

## ORDINANCE 182

### AN ORDINANCE REPLACING CHAPTERS 155 AND 156 OF THE DUNES CITY CODE AND DECLARING AN EMERGENCY

**WHEREAS**, the Dunes City CCI, Planning Commission and City Council have been considering revisions to Chapters 155 and 156 of the Dunes City Code for over two years; and

**WHEREAS**, post-acknowledgment plan amendment notice of the proposed changes to Chapters 155 and 156 of the Dunes City Code was sent to DLCD on November 23, 2005; and

**WHEREAS**, in accordance with ORS 227.186 (Ballot Measure 56), notice of the proposed changes to Chapters 155 and 156 of the Dunes City Code was mailed to owners of real property in Dunes City on January 25, 2006, 22 days prior to the first evidentiary hearing; and

**WHEREAS**, the City Council is ready to consider adoption of revisions to Chapters 155 and 156 of the Dunes City Code.

**Dunes City ordains as follows:**

**Section 1. Replacement of Chapters 155 and 156 of the Dunes City Code**

Chapters 155 and 156 of the Dunes City Code are replaced with a new Chapter 155 attached as "Exhibit A" to this Ordinance and included by reference herein.

**Section 2. Severability Clause**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and that holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 3. Emergency Clause**

It being necessary for the peace, health, safety, or orderly development of the City of Dunes City, an emergency is hereby declared to exist and this ordinance shall become effective immediately upon its passage by the Council and signature by the Mayor.

**ADOPTED BY THE DUNES CITY COUNCIL THIS 12<sup>TH</sup> DAY OF DECEMBER, 2006.**

Ayes: 5

Nays: 0

Abstain: 0

*Vacant*

Absent: \_\_\_\_\_



Sheldon Meyer, Mayor



Joanne Hickey  
Joanne Hickey, City Recorder

# Chapter 155

## Zoning and Development

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**Section 155.1  
INTRODUCTION**

**155.1 INTRODUCTION**

**Sections:**

- 155.1.1 How to Use the Development Code
- 155.1.2 General Administration
- 155.1.3 Definitions
- 155.1.4 Enforcement

**155.1.1 How to Use the Development Code**

Welcome to the Dunes City Development Code. This is a comprehensive land use and development code that governs all of the land within the incorporated limits of Dunes City (See Dunes City Zoning Map). The six sections of the code are used together to review land use applications. They are organized as follows:

**155.1** - In addition to this brief introduction, Section 155.1 provides definitions for selected terms and information on the legal construct of the code. It also explains the City's authority to enforce the Development Code.

**155.2** - Every parcel, lot, and tract of land within the City's incorporated boundaries is also within a "land use district". (Land use districts are shown on the City's official zoning map.) Section 155.2 identifies the land uses that are permitted within each district, and the standards that apply to each type of land use (e.g., lot standards, setbacks, and use-specific design standards). As required by state law, the zones or "land use districts" conform to the Dunes City Comprehensive Plan. The districts reserve land for planned land uses, provide compatibility between different uses, and implement planned housing densities.

**155.3** - The design standards contained in Section 155.3 apply throughout the City. They are used in preparing development plans, and reviewing applications, to ensure compliance with City standards for access and circulation, landscaping, parking, public facilities, surface water management, housing densities, and sensitive lands.

**155.4** - Section 155.4 provides all of the application requirements and procedures for obtaining permits required by this code. Four types of permit procedures are covered: Type I (non-discretionary, "ministerial"

decision); Type II (discretionary, “administrative” decision); Type III (discretionary, quasi-judicial decision with public hearing); and Type IV (“legislative” decision by City Council).

**155.5** - Section 155.5 provides standards and procedures for variances and non-conforming situations (i.e., existing uses or development that do not comply with the code). This code cannot provide standards to fit every potential development situation. The City’s varied geography, and complexities of land development, require flexibility. Section 155.5 provides that flexibility, while maintaining the purposes and intent of the code.

## **155.6 – Appendix: Lot, Street, and Block Diagrams.**

### **155.1.2 — GENERAL ADMINISTRATION**

#### **Sections:**

- 155.1.2.1 Severability
- 155.1.2.2 Compliance and Scope
- 155.1.2.3 Consistency with Plan and Laws
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- 155.1.2.6 Building Permit and Certificate of Occupancy
- 155.1.2.7 Official Action

#### **155.1.2.1 Severability**

The provisions of this Title 15 are severable. If any chapter, section, sentence, clause or phrase of this title is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of this title.

#### **155.1.2.2 Compliance and Scope**

- A. Compliance with the provisions in the Development Code. Land and structures may be used or developed by construction, reconstruction, alteration, occupancy and use only as this Development Code (“Code”) or any amendment thereto permits. No plat shall be recorded nor building permit shall be issued without compliance with the provisions of this Code.
- B. Obligation by successor. The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons’ successors in interest.
- C. Most restrictive regulations apply. Where this Code imposes greater restrictions than those imposed or required by other rules or regulations, the most restrictive or that imposing the higher standard shall govern.
- D. Variances. The provisions of Section 155.5.1 shall govern variances.
- E. Transfer of development standards prohibited. No lot area, yard or other open space or off-street parking or loading area which is required by this Code for one use shall be a required lot area, yard or other open space or off-street parking or loading area for another use, except as otherwise specifically allowed by this Code.

#### **155.1.2.3 Consistency With Plan and Laws**

Each development and use application and other procedure initiated under this Code shall be consistent with the adopted Comprehensive Plan of Dunes City as implemented by this Code, and with applicable State and Federal laws and regulations. All provisions of this Code shall be construed in conformity with the adopted comprehensive plan.

#### **155.1.2.4 Use of a Development**

A development shall be used only for a lawful use. A lawful use of a development is one that is permitted by this Code (including non-conforming uses, subject to Section 155.5.2), and is not prohibited by law.

#### **155.1.2.5 Pre-Existing Approvals**

- A. Legality of pre-existing approvals. Developments, including subdivisions, projects requiring development review or site review approval, or other development applications for which approvals were granted prior to the effective date of this Code, may occur pursuant to such approvals, except that modifications to development approvals shall comply with Section 155.4.6 - Modifications to Approved Plans and Conditions of Approval.
- B. Subsequent development applications. All development proposals received by the City after the adoption of this Code shall be subject to review for conformance with the standards under this Code or as otherwise provided by State law.

#### **155.1.2.6 Building Permit and Certificate of Occupancy**

- A. Building permit. A building permit is required as defined in Chapter 151 of the Dunes City Code.
- B. Certificate of occupancy required. To ensure completion of a development or use in the manner approved, a development shall not be occupied and a use shall not begin until the City has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable land use and building permits.
- C. Prior to final completion. Prior to the final completion of all work, a certificate of occupancy may be issued for a portion of the structure conditioned upon further work being completed by a date certain.

#### **155.1.2.7 Official Action**

- A. Official Action. All officials, departments, employees (including contractor-officials), of the City vested with authority to issue permits or grant approvals shall adhere to and require conformance with this Code, and shall issue no permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Code.
- B. Severability. Any permit or approval issued or granted in conflict with the provisions of this Code shall be void.
- C. Notice. The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this Code.

### 155.1.3 Definitions

For the purpose of this Chapter (155), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Abate** – To end a violation of this code.

**Abatement** – The process to end a violation of this code.

**Abutting** - Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.

**Access** - The area of a street right-of-way where a vehicle may move to and from the street and an abutting property.

**Access Easement** - An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access.

**Access Point** - The connection of a driveway at the right-of-way line to the street.

**Access Management** -The control of access for the purpose of improving the efficiency, safety or operation of a street for vehicular movement. This control may include prohibiting, closing or limiting direct access to a street from abutting properties by physical barriers (curbs, medians, etc.), land dedication or easement.

**Accessible** - Approachable and useable by people with disabilities. Complies with the Americans With Disabilities Act.

**Accessory Building** - Any subordinate building or portion of a main building, the use of which is incidental, appropriate, and subordinate to that of the main building.

**Accessory Dwelling** – A dwelling unit separate from or subordinate to the main dwelling. Accessory dwellings are not a permitted or conditional use in Dunes City.

**Accessory Use** - A use incidental, appropriate, and subordinate to the main use of a lot or building.

**Adjacent** - Abutting or located directly across a street right-of-way.

**Administrative Decision** - A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal. See also Sections 155.4.1.4

**Adverse Impact** - Negative effect of development that can be measured (e.g., noise, air pollution, vibration, dust, etc.).

**Agriculture** - The tilling of the soil, the raising of crops, horticulture, small livestock farming, dairying and/or animal husbandry, and the raising of Christmas trees.

**Alter** - To change any of the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

**Alley** - A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

**And/or** – For the purposes of this chapter the grammatical use of “and/or” shall mean any one item or any combination of items in the phrase.

**Arterial** - A Street of considerable continuity, which is primarily a traffic artery for intercommunication among large areas. Arterial streets in the City are defined as Canary Road, Clear Lake Road, and Highway 101.

**Basement** - A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average level of the adjoining ground.

**Bed and Breakfast** - Provides accommodations plus breakfast on a daily or weekly basis in an operator- or owner-occupied home that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a source of income to the proprietors.

**Berm** - A small rise or hill in a landscape.

**Block** - A parcel of land or group of lots bounded by intersecting streets.

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

**Boarding Float** - A platform-type floating structure that provides a pedestrian access to and from a boat in the water.

**Boathouse** – A covered or enclosed structure used exclusively to store, shelter, or protect a boat or boats and boating equipment. A structure used in part, or only occasionally for any purpose other than to shelter or protect a boat or boats and boating equipment shall be considered a combination structure. See OAR 141-082-0020(12).

**Bollard** - A post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles). Bollards are usually decorative, and may contain sidewalk or pathway lighting.

**Bond or Performance Agreement** - A financial commitment by the petitioner or subdivider executed by a state licensed surety company in an amount equal to the full cost of construction and improvements as required in this chapter and conditioned upon the faithful performance thereof.

**Boulevard** - A street with broad open space areas; typically with planted medians. See Section 155.3.4, Sub-Section 1.F.

**Building** - The term **Building** shall mean that which is framed, erected, constructed, or placed to stand temporarily or permanently on a parcel of land. This definition shall specifically include a mobile home and accessories thereto. See **Structure**.

**Building Footprint** - The outline of a building, as measured around its foundation.

**Building Height** - The vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

**Building, Main** - A building within which is conducted the principal use permitted on the lot.

**Building Site** - The ground area of a building or buildings, together with all required open spaces.

**Bulkhead** - A vertical or nearly vertical bank protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion [OAR 141-085-0010(19)].

**Campgrounds** - Any lot, tract, or parcel of land under the same ownership where two or more campsites are located which provide facilities for living in any manner other than in a permanent building constructed of wood, and the like.

**Capacity** - Maximum holding or serviceability, as used for land use, water flow, transportation, utilities, parks and other public facilities.

**Carport** - A stationary structure which may be free standing or attached, and open on at least one side consisting of a roof with its supports to shelter motor vehicles, recreational vehicles, or boats.

**Cemetery** - Land used or intended to be used for the burial of the dead, and dedicated for cemetery purposes; including columbaria, crematoria, mausoleum, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

**Childcare Center, Family Childcare** - See **Family Child Care Facility**.

**Church** - A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**City Council** - The Common Council of Dunes City, which is the governing body of the City.

**Clear and Objective** - Relates to decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

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

**Club** - Any organization, group, or association supported by the members thereof, the purpose of which is to render a service customarily rendered for members and their guests. This shall not include any organization, group, or association of which the chief activity is to render a service customarily carried on as a business.

**Cluster** - To situate buildings close together to preserve open space, reduce the overall land use impact of development, and reduce the amount of roads, services and facilities needed to serve a development. The number of living units in a cluster development shall not exceed, on the average, one living unit per acre within the development.

**Collector** - A street used to provide for traffic movement between arterials and local streets, and which provides direct access to abutting property.

**Commercial** - Land use involving buying/selling of goods or services as the primary activity.

**Common Area** - Land commonly owned to include open space, landscaping or recreation facilities (e.g., typically owned by homeowners associations).

**Concept Assistance** - An informal meeting between the applicant and the Planning Commission where a development concept is presented. This meeting is for the exchange of information only; no action will be taken. This step is required by the City for subdivisions and PUDs, and is at the applicant's discretion for other land use actions.

