the right to deny a permit if it is shown that the facility is not intended to provide service primarily within the community.

10. The applicant/provider shall demonstrate that the wireless telecommunications facility must be located where it is proposed in order to service the provider's service area. There shall be an explanation of why a facility at this proposed site is technically necessary;

11. If the applicant/provider proposes a new tower or co-located facility, the applicant shall provide evidence that the facility's height is the lowest height at which the gap in coverage can be filled;

12. a. All applications shall include evidence that at least one provider will use the proposed facility to provide wireless telecommunications service immediately upon construction completion of the facility.

b. The city reserves the right to deny applications that propose a facility without a provider.

13. The application shall include a written agreement that wireless telecommunications facilities owned by the provider, that do not have an operating antenna for a period of six months, shall be considered abandoned and shall be removed by the operator within 60 days thereafter; and

14. The application shall include a written agreement from the property owner that if the provider fails to remove an abandoned

WTF, the property owner has full legal and fiscal responsibility for the WTF removal.

(Ord. 1160, § 1, 2003)

### **§ 17.98.090 SPECIAL REVIEW CRITERIA.**

A. *Residential zones.* A wireless telecommunications facility is not allowed in any residential zone unless it is an attached WTF that meets the requirements of this section.

1. *Access.* Standards for access are the set by the underlying zone.

2. *Height.* A facility that is attached to an existing structure may not exceed the height of the existing structure, unless findings are made by the Planning Commission that such an increase will have a minimal impact on the appearance of the structure.

3. *Landscaping.* Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter.

4. *Signs.* Facilities shall be identified with an identification sign not exceeding two square feet in size.

5. *Accessory facilities.* Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

B. *Commercial zones.* A wireless telecommunications facility in any commercial zone must be either an attached WTF or a monopole, and that meets the requirements of this section.

1. *Access.* Standards for access are the set by the underlying zone.

2. *Height.* The height of a WTF shall not exceed 80 feet.

3. *Landscaping.* Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter. The accessory structure shall be screened by an evergreen material with an ultimate height of at least eight feet and a planted height of at least three feet. The landscaping must be protected and maintained.

4. *Signs.* Facilities shall be identified with an identification sign not exceeding two square feet in size.

5. *Accessory facilities.* Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

C. *Industrial zones.*

1. *Access.* Standards for access are the set by the underlying zone.

2. *Height.* Facilities shall not exceed 100 feet.

3. *Landscaping.* Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter. The accessory structure shall be screened by an evergreen material with an ultimate height of at least eight feet and a planted height of at least three feet. The landscaping must be protected and maintained.

4. *Signs.* Facilities shall be identified with an identification sign not exceeding two square feet in size.

5. *Accessory facilities.* Accessory structures for facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

(Ord. 1160, § 1, 2003)

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## **CHAPTER 17.100: VACATION OF PUBLIC WAYS**

Section

17.100.010 Generally.

**§ 17.100.010 GENERALLY.**

A. Upon receiving a proposal to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, or before initiating such vacation proceedings on its own motion, the Council shall refer the proposal to the Planning Commission.

B. The Planning Commission shall review the proposal, hold the hearings thereon as it deems proper and make recommendations to the Council.

C. In the event that the Council finds that immediate action is necessary to initiate proceedings for vacation before the proposal is referred to the Planning Commission for consideration, the Council may proceed, but the Planning Commission shall be promptly advised and afforded an opportunity to make recommendations at the hearing before the Council.

(Ord. 728, §§ 1-3, 1974)

**CHAPTER 17.104: ANNEXATIONS**

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Section

17.104.010 Generally.

**§ 17.104.010 GENERALLY.**

A. Upon receiving any petition for annexation of territory to the city, or before initiating any such action on its own motion, the Council shall refer the proposal for annexation to the Planning Commission for its consideration and recommendation.

B. The Planning Commission shall review the proposal for annexation, hold such hearings as it deems proper, make such finding of facts as it deems proper and make recommendations to the Council.

C. In the event that the Council finds that immediate action is necessary to initiate proceedings for annexation, either before the proposal is referred to the Planning Commission, or before recommendations are received from the Planning Commission, the Council may proceed, but the Planning Commission shall be promptly advised, so that it may have an opportunity to make recommendations to the Council during the Council proceedings.

(Ord. 729, §§ 1-3, 1974)