**Conditional Use** - A use which requires a Conditional Use Permit. See Section 155.4.4.

**Consensus** - Agreement or consent among participants.

**Conservation Easement** - An easement that protects identified conservation values of the land, such as wetlands, woodlands, significant trees, floodplains, wildlife habitat, and similar resources.

**Corner Radius** - The radius of a street corner, as measured around the curb or edge of pavement.

**Cottage** - see **Guest House**.

**County Recording Officer** - The director of records and elections of the County.

**Cul-De-Sac** - A circular area at the end of a dead-end street.

**Day Nursery** - See **Family Child Care Facility**.

**Dead-End Street** – A street that allows ingress/egress at only one end.

**Deciduous** - Tree or shrub that sheds its leaves seasonally.

**Dedication** - The designation of land by its owner for any public use as shown on a subdivision plat or deed. The term may also be used for dedications to a private homeowners association.

**Density (ies)** - A measurement of the number of dwelling units in relationship to a specified amount of land. As used in this Code, density does not include land devoted to street rights-of-way. Density is a measurement used generally for residential uses.

**Developable** - Buildable land, as identified by the City's Comprehensive Plan. Includes both vacant land and land likely to be redeveloped, per ORS 197.295(1).

**Development** - All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes.

**Discretionary** - Describes a permit action or decision that involves substantial judgment or discretion.

**District** - A portion of the incorporated territory of the City within which certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited, or within which certain yards or other open spaces are required, or within which certain lot areas are established, or within which certain height limitations are required for buildings, or within which certain off-street parking space is required, or within which a combination of such regulations are applied.

**Division of Land** - The creation of a lot or parcel.

**Dock** - See **Boarding Float**. This definition is used for consistency with Oregon Marine Board definitions.

**Dock/Float** - An individual secured and stationary or floating structure (other than a mooring buoy) used for mooring boats and for similar uses [OAR 141-082-0020(18)].

**Drip-Line** - Imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

**Drive Lane/Travel Lane** - An improved (e.g., paved) driving surface for one line of vehicles.

**Driveway** - A strip of land that is not a street but which provides vehicular access to a lot or parcel from a street.

**Driveway Apron/Approach/Pad** - The end of a driveway where it abuts a street; usually constructed of concrete or asphalt. See Figure 155.3.1.2K.

**Duplex** - A building with two attached housing units on one lot or parcel.

**Dwelling** - A building or portion thereof which is occupied in whole or in part as a residence or sleeping place, either permanently or temporarily by one or more families, but excluding hotels, motels, mobile homes, camping vehicles, and travel trailers.

**Dwelling, Single-Family** - A detached dwelling unit.

**Dwelling, Two-Family (Duplex)** - A building consisting of two separate dwelling units with a common roof and common foundation, designed and used exclusively for the occupancy of two families living independently of each other, and having housekeeping facilities for each family.

**Dwelling Unit** - A “dwelling unit” is a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family.

**Easement** - An interest in land created by express grant, memorialized by written document, and executed without requisite formalities that clearly shows an intent to grant to the grantee the right to use and enjoy a certain portion of a parcel of land for limited purposes, without conveying title to the grantee.

**Egress** - The exit of vehicular traffic from properties to a street.

**Elevation** - Refers to a building face, or scaled drawing of the same, from grade to roof ridgeline.

**Environmentally Sensitive Areas** - See **Sensitive Lands**.

**Established Residential Area** - See Section 155.2.1, Sub-Section 120.F.

**Evidence** - Application materials, plans, data, testimony and factual information used to demonstrate compliance or non-compliance with a code standard or criterion.

**Family Child Care Facility** - Any registered or certified facility, as defined by ORS 657A.250(5), that provides child care to 16 or fewer children, including the children of the provider.

**Family Day Care - See Family Child Care Facility.**

**Fence** – A barrier intended to prevent escape or intrusion or to make a boundary.

**Fire Apparatus Lane** - As defined by the Uniform Fire Code, Part 3, Section 902.

**Freeboard** - The distance between the water surface and the deck of a boarding float or dock.

**Frontage** - The dimension of a property line abutting a public or private street.

**Frontage Street** - A minor street, which parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.

**Functional Classification** – Classification of streets, see **Street**.

**Gangway** - A structure, which provides a pedestrian access between a fixed pier or shore and a boarding float.

**Garage, Private** - An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

**Grade** - There are two distinct contexts in which “grade” is applicable:

- (1) Expressing the slope of a line joining two points as a percentage (%), equal to unit rise divided by unit horizontal distance between the points multiplied by 100.
- (2) An artificial ground level elevation of a building, designated “the building grade” or “average grade”, calculated as the average of the finished ground levels at the center of all walls of the building.

**Gross Floor Area** - The floor area of a building, except areas used exclusively for the service of the building, such as:

- (1) Mechanical equipment space and shafts;
- (2) Elevators;
- (3) Stairways, escalators, and ramps; and
- (4) Public restrooms, loading docks, or ramps.

**Guest House** - An accessory building without kitchen or cooking facilities occupied solely by nonpaying guests, or by servants employed on the premises.

**Hammerhead Turnaround** - A “T” or “L” shaped dead-end street that allows for vehicles to turn around at the end of a dead end street.

**Highway** – See **Street**

**Home Occupation, Home Occupation Site** - See Section 155.4.9.2.

**Home Occupations** - Any occupation or profession carried on by a member of the family residing on the premises.

**Hospitals** - Institutions devoted primarily to the rendering of healing, curing, and nursing care, which maintain and operate facilities for the diagnosis, treatment, and care of two or more non-related individuals suffering from illness, injury, or deformity, or where obstetrical or other healing, curing, and nursing care is rendered over a period exceeding 24 hours.

**Human-Scale Design/Development** - Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e.g., as is typical of downtowns and main street developments); larger buildings which have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those, which are primarily intended to accommodate automobile traffic.

**Infill** - The development of vacant, bypassed lands located in an area that is mainly developed.

**Ingress** - The entrance of vehicular traffic to abutting properties from a street.

**Kennel** - Any lot on which three or more dogs over the age of six months are kept.

**Kindergarten** - See **Child Care Facility**.

**Kitchen** - Any room, all or any part of which is designated, built, equipped, used, or intended to be used for the preparation of food and/or the washing of dishes.

**Land Division** - The process of dividing land to create parcels or lots.

**Land Use** - The main activity that occurs on a piece of land, or the structure in which the activity occurs (e.g., residential, commercial, mixed use, industrial, open space, recreation, street rights-of-way, vacant, etc.).

**Land Use District** – See Section 155.2.0 – Land Use District Administration.

**Landing** - A level part of a staircase as at the end of a flight of stairs.

**Landscaping** - Any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains or the like. Landscaping also includes irrigation systems, mulches, topsoil, and revegetation or the preservation, protection and replacement of existing trees.

**Legislative Decision** - A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation). See Section 155.4.1.2.D or 155.4.1.7.

**Limited land use decision** - A final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns: (a) the approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1) or (b) the approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

**Livestock** - Domestic animal types customarily raised or kept on farms.

**Local Improvement District (LID)** - A small public district formed for the purpose of carrying out local improvements (paving of streets, construction of storm sewers, development of a park, etc.). Property owners within the LID are assessed for the cost of the improvements in accordance with ORS 223.387-223.485.

**Lot** - A single unit of land that is created by a subdivision of land. [ORS 92.010(30) For purposes of zoning requirements, the terms "lot" and "parcel" may be used interchangeably and are used to describe a unit of land that meets or exceeds minimum requirements for use, coverage, and area and to provide yards and other open spaces as herein required and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, or complete lots of records and portions of lots of record; or
- (4) A parcel of land described by metes and bounds; provided, that in case of division or combination there shall have approval given to the division or combination by the Planning Commission under the conditions set forth in this chapter.

**Butt Lot** - A lot, the lot sideline of which abuts the rear lot line of two or more adjoining lots.

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

**Flag Lot** - A lot or parcel, which has access to a road, street or easement, by means of a narrow strip of lot or easement. See 155.6.5.

**Interior Lot** - A lot or development site other than a corner lot with frontage only on one street.

**Key Lot** - A lot or parcel the rear line of which abuts the lot sideline of two or more adjoining lots.

**Panhandle Lot** - See **Flag Lot**.

**Lot Area** - The total surface area (measured horizontally) within the lot lines of a lot.

**Lot Coverage** - The area of a lot covered by the outline of buildings as viewed from above and as allowed by the applicable land use district standards found in Section 155.2.1.122 and 155.2.2.1.122.

**Lot Depth** - The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

**Lot Line** -

**Front Lot Line** - The lot line abutting a street. For corner lots the front line shall be that with the narrowest street frontage, and for double frontage lots the front line shall be the lot front line having

frontage on a street, which is so designated by the subdivider and approved by the Planning Commission.

**Rear Lot Line** - The lot line, which is opposite and most distant from the front lot line. In the case of a triangular lot, the rear lot line for building purposes shall be assumed to be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

**Side Lot Line** - Any lot line, which is not a front or rear lot line.

**Lot Width** - The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**Major Collector** - A major collector is intended to serve traffic from local roads and minor collectors to the arterial system. Individual accesses are allowed but minimized to protect system capacity and traffic safety. Within Dunes City, Canary Road and Clear Lake Road, both County facilities, are considered major collectors.

**Minor Collector** - A minor collector is intended to provide access to abutting properties and to serve local access needs of neighborhoods, including limited through traffic. New development that generates a significant volume of traffic should be discouraged from locating on minor collectors that serve residential areas. The majority of these roads are City owned facilities. Pacific Avenue and Lake Boulevard are County facilities. Minor collectors identified in Dunes City include: Huckleberry Lane, Wright Road, a portion of Collins Loop, Peninsula Road, Salal Street, a portion of Cloud Nine Road, Erhart Road, Woodland Lane, Hilltop Drive, a portion of Parkway Drive, South Cove Drive, Brentwood Court, Ka-Teech Drive and Kiechle Arm Road.

**Manufactured Dwelling** -

- (a) 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;
- (b) 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;
- (c) 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 regulations in effect at the time of construction;
- (d) Does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer. OAR 660-007-0005(7) and OAR 660-0008-0005(6).

**Manufactured Dwelling Park** - Any place where four or more manufactured dwellings, as defined in ORS 446.003, are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. Manufactured dwelling park does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured

dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190. [OAR 660-007-0005(8) and OAR 660-0008-0005(7)].

**Manufactured Home** - A structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C. Sections 5401 et seq.), as amended on August 22, 1981.) [OAR 660-007-0005(9) and OAR 660-0008-0005(8)]

**Manufactured Structure** -

**Recreational Vehicle** - any unit identified as a recreational vehicle by the manufacturer;

**Manufactured dwelling** - as set forth in this section.

“Manufactured structure” does not apply to any building or structure regulated under the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code.

**Master Road Plan** - The plan or plans adopted by the City Council.

**Ministerial Decision** - A routine governmental action or decision that involves little or no discretion. The issuance of a building permit is such an action. See Section 155.4.1.2.A or 155.4.1.4.

**Mitigation** - Avoidance, rectification, repair, or compensation for negative impacts, which result from other actions. (e.g., Improvements to a street may be required to mitigate for transportation impacts resulting from development.”)

**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.

**Mobile Home Park** - Any place where four or more manufactured dwellings, as defined in ORS 446.003, are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

“Mobile Home Park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190. [OAR 660-007-0005(10) and OAR 660-0008-0005(9)].

**Motel** - A combination or group of two or more detached or semi-detached permanent dwellings or dwelling units occupying a building site in one ownership owned and used to furnish transient living accommodations.

**Multi-Family Dwelling** - See **Multi-Family Housing**

**Multi-Family Housing** – Multi-family housing is housing that provides for two or more separate dwelling units on an individual lot. See Section 155.4.5.102.

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

**Neighborhood** - A geographic area lived in by neighbors and usually having distinguishing character.

**Non-conforming Lot of Record** - A parcel of land which lawfully existed as a lot in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the lot dimension requirements for the zoning district in which it is located.

**Non-conforming Structure** - A structure or portion thereof which was lawfully established in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the setback, height, maximum lot coverage, or other building development requirements of this Chapter; or is clearly designed and intended for uses other than any use permitted in the zoning district in which it is located.

**Non-conforming Use** - Use of a structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinance and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the use requirements for the zoning district in which it is located.

**Non-Native/Invasive Plants** - See current Oregon State University Extension Service Bulletin for your area.

**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. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick.

**Off-Street Parking** - All off-street areas designed, used, required or intended use for the parking of motor vehicles. Off-street parking areas shall conform to the requirements of Section 155.3.3.3.

**On-Street Parking** - Parking in the street right-of-way, typically in parking lanes or bays. Parking may be "parallel" or "angled" in relation to the edge of the right-of-way or curb. See Section 155.3.3.3.

**Open Space (Common/Private/Active/Passive)** - Land within a development, which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreation, conservation or other open space uses.

**Ordinary High Water (OHW)** - The line on a bank or shore to which the high water ordinarily rises annually. For Siltcoos Lake this is to be taken as 12-feet above mean sea level as measured from the stage gauge at Westlake Resort. For Woahink Lake this is to be taken as 39.8 feet above mean sea level.

**Ordinary Low Water (OLW)** - The line on a bank or shore to which the low water ordinarily recedes annually. For Siltcoos Lake this is to be taken as six feet above mean sea level as measured from the stage gauge at Westlake Resort.

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

**Other Uses Similar to the Above** - Other uses, which in the judgment of the Planning Commission, are similar to and not more objectionable to the general welfare than the uses listed in the same district and are consistent with the purpose and intent of the district and the Comprehensive Plan.

**Overlay Zone/District** - Overlay zones provide regulations that address specific subjects that may be applicable in more than one land use district. See Section 155.2.5.100.

**Owner** - An individual, association, partnership, trust, or corporation having legal or equitable title to land sought to be divided, other than legal title held for purpose of security only.

**Parcel** - A parcel is a unit of land that is created by a partitioning of land (ORS 92.010) For purposes of zoning requirements, the terms "lot" and "parcel" may be used interchangeably and are used to describe a unit of land that meets or exceeds minimum requirements for use, coverage, and area and to provide yards and other open spaces. See **Lot**.

**Parent District** – The primary zoning district for any property. Residential and Community Commercial are the only two parent districts in Dunes City.

**Parking Area, Automobile** - Space within a public parking area or a building, exclusive of driveways, ramps, columns, and office and work areas, for the temporary parking or storage of one automobile.

**Parking Area, Private** - Privately or publicly owned property, other than streets and alleys, on which parking spaces are defined, designated, or otherwise identified for use by the tenants, employees, or owners of the property which is not open for use by the general public.

**Parking Area, Public** - Privately or publicly owned property, other than streets or alleys, on which parking spaces are defined, designated, or otherwise identified for use by the general public, either free or for remuneration. Public parking areas may include parking lots for retail customers, patrons, and/or clients.

**Parking Space** - A permanently maintained space with proper access for one standard-size automobile.

**Parking** - Parking is the area used for leaving motor vehicles for a temporary time.

**Partition/ Partition Land** - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. (See ORS 92.010(8)).

**Pathway/Walkway/Access Way** - See Section 155.3.1.3. A thoroughfare that satisfies the requirement for "access ways" in the Transportation Planning Rule of OAR 660-012-045.

**Pier** - Exterior vertical building elements that frame each side of a building or its ground-floor windows (usually decorative), or:

A non-floating fixed platform structure usually extending out over the water from the shore to which gangways are usually attached. "Floating piers" or any floating structure for access to a boarding float shall be defined, except for width, as a boarding float. Additionally, for the purpose of this code, any structure used for pedestrian access to any other structure in or over the Shorelands shall be considered a pier.

**Pile** - A slender wood or steel member driven into the ground to maintain position and location of floats, and to resist applied lateral forces. (Collectively, Piling.)

**Planned Unit Development** – See 155.2.1.210. See also ORS 94.550 – 94.783, Planned Communities.

**Planning Commission** - The Dunes City Planning Commission as defined in Section 32.60 through 32.71 of this code.

**Planter Strip, Tree Cutout** - A landscape area for street trees and other plantings within the public right-of-way, usually between the street and a sidewalk.

**Plat** - A diagram, drawing, or replat containing all the descriptions, locations, specifications, dedications, provisions, and other information required by this Chapter.

**Plaza** - A public square or extra-wide sidewalk (e.g., as on a street corner) that allows for special events, outdoor seating, sidewalk sales, and similar pedestrian activity.

**Preliminary Plat** - A preliminary drawing or diagram concerning a partition or subdivision.

**Primary** - The largest or most substantial element on the property, as in "primary": use, residence, entrance, etc. All other similar elements are secondary in size or importance.

**Property Line Adjustment** - The adjustment of a property line by the relocation of a common line where no additional lots are created. This development code also defines the consolidation of lots (i.e., resulting in fewer lots) as a lot line adjustment. (See ORS 92.010(7)(b))

**Public Facilities** - See Section 155.3.4.

**Public Improvements** - Development of public facilities. See Section 155.3.4.

**Quasi-Judicial** - Refers to an action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code, and usually involves a public hearing. See Section 155.4.1.2.C and 155.4.1.6.

**Recreational Vehicle:** Any self-powered vehicle that is licensed for operation over public highways and designed as a temporary dwelling for travel, vacation, and recreation.

**Reserve Strip:** A narrow area of land at the end or side of a street used to control access to the street or to preserve land for future widening or extension.

**Residence** - Same as Dwelling.

**Residential Care Homes and Facilities** - See Section 155.2.1.250.

**Residential Facility** - A residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, licensed under ORS 443.400 to 443.460 or licensed under ORS 418.205 to 418.327 by the Department of Human Services that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related.

**Residential Home** - A residential treatment or training or adult foster home licensed by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related.

**Residential 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.

**Riding Academy** - Any building or portion of property upon which the skill and subject of horsemanship is taught for remuneration, or made available for hire or remuneration for the teaching or training in the skill and subject of horsemanship. Exercise rings and show-rings for riding, breaking, roping, or showmanship, whether enclosed in a building, lot or parcel of land by a manmade barrier for public use and remuneration shall be considered an accessory use of the premises for a riding academy.

**Right-Of-Way** -The area between property lines, or as defined in an easement designated for public use.

**Riparian** – Relating to or living or located on the bank of a natural watercourse (as river, or sometimes a lake or tidewater).

**Riparian Area** – The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

**Riparian Corridor** – An Oregon State Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

**Riparian Corridor Boundary** - is an imaginary line that is a specified distance upland from the top of bank.

**Road/Roadway** – See Street.

**Road Commission** – The Dunes City Road Commission as defined in Section 32.40 through 32.49 of this code

**School** – Public or private educational, K-12, facilities.

**Sensitive Lands** - Wetlands, significant trees, steep slopes, flood plains and other natural resource areas designated for protection or conservation by the Comprehensive Plan.

**Service Station** - A place or station selling motor fuel or oil for motor vehicles and/or servicing batteries, furnishing repair and service.

**Setback** - The distance from the portion of a structure located nearest to the respective property line, riparian corridor boundary, wetland boundary or shorelands boundary.

**Shared Driveway** - A driveway giving access to two, three or four parcels.

**Shared Parking** - See Section 155.3.3.3, C.2.

**Shoreland** – See Shoreland Area

**Shoreland Area** – For purposes of construction near the shorelines of Woahink Lake, Little Woahink Lake, Siltcoos Lake, and Siltcoos River, the shoreland area is the section of land within fifty (50) measured horizontally inland from the ordinary high water (OHW) line of Woahink and Siltcoos Lakes and Siltcoos River and bounded by tax lot sidelines.

**Shoreland Zone** - See Shoreland Area.

**Shoreland Structure** - Any Shoreland allowed construction. This includes any structure in or on Shorelands, or any structure with any contact or presence over Shorelands and extensions into water beyond OLW. This includes, but is not limited to, docks, floats, piers, boathouses, and wharfs.

**Sidewalk** - A pedestrian walkway with permanent surfacing.

**Sign** - Any fabricated sign for use outdoors, including its structure, consisting of any letter, figure, character, mark, point, plane, design, poster, picture, stroke, stripe, line, trademark, reading matter, or illuminating device which is constructed, attached, erected, fastened, or manufactured in any manner whatsoever to attract the public in any manner for recognized purposes to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise display. However, the term **SIGN** shall not include any display of official court or public notices, nor shall it include the flag, emblem, or insignia of a nation, governmental unit, school, or religious group. See Sections 155.2.1.260 and 155.2.2.130.

**Sign Area** - The entire area within a single, continuous perimeter formed by lines joined at right angles which enclose the extreme limits of such sign, and which in no case passes through or between any adjacent elements of the same. However, such perimeter shall not include any structural elements lying outside and below the limits of such sign, and not forming an integral part of the display.

**Sign, On-Premises** - A sign which advertises only the activities conducted on or the sale or lease of the property on which the sign is located.

**Sign, Outdoor Advertising** - A sign which advertises goods, products, or services which are not sold, manufactured, or distributed on or from the premises on which the sign is located; or facilities not located on the premises on which the sign is located; but the term does not include an "on-premises" sign.

**Site** - A property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this Code.

**Slope** - The vertical inclination of a line joining two points expressed as a percentage (%), equal to unit rise divided by unit horizontal distance between the points multiplied by 100.

**Standards and Criteria** - Standards are code requirements. Criteria are the elements required to comply with a particular standard.

**Storefront Character** - The character expressed by buildings placed close to the street with ground-floor display windows, weather protection (e.g., awnings or canopies), corner building entrances or recessed entries, and similar features.

**Storm Water Facility** - A detention and/or retention pond, swale, or other surface water feature that provides storage during high-rainfall events and/or water quality treatment.

**Story** - That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling above. See **Basement**.

**Streams, Class I** - Waters which are valuable for domestic use, are important for angling or other recreation, and/or are used by significant numbers of fish for spawning, rearing, or migration routes. Stream flows may be either perennial or intermittent during parts of the year.

**Street** - A public or private thoroughfare, avenue, road, roadway, highway, boulevard, parkway, drive, lane, court, cul-de-sac, or easement, providing for ingress and egress from property abutting thereon. See 155.6 for street diagrams.

**Alley** - A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

**Arterial** - A continuous street giving interconnection to a large area through collector Streets (Canary Road, Clear Lake Road and Highway 101).

**Collector Street** - A street used to provide for traffic movement between arterials and local streets, and which provides direct access to abutting property.

**Cul-De-Sac** - A circular area at the end of a dead-end street.

**Dead-End Street** - A street that allows ingress and egress at one end only.

**Local Street** - A local road is intended to provide direct property access and is not intended to serve through traffic.

**Street Connectivity** - The number of street connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

**Street Stub** - A temporary street ending; i.e., where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.

**Structural Alterations** - See **Alter**.

**Structure** - The term **Structure** shall mean that which is framed, erected, constructed, or placed to stand temporarily or permanently on a parcel of land. Any paths or walks not more than six inches above the ground upon which they rest are not part of this definition. See **Building**.

**Subdivide Land** - To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

**Subdivision** - Either an act of subdividing land or an area or tract of land subdivided as defined in this Section.

**Swale** - A type of storm water facility. Usually a broad, shallow depression with plants that filter and process contaminants.

**Tangent** - See Vision Clearance Diagram - 155.6.7.

**Temporary Easement** - Any easement that does not confer upon the grantee a permanent right to use the grantor's property. For purposes of this Section, a temporary easement will not be considered an easement unless specifically accepted by the City Council.

**Tentative Plan** - See **Preliminary Plat**.

**Terrace** - A porch or promenade supported by columns, or a flat roof or other platform on a building.

**Topographical Constraint** - Where existing slopes prevent conformance with a Code standard.

**Tourist Park** - All campgrounds, picnic areas, travel trailer parks, and all other establishments rented or kept for rent to any person for a charge or fee paid or to be paid for the rental or use of the facilities or offered free in connection with securing the trade or patronage of such person or for indirect benefit to the owner in connection with a related business.

**Townhouse** - See **Multi-Family Housing**.

**Tract: Private/Public** - A piece of land set aside in a separate area for dedication to the public, a homeowners association, or other entity (e.g., open space, recreation facilities, sensitive lands, etc.).

**Transportation Facilities** - The physical improvements used to move people and goods from one place to another; i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.

**Transportation Mode** - The method of transportation (e.g., automobile, bus, walking, bicycling, etc.)

**Travel Trailer** - Any portable vehicle or structure which is less than 45 body feet in overall length at its longest point; or is less than ten body feet in width at its widest point; or has less than 800 square feet of floor space; and is currently licensed for transportation over public highways and designed as a temporary dwelling for travel, vacation, and recreation

**Travel Trailer Park and Recreational Vehicle Park** - Any parcel of land of five acres or greater, composed of a lot or contiguous lots under the same ownership, and used, designed, or intended to accommodate two or more recreational vehicles and travel trailers per lot.

**Travel Trailer Site** - Any portion of a travel trailer park designated or used for the occupancy of one travel trailer.

**Triplex** - A building with three attached housing units on one lot or parcel.

**Use** - The purpose for which land or a building is arranged, designed or intended or for which either land or building is or may be occupied or maintained.

**Utility Easement** - An easement granted by one parcel of land (grantor) in favor of a second parcel of land (grantee) which allows the grantee the right to install upon the grantor's parcel, above or below ground or both, sewer lines, electrical lines, cable television lines, water lines, and telephone lines which will serve the grantee's parcel of land.

**Vacate Plat/Street** - To abandon a subdivision or street right-of-way. For example, vacation of a public right-of-way that is not needed or cannot be used for a street or other public purpose. A plat may be vacated, returning the property to an undivided condition.

**Variance** - An administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this Code. See Section 155.5.1.

**Vision Clearance** - A triangular area at the street or highway corner lot, or the intersection of an alley and street corner lot. The right-of-way lines and a line define the space across the corner, the ends of which lie on the right of way lines a specified length from the corner. See figure 155.3.1.2.M.

**Walkway Easement** - An easement granted for the purpose of providing foot and/or bicycle ingress and egress from one parcel across another and separate parcel to a street, body of water, facility, or other similar benefit.

**Wall** – See **Fence**.

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

**Wharf** - The same structure as **Pier**, except generally located parallel relative to the shoreline.

**Wireless Communication Equipment** - Includes cell towers, antennae, monopoles, and related facilities used for radio signal transmission and receiving.

**Yard** - An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

**Yard, Front** - A yard between the front line of a building (exclusive of steps) and the front property line.

**Yard, Rear** - An open, unoccupied space on the same lot with a building between the rear line of the building (exclusive of steps, porches, and accessory buildings) and the rear line of the lot.

**Yard, Side** - An open, unoccupied space on the same lot with a building between the sidewall line of the building and the sideline of the lot.

## **155.1.4 ENFORCEMENT**

### **Sections:**

- 155.1.4.1 Provisions of this Code Declared to be Minimum Requirements
- 155.1.4.2 Violation of Code Prohibited
- 155.1.4.3 Official Action
- 155.1.4.4 Penalty
- 155.1.4.5 Complaints Regarding Violations
- 155.1.4.6 Inspection and Right of Entry
- 155.1.4.7 Abatement of Violations
- 155.1.4.8 Stop Work-Order Hearing
- 155.1.4.9 Penalty

### **155.1.4.1 Provisions of This Code Declared to be Minimum Requirements**

- A. Minimum requirements intended. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.
- B. Most restrictive requirements apply. When the requirements of this Code vary from other provisions of this Code or with other applicable standards, the most restrictive or that imposing the highest standard shall govern.

### **155.1.4.2 Violation of Code Prohibited**

No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code or any amendment thereto.

### **155.1.4.3 Official Action**

All officials, departments, and employees of the City vested with authority to issue permits, certificates, or licenses shall adhere to and require conformance with the land use requirements.

### **155.1.4.4 Penalty**

- A. Penalty. A violation of this Code shall constitute a civil infraction, which shall be processed accordingly.
- B. Each violation a separate infraction. Each violation of a separate provision of this Code shall constitute a separate infraction, and each day that a violation of this Code is committed or permitted to continue shall constitute a separate infraction.
- C. Abatement of violation required. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City (see Chapter 36 of this code).
- D. Responsible party. If a firm or corporation violates a provision of this Code, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter.

#### **155.1.4.5 Complaints Regarding Violations**

- A. Filing written complaint. Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a signed, written complaint.
- B. File complaint with City. Such complaints, stating fully the causes and basis thereof shall be filed with the City. The City shall properly record such complaints, investigate and take action thereon as provided by this Code.

#### **155.1.4.6 Inspection and Right of Entry**

Whenever they shall have cause to suspect a violation of any provision of the land use requirements, or when necessary, the investigation of an application for or revocation of any land use approval under any of the procedures prescribed in this part, officials responsible for enforcement or administration of this part, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.

#### **155.1.4.7 Abatement of Violations**

Any use which is established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to the zoning requirements shall be and is hereby declared to be unlawful and a public nuisance, and may be abated as such. Abatement proceedings are to be conducted pursuant §91.25 et seq., which sections are incorporated herein by reference as a part of this chapter.

#### **155.1.4.8 Stop-Work Order Hearing**

- A. Stop-work order issued. Whenever any work is being done in violation of the provisions of the Code or a condition of any permit or other approval granted pursuant hereto, the City may order the work stopped by notice in writing served on persons engaged in doing such work or causing such work to be done. All work under the permit or approval shall cease until it is authorized to continue.
- B. Stop-work order hearing. The City shall schedule a hearing if requested on the stop-work order for the earliest practicable date, but not more than 7 days after the effectiveness of any required notice. At the discretion of the City, such hearing may be:
  1. Part of a hearing on revocation of the underlying development approval; and/or
  2. To determine whether a violation has occurred. The affected City committee/Commission shall hold this hearing and shall make written findings as to the violation within 7 days. Upon a finding of no violation, the affected City Committee/Commission shall require the issuance of a resume-work order. Upon finding a violation, the stop-work order shall continue to be effective until the violating party furnishes sufficient proof to the City that the violation has been abated. The decision is subject to appeal under Section 155.4.1.6 - Type III (Public Hearing) Procedure.

#### **155.1.4.9      Penalty**

A fine of not more than \$1,000 shall be assessed for violations of the provisions of this Chapter. Following written notification by the City, violations of any provisions of this chapter shall be considered a separate offense for each day during which the violation continues.

## **Section 155.2** **LAND USE DISTRICTS**

### **155.2.0 LAND USE DISTRICT ADMINISTRATION**

- 155.2.0.100 Classification of Land Use Districts
- 155.2.0.110 Zone Maps
- 155.2.0.120 Urban Growth Boundary
- 155.2.0.130 Determination of Zone Boundaries

### **155.2.1 RESIDENTIAL (R-1) DISTRICT**

- 155.2.1.100 Purpose
- 155.2.1.110 Permitted Land Uses
- 155.2.1.111 Conditional Uses
- 155.2.1.120 Building Setbacks and Lot Area Requirements
- 155.2.1.121 Requirements in General
- 155.2.1.122 Specific Requirements
- 155.2.1.123 Additional Requirements
- 155.2.1.130 Residential Density
- 155.2.1.140 All Uses
- 155.2.1.200 Special Standards for Certain Uses
- 155.2.1.210 Manufactured Homes and Accessory Placement Standards
- 155.2.1.220 Accessory Buildings
- 155.2.1.230 Bed and Breakfast
- 155.2.1.240 Residential Care Homes and Facilities
- 155.2.1.250 Signs
- 155.2.1.260 Manufactured Home Park

### **155.2.2 COMMUNITY COMMERCIAL (CC) DISTRICT**

- 155.2.2.100 Purpose
- 155.2.2.110 Permitted Land Uses
- 155.2.2.111 Conditional Uses
- 155.2.2.120 Building Setbacks and Lot Area Requirements
- 155.2.2.121 Requirements in General
- 155.2.2.122 Specific Requirements
- 155.2.2.123 Additional Requirements
- 155.2.2.130 Signs
- 155.2.2.200 Special Standards for Certain Uses
- 155.2.2.210 Travel Trailer and Recreational Vehicles (RV) Parks

### **155.2.3 OPEN SPACE OVERLAY (OS) ZONE**

- 155.2.3.100 Purpose
- 155.2.3.200 Lakes
- 155.2.3.300 Shorelands

**155.2.4 FRAGILE LANDS OVERLAY (FL) ZONE**

- 155.2.4.100 Purpose
- 155.2.4.200 Excessive Slopes
- 155.2.4.300 Stabilized or Active Dunes

**155.2.5 WETLAND OVERLAY ZONE**

- 155.2.5.100 Purpose
- 155.2.5.200 Goal 5 Requirements
- 155.2.5.300 Definitions
- 155.2.5.400 Determination of Significant Wetlands
- 155.2.5.500 Protection of Wetland Areas
- 155.2.5.600 Variances

**155.2.6 RIPARIAN OVERLAY ZONE**

- 155.2.6.100 Purpose
- 155.2.6.200 Goal 5 Requirements
- 155.2.6.300 Definitions
- 155.2.6.400 Determination of Local Significant Riparian Corridors
- 155.2.6.500 Protection of Riparian Corridors
- 155.2.6.600 Variances

## **155.2.0 LAND USE DISTRICT ADMINISTRATION**

### Sections

- 155.2.0.100 Classification of Land Use Districts
- 155.2.0.110 Zone Maps
- 155.2.0.120 Urban Growth Boundary
- 155.2.0.130 Determination of Zone Boundaries

### **155.2.0.100 Classification of Land Use Districts.**

All areas within the urban growth boundary of the City of Dunes City are divided into land use districts. The use of each lot, parcel and tract of land is limited to the uses permitted by the applicable land use district. The applicable land use district shall be determined based on the Land Use District Map, and the provisions of this Chapter.

#### **155.2.0.100.1 Districts Established**

In order to carry out the purpose and provisions of this Section, land within the City may be classified in one or more of the following districts:

- A. Residential District (R-I)
- B. Community Commercial District (CC)

### **155.2.0.110 Zone Maps**

- A. Consistency with Land Use Zoning Map. The boundaries of each of the land use districts contained within this Chapter shall coincide with the land use district boundaries identified on the City's official zoning map, retained by the City Recorder. A certified print of the adopted land use district map, and any map amendments, shall be maintained by the City. Said map by this reference is made part of this Chapter.
- B. Applicability of Zoning Requirements. All land within the land use district boundaries identified on the official zoning map, is limited to the uses defined in this Section.
- C. Land Use District Map Amendments: All amendments to the City land use district (zoning) map shall be made in accordance with the provisions of 155.4.7. The City shall make available for public inspection an up-to-date copy of the revised land use district map, so that it accurately portrays changes of zone boundaries or classification, as applicable.

### **155.2.0.120 Urban Growth Boundary**

All properties located within the City limits are declared to be within the City's Urban Growth Boundary.

### **155.2.0.130 Determination of Zone Boundaries**

Where uncertainty exists regarding the specific location of a zone boundary, the following rules shall apply:

- A. The Planning Commission shall interpret any and all boundary ambiguities.

- B. Boundaries indicated as approximately following the centerline of streets shall be construed to follow such centerlines.
- C. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- D. Boundaries indicated as approximately following City limits shall be construed as following such City limits.
- E. Boundaries indicated as following public utility easements shall be taken to be midway between the utility easement boundaries.
- F. Boundaries following shorelines shall be taken to follow the ordinary low water line. Boundaries following the centerlines of streams, rivers, or other bodies of water shall be taken to follow said centerline and no matter how the centerline should shift, the boundary would remain the centerline as shifted.
- G. Boundaries indicated as parallel to or extensions of features indicated in divisions (B) through (F) above shall be so construed.
- H. Where a zone boundary divides an ownership of property, the boundary shall be determined by the use of the scale appearing on the zoning map.

#### **155.2.0.130.1 Zoning of Vacated Property**

Where a public right-of-way is officially vacated, the zoning district requirements applicable to the property of which the vacated area becomes a part shall apply to the vacated property.

#### **155.2.0.130.2 Transfer of Property Between Adjacent Parcels**

All property transfers between adjacent parcels shall be handled as "lot line" adjustments. See 155.4.3.210.

## **155.2.1 RESIDENTIAL (R-1) DISTRICT**

### **Sections:**

|             |  |
|-------------|--|
| 155.2.1.100 | Purpose  |
| 155.2.1.110 | Permitted Land Uses                                  |
| 155.2.1.111 | Conditional Uses                                     |
| 155.2.1.112 | Unpermitted Uses                                     |
| 155.2.1.120 | Building Setbacks and Lot Area Requirements          |
| 155.2.1.121 | Requirements in General                              |
| 155.2.1.122 | Specific Requirements                                |
| 155.2.1.123 | Additional Requirements                              |
| 155.2.1.130 | Residential Density                                  |
| 155.2.1.140 | All Uses   |
| 155.2.1.200 | Special Standards for Certain Uses                   |
| 155.2.1.210 | Manufactured Homes and Accessory Placement Standards |
| 155.2.1.220 | Accessory Buildings                                  |
| 155.2.1.230 | Bed and Breakfast                                    |
| 155.2.1.240 | Residential Care Homes and Facilities                |
| 155.2.1.250 | Signs  |
| 155.2.1.260 | Manufactured Home Park                               |

### **155.2.1.100 Purpose**

The purpose of the Residential (R-1) District is to provide for rural residential living opportunities envisioned in the Comprehensive Plan and to provide for development at densities which will be compatible with and not adversely affect the open space, natural resources, and overall environmental quality of the City.

### **155.2.1.110 Permitted Land Uses**

- A. In the R-1 District, the following types of buildings and uses are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this chapter:
  1. One single-family dwelling per lot, which may include site-built, pre-fabricated, or manufactured housing, which meets the requirements of applicable building codes and standards established by the state. This division shall not be construed as abrogating a recorded restrictive covenant.
  2. Home occupations.
  3. Residential Care Homes
  4. Public and semi-public buildings and uses essential to the physical, social, and economic welfare of the City including, but not limited to, fire stations, substations, pump stations, wells, parks, playgrounds, and community centers.
  5. Agriculture: including the growing and raising of trees, vines, shrubs, berries, vegetables, nursery stock, hay, grains, and similar food and fiber products.

6. Ducks, geese, chickens, rabbits, other similar fowl and small animals in a sum total numbering fourteen (14), or less. If such animals are creating a nuisance, the City Council shall have the power and authority to notify the applicant that they must apply for a conditional use permit. The owners shall then immediately be obliged to apply for a conditional use permit and shall stand before the City Council in that process as though they had not yet acquired the offending small animals and/or fowl and were seeking permission to do so.
7. Planned Unit Developments, as provided by Section 155.4.5.
8. Child Care Facilities
9. Other uses similar to the above.

B. Accessory buildings may not be sited prior to the issuance of a residential building permit.

#### **155.2.1.111 Conditional Uses**

The following conditional uses are permitted, subject to a conditional use permit granted pursuant to the general provisions of this chapter providing for the granting of conditional use permits:

- A. Churches.
- B. Fraternal Lodges, grange halls, clubs.
- C. Schools, public and private.
- D. Stables, riding academies.
- E. Animal husbandry, including the raising, tending, or breeding of cattle, horses, sheep, goats, bees, poultry, fur-bearing animals, and swine for purposes of domestic use. Such animal husbandry shall not be part of or be conducted in conjunction with any livestock sales yard, slaughterhouse, or animal by-product business. Such use shall include, but not be limited to, the raising of small fowl, animals for show, competitions, or projects sponsored or directed by a school, club, or other social or educational activity.
- F. Bed & Breakfast.
- G. Multi-Family Dwellings
- H. Guest houses.
- I. Residential Care Facility

#### **155.2.1.112 Unpermitted Uses**

All uses not listed under Sections 155.2.1.110 and 155.2.1.111 are not permitted.

#### **155.2.1.120 Building Setbacks and Lot Area Requirements**

(See 155.2.1.121 – 155.2.1.123.)

### 155.2.1.121 Requirements in General

- A. General dimensional requirements. The size, width, shape, and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall comply with lot requirements of this chapter. See definitions for lot types and 155.6 for lot type drawings.
  - 1. *Depth.* Each lot shall have an average depth between the lot front line and the lot rear line of not less than 150 feet and shall be not more than two and one-half times the average width between the lot lines. The two and one-half times requirement does not apply to lots greater than five acres in size, and this requirement can be waived for lots five acres or smaller if it is readily apparent further division will satisfy this requirement.
  - 2. *Frontage.* Each lot shall have frontage of not less than 60 feet upon a street or street easement, except:
    - a. A lot on the outer radius of a curved street or facing a cul-de-sac shall have frontage of not less than 35 feet upon a street, measured on the arc.
    - b. Lots accessed by easement shall conform to the standards of 155.3.1.2, I & K.
- B. *Lot sidelines.* As far as is practicable, lot side lines shall run at right angles to the street upon which the lots face, except that on curved streets they shall be radial to the curve.
- C. *Suitability for intended use.* All lots shall be suitable for the purpose for which they are intended to be used. No lot shall be of such size or design as to be detrimental to the health, safety, or sanitary needs of the residents of the subdivision area or of such lot, as determined by the City in accordance with the purpose of this chapter.
- D. *Land for public purpose.* When the City, the school district, or other public agency has expressed a definite interest in acquiring a specified portion of a proposed division for a needed public purpose and there is reasonable assurance that steps will be taken to acquire the land, then the City may require that those portions of the division be reserved for public acquisition at a negotiated price for a period not to exceed six months from the date of City Council approval of a subdivision preliminary plan.
- E. *Lake access.* Common access may be provided within a subdivision where maintenance is provided for in deed covenants.
- F. *Setback measurement.* Building setbacks are measured from a point on the wall or foundation nearest to the respective property line. Setbacks for decks and porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following table and illustrated in the appendix, apply to primary structures as well as accessory structures. A Variance is required in accordance with Section 155.5.1 to modify any setback standard.
- G. *Lots with water frontage.* Lots with water frontage shall have a minimum of 50 feet water frontage.

**155.2.1.122 - Specific Requirements** - For non-conforming lots, and at the discretion of the Planning Commission, foundations may intrude into side yard setbacks no more than one foot. Requirements for lot area, width, and coverage, yard setbacks, building height, vision clearances are as set forth in the following table:

| <b>R-1 DISTRICT LOT AND STRUCTURE REQUIREMENTS</b> |  |
|--|--|
| <b>ITEM</b>  | <b>REQUIREMENT</b>                       |
| Lot area   | 1 acre minimum                           |
| Lot average width                                  | 150 feet minimum                         |
| Lot Coverage :                                     |  |
| Structures   | 30% maximum                              |
| Structure Setback:                                 |  |
| Front yard   | 30 feet from Highway 101 R-O-W           |
| Front yard   | 25 feet from property line               |
| Side yard (corner lot)                             | 15 feet from property line               |
| Side yard (interior lot)                           | 10 feet from property line               |
| Rear yard  | 10 feet from property line               |
| Shoreline  | 50 feet (water dependant excluded)       |
| Significant Wetlands:                              |  |
| Delineated Wetlands                                | 0-feet                                   |
| Non-Delineated                                     | 50-feet                                  |
| Riparian Corridor                                  | 50-feet                                  |
| Structure Height:                                  |  |
| Height from average grade                          | Lesser of 32 feet or 2 ½ stories maximum |

#### **155.2.1.123 Additional Requirements**

- A. Additional setback requirements.
1. *Building features.* The following building features may project into the required front yard setback no more than five feet and into the required interior yards setback no more than two feet:
    - a. Eaves, cornices, belt courses, sills, awnings, buttresses, air conditioners, or other similar features.
    - b. Chimneys and fireplaces, provided they do not exceed eight feet in width.
    - c. Porches, platforms, decks and landings that do not extend above the level of the first floor of the building.
    - d. Signs conforming to all other applicable ordinances.
  2. *Utility easements.* Where a utility easement is recorded, the setback shall not be less than the width of the easement.

3. *Structures in the setback areas.* Structures in lot setback areas are not permitted except for fences, retaining walls, water wellheads, driveways, and utility poles and cabinets. Retaining walls are permitted in setback areas only for the purpose of slope or grade stabilization or retention and may not be part of any other use. The height of retaining walls in the setback areas shall be no higher than that permitted for fences.

B. Additional height requirements.

1. Height limits established for the respective districts refer to the height of the building. Roof structures for the housing of elevators, stairways, tanks, ventilating fans, and similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, television antennas, steeples, and similar structures may be erected above the height limits prescribed in this section, provided that no roof structure, feature, or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space.
2. The maximum height of buildings permitted conditionally shall be the same as the requirements of the district in which it is located unless otherwise specified.
3. Fences in the front yard setback areas: Chain link unfilled (no slats), ornamental and other fencing that does not obstruct vision may not exceed six feet in height. Solid fencing that obstructs vision shall be limited to 3 ½ feet in height. Fences in the side and rear yard setback areas: Fencing (all types) may not exceed six feet in height.
4. Fences are not permitted in the shoreland areas.

- C. Additional lot area requirements. The minimum area requirements of this section shall not be construed to govern in situations where greater minimum area requirements are imposed or required by state law, state rules and regulations, or the provisions of this chapter.

#### **155.2.1.130 Residential Density**

The following density standards apply to all new development. The standards are intended to ensure efficient use of buildable lands and provide for a range of needed housing, in conformance with the Comprehensive Plan.

New land divisions and site developments shall provide for housing at a maximum density of no more than one dwelling per acre.

#### **155.2.1.140 All Uses**

See appendix 155.6 for lot, blocks, street uses.

#### **155.2.1.200 Special Standards for Certain Uses**

This section supplements the standards contained Sections 155.2.1.100 through 155.2.1.130. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential District:

#### **155.2.1.210      Manufactured Homes and Accessory Placement Standards**

Manufactured homes are permitted on individual lots, subject to all of the following design standards, consistent with ORS.197.307(5) Exception: The following standards do not apply to units which were legally placed within the City prior to the effective date of this ordinance.

In addition to all applicable general development standards and requirements for Residential (R-1) Districts outlined in this subsection, the following standards shall apply:

- A. The manufactured home shall be multi-sectional ("double wide" or wider) and enclose a space of not less than 1,000 square feet.
- B. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter.
- C. The manufactured home shall have a pitched roof greater than a nominal three vertical feet in height for each horizontal 12 feet in width.
- D. The manufactured home shall have exterior siding and roofing which in color, material, and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local approval authority.
- E. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in O.R.S.455.010.
- F. The manufactured home shall have a garage or carport. The garage or carport shall be constructed of materials similar to those required by D. above.
- G. The manufactured home must be installed in accordance with O.R.S.446.155 through 446.285, O.A.R. 814-23-605, and the installation instructions as supplied by the manufacturer.

#### **155.2.1.220      Accessory Buildings**

Accessory buildings in the residential district include detached garages, sheds, workshops, green houses, guesthouses and similar structures. No accessory building in the residential district may have a kitchen facility.

#### **155.2.1.230      Bed and Breakfast**

Bed and breakfasts in the R-1 zone must be an operator-occupied or owner-occupied home that is primarily used for this purpose. A maximum of five (5) bedrooms for rent is allowed and one off-street parking space is required for each bed rented.

#### **155.2.1.240      Residential Care Homes and Facilities**

Residential care homes are residential treatment or training homes or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, in "homes" for 5 or fewer individuals, or "facilities" for 6 to 15 individuals, none of whom need be related.

Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents. Residential care homes and facilities shall comply with the following standards, consistent with ORS 197.660-670:

- A. Licensing. All residential care homes shall be duly licensed by the State of Oregon.
- B. Parking. A minimum of one off-street parking space shall be provided for each employee and typical number of visitors, in accordance with Section 155.3.3.3 - Parking requirements.
- C. Development Review. Development review shall be required for new structures to be used as residential care homes or facilities, and for conversion of an existing residence to be used as a residential care home, to ensure compliance with the licensing, parking, and other requirements of this Code.

#### **155.2.1.250 Signs**

- A. Within the Residential (R-1) District signs and nameplates may be installed as follows:
  1. One nameplate not exceeding four square feet in area for each dwelling unit, indicating the name of the occupant and/or identifying the home occupation.
  2. One sign not exceeding 12 square feet in area for buildings other than dwellings.
  3. One sign not exceeding 6 square feet pertaining to the sale or rental of developed property.
  4. One sign not exceeding 18 square feet in area advertising the sale of property or undeveloped property of 2 acres or greater.
- B. Signs announcing the division and improvement of property in the Residential (R-1) District may be erected according to the following provisions:
  1. The sign shall not exceed 50 square feet in area.
  2. The sign may be double-faced.
  3. The top of the sign shall not be more than ten feet above the ground level and the sign shall not be erected nearer than ten feet to any property line.
  4. Two such signs are permitted in each subdivision larger than five acres and fronting on two or more streets.
  5. Such signs must be removed no later than two years after being installed unless the Planning Commission grants an extension of time.
  6. Two directional signs, each being 6 square feet or less, being either single- or double-faced, may be erected outside the platted subdivision area, not within the public right-of-way.
- C. No sign shall be constructed, erected, or maintained which:
  1. Bears or contains statements, words, or pictures of an obscene, indecent, or immoral character, such as will offend public morals or decency.

2. Purports to be or is an imitation of or resembles an official traffic sign or signal, or which bears the words "STOP," "GO SLOW," "CAUTION," "DANGER," "WARNING," or similar words.
3. By reason of its size, location, movement, content, coloring, or manner of illumination may be confused with or construed as a traffic control device; or which hides from view any traffic or street sign or signal.
4. Advertises or publicizes an activity, business product or service no longer conducted on the premises upon which such signs are maintained.
5. Carries a message on a rotating or moving part. Only minor decorative parts of signs may move or rotate.
6. Uses banners, flags, posters, pennants, ribbons, streamers, and strings of light bulbs, spinners, or oral or olfactory devices.

#### **155.2.1.260 Manufactured Home Park**

See Planned Unit Development (P.U.D.) - Section 155.4.5.0 or See Land Divisions - Section 155.4.3.

## **155.2.2 Community Commercial (CC) DISTRICT**

### **Sections:**

- |             |   |
|-------------|---|
| 155.2.2.100 | Purpose   |
| 155.2.2.110 | Permitted Land Uses                                 |
| 155.2.2.111 | Conditional Uses                                    |
| 155.2.2.112 | Unpermitted Uses                                    |
| 155.2.2.120 | Building Setbacks and Lot Area Requirements         |
| 155.2.2.121 | Requirements in General                             |
| 155.2.2.122 | Specific Requirements                               |
| 155.2.2.123 | Additional Requirements                             |
| 155.2.2.130 | Signs   |
| 155.2.2.200 | Special Standards for Certain Uses                  |
| 155.2.2.210 | Travel Trailer and Recreational Vehicles (RV) Parks |

### **155.2.2.100 Purpose**

The Community Commercial (CC) District is intended to accommodate, at convenient locations within the City, commercial activities, which provide the basic goods and services needed by the surrounding residents, and provide appropriate tourist and recreational goods, services, and facilities consistent with the Comprehensive Plan.

### **155.2.2.110 Permitted Land Uses**

In the CC District, the following types of buildings and uses are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this section:

- A. Any use permitted outright or conditionally in the R-1 District.
- B. Grocery stores, general stores.
- C. Stores selling bakery products, dairy products, meat, fish, fruit, vegetables, feed, and seed.
- D. Business and professional offices.
- E. Financial institutions.
- F. Nurseries, flora.
- G. Clinics.
- H. Restaurants, cafes.
- I. Barber, beauty shops.
- J. Curio and gift shops.
- K. Boat sales and repair service.
- L. Manufactured home parks.

- M. Travel trailer parks.
- N. Rental facilities for boats and recreational vehicles.
- O. Post offices.
- P. Motels.
- Q. Churches.
- R. Tourist parks.
- S. Laundromats.
- T. Other uses similar to the above.
- U. Alleys

#### **155.2.2.111 Conditional Uses**

The following conditional uses are subject to a conditional use permit granted pursuant to the general provisions of this Section:

- A. Taverns, cocktail lounges.
- B. Automobile repair shops.
- C. Lumber and building material stores.
- D. Hardware stores.
- E. Service stations, provided that greasing and tire repairing are performed completely within an enclosed building.
- F. Marinas, boat launching, moorage facilities, boat rental, and charter services.

#### **155.2.2.112 Unpermitted Uses**

All uses not listed under Sections 155.2.2.110 and 155.2.2.111 are not permitted.

#### **155.2.2.120 Building Setbacks and Lot Area Requirements**

(See 155.2.2.121 – 155.2.2.123)

#### **155.2.2.121 Requirements in General**

- A. The size, width, shape, and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall comply with lot requirements of this chapter. Where property is zoned and planned for business or industrial use, the depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated. See definitions for lot types and 155.6 for lot type drawings.

1. *Depth.* Each lot shall have an average depth between the lot front line and the lot rear line of not less than 150 feet and shall be not more than two and one-half times the average width between the lot lines. The two and one-half times requirement does not apply to lots greater than 5 acres in size.
  2. *Frontage.* Each lot shall have frontage of not less than 60 feet upon a street, except that a lot on the outer radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than 35 feet upon a street, measured on the arc. Lots with water frontage shall have a minimum of 50 feet frontage.
- B. Lot sidelines. As far as is practicable, lot side lines shall run at right angles to the street upon which the lots face, except that on curved streets they shall be radial to the curve.
- C. Suitability for intended use. All lots shall be suitable for the purpose for which they are intended to be used. No lot shall be of such size or design as to be detrimental to the health, safety, or sanitary needs of the residents of the subdivision area or of such lot, as determined by the City in accordance with the purpose of this chapter.
- D. Land for public purpose. When the City, the school district, or other public agency has expressed a definite interest in acquiring a specified portion of a proposed division for a needed public purpose and there is reasonable assurance that steps will be taken to acquire the land, then the City may require that those portions of the division be reserved for public acquisition at a negotiated price for a period not to exceed six months from the date of City Council approval of a subdivision preliminary plan.
- E. Lake access. Common access may be provided within a subdivision where maintenance is provided for in deed covenants.
- F. Setback measurement. Building setbacks are measured from the portion of a structure located nearest to its respective property line. Setbacks for decks and porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following table and illustrated in the appendix, apply to primary structures as well as accessory structures. A Variance is required in accordance with Section 155.5.1 to modify any setback standard.

#### **155.2.2.122 Specific Requirements**

For non-conforming lots and at the discretion of the Planning Secretary, foundations may intrude into yard setbacks no more than one-foot. Requirements for lot area, width, and coverage, yard setbacks, building height, vision clearances are as set forth in the following table:

| <b><u>CC DISTRICT LOT AND STRUCTURE REQUIREMENTS</u></b> |                    |
|--|--------------------|
| <b>ITEM</b>  | <b>REQUIREMENT</b> |
| <b>Lot Area</b>  | 1 acre minimum     |
| <b>Lot Average Width</b>                                 | 150 feet minimum   |
| <b>Lot Coverage</b>                                      |                    |
| Structures   | 50% maximum        |
| Structures with parking                                  | 70% maximum        |

|                                  |  |
|----------------------------------|--|
| <b>Structure Setback:</b>        |  |
| Front yard                       | 30 feet from Highway 101 R-O-W             |
| Front yard                       | 25 feet from property line                 |
| Side yard (corner lot)           | 15 feet from property line                 |
| Side yard (interior lot)         | 10 feet from property line                 |
| Rear Yard                        | 10 feet from property line                 |
| Shoreline                        | 50 feet (water dependant excluded)         |
| <b>Significant wetland</b>       |  |
| Delineated wetland               | 0-feet                                     |
| Non-delineated wetland           | 50-feet                                    |
| <b>Significant Riparian Area</b> |  |
| <b>Structure Height:</b>         |  |
| Height from average grade        | Lesser of 32 feet or 2 1/2 stories maximum |

#### **155.2.2.123 Additional Requirements**

- A. Additional setback requirements:
  - 1. Building features. The following building features may project into the required front yard setback no more than five feet and into the required interior yard setback no more than two feet:
    - a. Eaves, cornices, belt courses, sills, awnings, buttresses, air conditioners, or other similar features.
    - b. Chimneys and fireplaces, provided they do not exceed eight feet in width.
    - c. Porches, platforms, decks or landings which do not extend above the level of the first floor of the building.
    - d. Signs conforming to all other applicable ordinances.
- B. Utility easements. Where a utility easement is recorded, the setback shall not be less than the width of the easement.
- C. Fences and walls. In the Community Commercial (CC) District, fences or walls not to exceed eight feet in height may be located or maintained in any yard, except where the requirements of vision clearance apply or within the shoreland setback area.

#### **155.2.2.130 Signs**

The erection of an on-premises sign is a permitted use except as specifically set forth below, and subject to the limitations set forth below.

- A. Prohibited signs. Pennants, moving signs, flashing signs, signs that would block other commercial signs, traffic control signs, or such are prohibited. Signs, which would interfere with, mislead, or obstruct traffic control signs and thereby interfere with the motoring public, are prohibited.
- B. Height of sign. No commercial sign in the City shall exceed 16 feet in height from ground level,

or the roadway surface, whichever is higher.

- C. Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PREMISES.** A single commercial lot or group of lots upon which a business enterprise or combination of business enterprises operates from a single continuous structure.

**SIGN, BUILDING-MOUNTED.** A sign affixed to the side of roof of a building or painted upon the exterior of a building or improvement.

**SIGN, DIRECTIONAL.** A sign which guides customers to areas such as parking, laundry facilities, restrooms, boat ramps, and the like, and whose principal purpose is not to solicit additional business.

**SIGN, FREESTANDING.** A sign not attached to any building or improvement.

- D. Permits.

1. *New signs.* Any party wishing to erect a new sign must apply for a permit at the City Hall and submit with the application a design done to scale indicating the dimensions, height of lettering, background colors, colors of lettering, and other designs, pictures, arrows, or such markings to be made upon the face of the sign.
  2. *Renovation and repair of old signs.* Existing signs may be repaired and repainted without obtaining a permit, so long as there is no significant change in the general dimensions, height, lettering, background colors, colors of lettering, and other designs, pictures, and arrows or markings made upon the face of the sign. In the event such a significant change should occur, it would be necessary to obtain a permit and comply with the requirements of this section.
  3. *Fees.* The City Council shall set by resolution fees for obtaining sign permits.
- E. Size of signs. Commercial property facing Highway 101 shall be entitled to erect a sign whose face does not exceed 125 square feet in a single direction. At other commercial locations, the face of a sign shall not exceed 64 square feet in any direction. In no instance shall the City permit a business to erect upon premises freestanding and building-mounted signs in excess of 250 total square feet. Two-way signs shall include the square footage on both sides when calculating the total sign square footage. Off-premises signs shall not be computed in the total square footage of the business. A business seeking signs in excess of 250 square feet may apply for a conditional use permit, and the permit will be issued pursuant to the criteria dealing with conditional use permits. The City shall, by resolution, set a fee for obtaining the permit.
- F. Off-premises signs. Off-premises signs shall require a conditional use permit, the fee for which shall be established by resolution by City Council. Off-premises signs are permitted only for the purposes of directing customers to the business enterprise.
- G. Number of signs. Only a single two-way freestanding sign or two one-way signs will be permitted on a business enterprise so long as they are at least 150 feet apart. Additionally, two building-mounted signs are allowed per business enterprise.

H. Grandfather clause. All existing commercial signs in the City are grandfathered and may be maintained so long as the use is not expanded or substantially modified.

#### **155.2.2.200 Special Standards for Certain Uses**

This section supplements the standards contained Sections 155.2.2.100 through 155.2.2.130. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Community Commercial District.

#### **155.2.2.210 Travel Trailer and Recreational Vehicles (RV) Parks**

Travel trailer and RV parks shall be designed, constructed, and maintained according to the following standards and requirements:

- A. Site plan. See Section 155.4.9.5.130
- B. Development standards.
  1. *Park area.* Travel trailer or RV Park shall be created on a lot or parcel of land not less than five acres in area.
  2. *Space requirements.*
    - a. One manufactured home site or stick built home site is allowed in the park and shall contain at least 20,000 square feet. Each manufactured home or stick built site shall be at least 100 feet wide and 200 feet long.
    - b. Each travel trailer site shall contain at least 1,980 square feet. Each travel trailer site shall be at least 33 feet wide and 60 feet long.
  3. *Setbacks.*
    - a. No travel trailer, RV, or accessory thereto shall be located closer than 25 feet from a park property line abutting on a public street, ten feet from all other park boundary lines, and ten feet from any such areas as a park street, a common parking area, or a common walkway.
    - b. No travel trailer, RV, or accessory thereto shall be located closer than five feet to a manufactured home site or travel trailer site boundary line, closer than ten feet to a building, or closer than 15 feet to another manufactured home or travel trailer.
  4. *Access.* No travel trailer or RV Park shall be established on any site that does not have frontage on and access to a county or public street.
  5. *Park streets/driveways.* The minimum width for driveways on which automobile parking is not permitted shall be 25 feet; driveways on which parking is to be permitted on one side shall be 33 feet wide; driveways on which parking is permitted on both sides shall be 41 feet wide.
  6. *Off-street parking.* Off-street parking areas shall be provided at the rate of at least two car spaces for each manufactured home site and at least one car space for each travel trailer

- site. At least one required space must be located on each site. The remainder shall be located within at least 200 feet from the sites they are intended to serve.
7. *Walkways.* Walkways of not less than three feet in width shall be provided from each manufactured home site to any service building or recreation area.
  8. *Paving.* Park streets and walkways shall be paved with a crushed rock base and asphalt or concrete surfacing.
  9. *Recreation areas.*
    - a. In all parks with 14 or more manufactured home and travel trailer sites, there shall be one or more outdoor recreation areas easily accessible to all park residents and available for year-round recreational use.
    - b. Recreation areas shall contain a minimum of 5,000 square feet, and shall contain an additional 200 square feet for every manufactured home and travel trailer site in excess of 15 sites.
    - c. Recreation areas shall be centrally located and free of traffic hazards whenever possible.
  10. *Pad improvements.* Manufactured home pads shall be paved with asphalt or concrete surfacing, or with crushed rock contained in concrete curbing.
  11. *Accessories.* Accessories shall be limited to awnings, cabanas, patios, carports, garages, or storage buildings. No structural additions shall be built on or become part of any manufactured home or travel trailer.
  12. *Fencing and landscaping.*
    - a. Every travel trailer or RV park shall provide an ornamental, sight-obscuring fence, wall, evergreen, or other suitable screening/planting along all boundaries of the manufactured home park site that abut on public street or property lines that are common to other owners of property, except for points of ingress and egress.
    - b. Perimeter walls or fences shall be at least six feet and less than 12-feet in height. Where walls or fences are required along boundaries that abut on a public street, the walls or fences shall set back from the property lines to conform with setbacks for structures in the zoning district, or as is otherwise required in the conditional use permit. Evergreen planting used as the required fencing shall not be less than five feet in height, and shall be maintained in a living condition for the life of the travel trailer or RV Park.
  13. *Signs*
    - a. One sign not exceeding 18 square feet in area will be allowed on a property under one ownership to designate the name of the manufactured home park or travel trailer park. The sign may be indirectly lighted, but shall be non-flashing. The sign shall conform to the setbacks designated for structures in the zone in which it is located.

- b. Incidental signs for the information and convenience of tenants and the public relative to parking, traffic movement, the office, lavatories, and the like are allowed provided such signs do not exceed three square feet in size.
  - c. No nameplate or advertising signs of any other character shall be permitted.
14. *Non-residential uses.* No part of any manufactured home park shall be used for non-residential purposes except such uses that are required for the direct service for and well-being of park residents and for the management of the park.
15. *Additional development requirements.* Additional development requirements may be prescribed as conditions when such requirements are determined to be necessary to ensure the protection of the character of neighboring properties, the compatibility of land uses, and the health and safety of manufactured home park occupants.

### C. Usage

1. All travel trailers and recreational vehicles using a park shall be currently licensed for use on public streets and highways.

## 155.2.3 Open Space (OS) Overlay Zone

### Sections

|             |              |
|-------------|--------------|
| 155.2.3.100 | Purpose      |
| 155.2.3.200 | Lakes        |
| 155.2.3.300 | Shorelands   |
| 155.2.3.400 | Booth Island |

### 155.2.3.100 Purpose

- A. Dunes City has determined as a matter of policy that significant development restraints should be placed upon certain lands. These lands shall be generally designated OS. OS lands shall be further delineated according to whether they are lakes (OS-L) or Shorelands (OS-S), as defined herein and by the Dunes City Comprehensive Plan. These designations, and their attendant development restrictions, shall attach to appropriate zoned and unzoned lands within Dunes City.
- B. The purpose of the OS designation is to prevent irreparable ecological damage and construction upon land, which will flood, not support structures, etc. Specific development restraints shall be accorded different sub-designations.
- C. This Section, which authorizes some Shoreland structure construction and maintenance upon issuance of a building permit only, is intended to meet the stated purpose, while facilitating a more rapid approval process for such construction and maintenance on water front property within Dunes City that is zoned R-1. Those uses not permitted outright or with a building permit may be allowed upon issuance of a conditional use permit.

### 155.2.3.200 Lakes

#### A. Permitted Uses:

1. Swimming, fishing, boating and water systems.

2. Shoreland structures that comply with the standards set forth in subparagraph C of this section for placement, size, and construction, and consisting of only one (1) dock and boathouse per lot, are permitted upon issuance of a building permit.

B. Conditional Uses:

Boathouses and docks that do not comply with the standards for issuance of a building permit are allowed as conditional uses provided:

1. The color scheme is to be of earth tones, subdued, and blend with the rural forest nature of Dunes City.
2. Only one (1) Shoreland structure may be erected per lot.
3. The City shall have the right to require placement of the structure at its discretion.
4. If extensive shallows make a dock impractical without dredging, the dock shall not be permitted.
5. A dock shall be constructed so as to minimize physical damage to the shoreline.
6. Residential houseboats are not an acceptable conditional use upon Woahink Lake and will not be approved.

C. Standards

1. Placement

- a. As measured from the ordinary high water, a pier and boarding float shall extend into the water not more than 150 feet normal to the shoreline or to a bottom depth of five (5) feet at ordinary low water, whichever provides the shortest extension into the water. In the event of a steep bottom grade, the structure is permitted to extend from the OLW line to the extent that 24 feet of the structure may extend into the water beyond the two-foot water level (at OLW).
- b. The structure shall not be placed within ten feet of lot sidelines or extensions of these lines into the water. This requirement may be modified during the conditional use permit process if necessary to accommodate shoreline meander or lot line placement.
- c. Enclosed or covered open structures may extend into the water beyond the OLW no more than 50 feet.
- d. Any structure approved for construction on the Siltcoos Outlet shall have its long dimension parallel to the shoreline in order to minimize channel flow restriction.

2. Size

- a. Boarding floats and boathouses shall have a combined area of no more than 640 square feet. This area is exclusive of access structures. See **Pier**, 155.1.3 Definitions.
  - b. Piers, or floating boarding float access structures shall be between three feet and six feet in width.
  - c. The height of any Shoreland structure may not substantially restrict the lake view of adjoining or upland property. All structures shall be limited to one story in height, with a maximum of 16 feet vertically from deck to ridgeline.
  - d. Water access structures in the Shorelands shall have a maximum width of eight feet and shall extend through the Shoreland by as direct a route as practical.
3. Construction
- a. Construction requirements for covered or enclosed structures are as specified in the Oregon State Structural Specialty Code (OSSSC). All other structures shall conform to the OSSSC and the standards set forth herein. The Oregon Marine Board document entitled "Layout and Design Guidelines for Recreational Boat Launching and Transient Tie Up Facilities" revised September 1992, or its current or successor version in effect at the time construction occurs, shall be the standard guide for construction of like structures in Dunes City. The specific inclusion herein of some of the construction requirements from that document is not to be construed as an exclusion of the other requirements of the document.

*Items in subsections (b), (c), and (d) below preceded by "##" are included as guidelines that should be addressed by individuals designing a structure covered by this ordinance, but are not required, and will not be reviewed, approved or inspected by the Dunes City staff and building inspector. Dunes City will not be responsible for the failure of any Shoreland structure meeting the requirements of this ordinance due to loading caused by man or nature.*

- b. The design of all piers and boarding floats shall provide for:
  - 1. ##Live loads of at least 20 lb/sq. ft.
  - 2. ##Floating structures freeboard of six inches minimum under any loading condition (live and dead loads). For these designs, gangway loading may be assumed to be 20-lb/sq. ft. for reaction calculations.
  - 3. ##Boarding floats shall be designed to withstand wind, wave and impact loading that may reasonably be expected to occur during the life of the structure as the result of the location and exposure of the floats. As a minimum, lateral wind load shall be 20 lb./sq. ft. applied to the surface of boats along the float. Wave/wake load shall be for at least six-inch waves with 12 inches recommended.
  - 4. Pile guide clearance to compensate float level.

5. Elevated piers shall have handrails on at least one side and be at least 34 inches high. Handrails on both sides are highly recommended. Piers constructed with more than a 10% grade on the walkway shall have handrails on both sides. Elevated piers or wharves used as mooring structures are not required to have handrails in the areas intended for mooring.
  6. Maximum pier width of six feet.
  7. Minimum pier width of three feet.
- c. The design for gangways shall provide for:
1. \*\*Live loads of at least 50 lb./sq. ft.
  2. \*\*Concentrated load of 500 lb. at mid-span.
  3. \*\*Minimized dead loads transmitted to boarding floats.
  4. \*\*Maximum, vertical deflection of L/180 ("L" is the length of the gangway).
  5. Handrails on both sides of the gangway at the height of at least 34 inches.
  6. Rollers under gangway toe to allow for travel under varied water levels.
  7. Non-skid or other appropriate treatment of the walking surface to insure safe and adequate traction under all conditions.
  8. \*\*Maximum slope of 2.5 run to 1 rise not more than 10% of the time.
- d. Piling installation shall provide for:
1. Use of treated wood or steel. If steel, a round cross section is preferred.
  2. \*\*Size, spacing, and depth for the maximum combination of loads anticipated for wind, wave, impact and any other applied loads.
  3. Piling tops to be no shorter than two feet above ordinary high water.

- e. To preserve the riparian lands, piers elevated above the vegetation shall be used in lieu of grounding floating structures for access to boarding floats wherever practical.
  - f. Paint chips for all exterior paint shall be submitted with the building permit or conditional use permit application. Colors shall be of earth tones, subdued, and blend with the rural forest nature of Dunes City. Colors will be approved or rejected by City staff at the time the application is submitted.
  - g. Dredging and filling within the Shoreland area is not permitted without Dunes City approval.
  - h. Pressure treated wood shall meet the latest requirements of the Western Wood Preservers Institute. Wood in contact with the ground or water and treated with waterborne preservatives shall be kiln dried or air aged to an "as shipped" surface dry condition of less than 30% moisture content by weight, with a target moisture content of 25%, and also have a minimum preservative retention of 0.4 lb. per cubic foot (0.6 lb/ft recommended). Wood not in contact with the ground or water and treated with waterborne preservatives shall be kiln dried or air aged to an "as shipped" surface dry condition of less than 30% moisture content by weight with a target moisture content of 25%, or alternately air dried in a ventilated, dry, covered area when stacked with a minimum of 3/4 inch spacing between each side of each piece for 30 days between July 1 and September 30, or 45 days for any other months. This is to prevent rapid leaching of the preservative materials into the ground and water.
  - i. Foam flotation elements shall be encapsulated per the Oregon State Marine Board requirements. An approved copy of the State Marine Board Flotation Encapsulation Certification Form shall be submitted to the City prior to final inspection.
  - j. Structures extending into the water and fixed relative to the lake bottom and which may be submerged at OHW or higher, shall have visible markers extending at least two feet above the 100 year flood level at intervals of eight feet or less along the length of the submerged structure.
  - k. Exterior lighting shall be manually or motion controlled. Exterior lighting on timers or light level control is not permitted. Exterior lighting should be used only when the illuminated area is occupied.
  - l. Electrical installations shall be in accordance with the Oregon State Electrical Specialty Code (OSESC).
4. Maintenance and Repair
- a. A Dunes City building permit shall be required for any repair to a Shoreland or water related structure conforming to this ordinance, that is in excess of 75% of the current value of that structure, as determined by the Dunes City Building Inspector.
  - b. A Dunes City building permit shall be required for any nonidentical repair

- of a Shoreland or water related structure.
- c. A conditional use permit and a building permit shall be required for any repair to a Shoreland or water related structure not conforming to the requirements of this ordinance that is in excess of 50% of the current value of that structure, as determined by the Dunes City Building Inspector.
  - d. The Dunes City Building Inspector shall verify the percentage value of any maintenance or repair prior to the issuance of a building permit or conditional use permit.
- D. Fees: The fees to be charged for processing applications under this section, including services of the Building Inspector shall be established by the City Council and the City and the Building Inspector shall maintain the schedule.

#### **155.2.3.300 Shorelands**

For purposes of this Section, Shorelands includes all Dunes City lands within fifty (50) feet measured horizontally upland from the ordinary high water (OHW) line of Woahink, Little Woahink and Siltcoos Lakes and Siltcoos River.

- A. Permitted Uses:
  - 1. Low intensity uses such as walking trails and similar uses are allowed.
  - 2. Shoreland structures that comply with the standards set forth in subparagraph C of this section for placement, size, and construction, and consisting of only one (1) dock and boathouse per lot, are permitted upon issuance of a building permit.
- B. Conditional Uses:
  - 1. Walkways, platforms, and stairs, which have the intended purpose of providing access to lakes and rivers, that do not comply with the standards for issuance of a building permit, are allowed as conditional uses provided:
    - a. The color scheme is to be of earth tones, subdued, and blend with the rural forest nature of Dunes City.
    - b. Only one (1) dock and one (1) boathouse may be erected per lot.
    - c. The City shall have the right to require placement of the structure at its discretion.
  - 2. Other water-related structures, which can meet variance criteria and underlying, zone limitations.
- C. Other Requirements:
  - 1. Public access in coastal Shoreland areas shall be retained or replaced when public property, rights-of-way or public easements are sold, exchanged or transferred (Comp Plan Policy K8).

2. No more than one water access development (boathouse, dock, pier, wharf, or combination) shall be allowed per lake front lot, consistent with reasonable use.
3. Prior to development, shoreland properties must be surveyed and the area 50-feet horizontally upland from the ordinary high water line shall be staked.

#### 155.2.3.400 BOOTH ISLAND

- (A) Unplatted areas. An Open Space Overlay Zone shall apply to the areas of Booth Island that were unplatted as of 7/13/78.
- (B) Permitted uses. On the unplatted areas of Booth Island, the following uses are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this part:
- (1) Low intensity uses such as hiking, walking, observation, and other similar uses are allowed.
  - (2) Residential use and structures which can meet underlying zone limitations and the following requirements through site review of the following requirements:
    - (a) Compliance with the following provisions of the Wetlands and Riparian Overlay Zone:
      1. Sections 155.2.5 and 155.2.6.
    - (b) Compliance with the following provisions of the Building Setbacks and Lot Area Requirements, Vehicle Parking and Loading Standards, Water Supply and Solar Setback Requirements:
      1. Sections 155.2.1.121, 155.2.1.122, 155.2.1.123, 155.3.3.3, 155.3.4.3A, 155.3.7.2.
    - (c) Compliance with the erosion control provisions of Exhibit B of Ordinance 181.
    - (d) No fencing of property boundaries shall be allowed.
    - (e) Livestock, pets or domesticated animals are prohibited.
    - (f) No hunting shall occur within the Open Space Overlay Zone.
    - (g) Vegetation removal shall be limited to 25 feet area around the dwelling site, its pathways, accessory structures and facilities. Vegetation removal shall be allowed for solar access, but limited to no more than needed based upon a solar site analysis utilizing sunchart methodology as required by Oregon Department Energy tax credit standards as certified by ODE tax credit certified technician.
    - (h) All structures shall be of stick-built construction. Recreational vehicles, trailers and manufactured dwellings are prohibited for residential use. Dwelling structures shall be limited to 2000 square feet of living space. All structures shall

be constructed with earth tone coloration consistent with the natural setting of Booth Island.

- (i) Motorized vehicles are limited to all-terrain vehicles for transportation use only. Recreational use of motorcycles and all-terrain vehicles is prohibited.
- (j) Fire retardant roofs on all structures.
- (k) Compliance with subsurface disposal standards of Sections 2.c. of Ordinance 181.
- (l) Motorized vehicles used for transportation purposes shall be used only on clearly marked pathways designed for common use and minimal vegetation disturbance and removal. Access easements for all parcels shall be recorded at the time of first partition application approval.
- (m) Construction materials for all allowed structures will be transported to all of the newly created parcels (Map 201200000 TL 200 and Map 20120310 TL 3000) from a single access point, using only the designated pathways. Access easements for all parcels shall be recorded at the time of first partition application approval. The dock and/or loading area shall be designed with riparian vegetation protection measures and the location of the access point shall be agreed upon by expert and land owners.
- (n) The first 50 feet perpendicular to the shoreline (from water to upland on the island) shall be a “no touch” zone with no disturbance to vegetation, no building, and no recreational activities. The only exception to this “no touch” shall be docks specified below in section (p) for water access for boats and passive recreational activities.
- (o) Woody debris shall be left along the shoreline and in the 100 riparian buffer and aquatic plant life with the exception of invasive noxious plants shall be left undisturbed.
- (p) All docks shall be no larger than 400 square feet with a maximum shoreline width of 20 feet.
- (q) Only one residential structure and one accessory or facility structure, of 500 square foot or less, will be allowed per lot between 50 to 100 feet of the OHW.

(3) The following parcels shall be limited in size as follows:

- (a) Assessor’s Map No. 20120310 TL 3001: Tax Lot 3001 shall not be further partitioned or subdivided and shall contain the same area as exists on the date in 2006 that this provision was enacted.
- (b) Assessor’s Map No. 20120310 TL 3100: Tax Lot 3100 shall not be further partitioned or subdivided and shall contain the same area as exists on the date in 2006 that this provision was enacted.

- (c) Assessor's Map No. 20120000 TL 201: Tax Lot 201 shall not be further partitioned or subdivided and shall contain the same or larger area as exists on the date in 2006 that this provision was enacted.
- (d) Assessor's Map No. 20120000 TL 200 and 20120310 TL 3000: Tax Lots 200 and 3000 shall be considered together for the purposes of this provision and the total number of parcels that may be created from Tax Lots 200 and 3000 together shall not exceed six and the six parcels shall cumulatively average greater than 3.5 acres.

#### **155.2.4      Fragile Lands Overlay (FL) Zone**

- 155.2.4.100      Purpose
- 155.2.4.200      Excessive Slopes
- 155.2.4.300      Stabilized or Active Dunes

##### **155.2.4.100      Purpose**

- A. The City has determined as a matter of policy that significant development restraints be placed upon certain fragile lands. These lands shall be generally designated FL. FL lands shall be further delineated according to whether they are excessive in slope (FL-S) or stabilized or active dunes (FL-D), as defined herein and by the Comprehensive Plan.

The purpose of the FL designation is to prevent irreparable ecological damage and construction upon land where development can create potential for wind and water erosion. In the interests of protecting the general health, welfare, and safety of the citizens of the City, the different FL sub-designations shall be defined and implemented as follows.

##### **155.2.4.200      Excessive Slopes**

- A. Definition. For purposes of this section, **EXCESSIVE SLOPES** are those slopes 12% or steeper, as generally identified on the Comprehensive Plan's geological constraints map.
- B. Permitted uses. All uses permitted in the underlying zone are permitted in excessive slopes, except that:
  1. Development on slopes 12% to 16% shall be subject to site review and approval by the Planning Commission. The Planning Commission may require the applicant to obtain an engineer's or geologist's report concerning the property and development in question.
  2. Development on slopes greater than 16% will be allowed only after the applicant has supplied proof of safety of the proposed development. For purposes of this section, a licensed Oregon Engineer's report shall satisfy proof of safety of the proposed development.
- C. Conditional uses. The following conditional uses are subject to a conditional use permit granted pursuant to the general provisions of this section:
  1. All conditional uses allowed in the underlying zone, subject to the slope requirements outlined in (B) above.

#### 155.2.4.300 Stabilized or Active Dunes

- A. Definition. For purposes of this section, **APPLICABLE DUNES** are those lands where development will destroy sand-stabilizing surface vegetation or expose loose or cemented sand to wind or water erosion. Examples of soil are Netarts, 240c, as generally identified on the Comprehensive Plan's geology map.
- B. Permitted uses. All permitted uses allowed in the underlying zone are permitted in applicable dunes, except that:
  - 1. All development proposals shall be subject to a site review by the City. The City shall require the applicant to prepare a plan to revegetate damaged areas and to negate any erosion potential caused by the proposed development.
  - 2. All applicants proposing development in stabilized or active dune areas shall post a bond or deposit of money in lieu thereof with the City Recorder in the amount of \$1,000 per acre, to ensure that required re-vegetation and erosion control measures are successfully carried out.
- C. Conditional uses. Conditional uses are subject to a conditional use permit granted pursuant to the general provisions of this section providing for the granting of conditional use permits. All conditional uses allowed in the underlying zone are subject to the requirements of (B) above.

### 155.2.5 Wetland Overlay Zones

#### Sections:

- 155.2.5.100 Purpose
- 155.2.5.200 Goal 5 Requirements
- 155.2.5.300 Definitions
- 155.2.5.400 Determination of Significant Wetlands
- 155.2.5.500 Protection of Wetland Areas
- 155.2.5.600 Variances

#### 155.2.5.100 Purpose

The purpose of the Wetland Overlay zone is to protect the value of significant wetlands (defined in section 155.2.5.300 below), which occur within the boundaries of the City.

#### 155.2.5.200 Goal 5 Requirements

Oregon Statewide Planning Goal 5 requires cities to protect the significant wetlands within their boundaries and also defines alternative rules that may be applied to satisfy the goal. Dunes City has adopted the standard Goal 5 process as defined by OAR 660-023-0020(1) to meet Goal 5 requirements.

Although Goal 5 requires program decisions for all wetlands that meet the significance criteria, the City shall retain the non-significant wetlands on their LWI map, in order to alert property owners and others that Division of State Lands and U. S. Corps of Engineers fill permits may still be required for actions that affect these wetlands.

#### 155.2.5.300 Definitions

**Jurisdictional delineation** - A delineation of the wetland boundary that is approved by the Oregon Division of State Lands (DSL). A delineation is a precise map and documentation of actual wetland boundaries on a

parcel, whereas a determination may only be a rough map or a presence/absence finding. [See OAR 141-090-0005 et seq. for specifications for wetland delineation or determination reports.]

**Locally significant wetland** - A wetland that is determined to be significant under the criteria of OAR 141-86-0300 et seq. These criteria include those wetlands that score a high rating for fish or wildlife habitat, hydrologic control, or water quality improvement functions.

**Local Wetlands Inventory (LWI)** - Maps and report adopted by Dunes City entitled Dunes City Local Wetlands Inventory and Riparian Inventory (DCLWIRI) and any subsequent revisions as approved by the Oregon Division of State Lands. The LWI is a comprehensive survey of all wetlands  $\frac{1}{2}$  acre or greater in size. The LWI also contains maps of all identified wetlands.

**Oregon Freshwater Wetland Assessment Methodology (OFWAM)** - A wetland function and quality assessment methodology developed by the Oregon Division of State Lands.

**Wetland** - An area inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which, under normal circumstances, does support a prevalence of vegetation typically adapted for life in saturated soil conditions.

**Wetland protection area** - An area subject to the provisions of this chapter that includes all wetlands determined to be locally significant.

**Wetland resource map** - The Dunes City adopted map, which incorporates the DSL-approved LWI map and identifies locally significant wetlands.

#### **155.2.5.400 Determination of Significant Wetlands**

- A. The City determines which wetlands are locally significant in accordance with rules adopted by Division of State Lands (OAR 141-086-300). Locally significant wetlands are identified on the City Wetland Resource Map.
- B. The City adopts the findings of the LWI. Any revision to the LWI shall map any wetlands boundary changes or new wetland boundaries to an accuracy of at least 25 feet. The City shall require that maps or data sets be provided for the LWI that determine wetland boundaries within  $\pm$  25 feet. These maps or data sets shall comprise the City Wetland Resource Map.
- C. Any change to the DCLWIRI shall require a professional wetland scientist to provide a finding of wetland significance for any new or changed wetland.

#### **155.2.5.500 Protection of Wetland Areas**

- A. Wetland protection areas consist of locally significant wetlands only.
- B. Unless otherwise stated, the City shall apply the provisions of this Section in conjunction and concurrently with the requirements of any development permit being sought by an applicant.
- C. No delineation is required if the proposed development is located 50 feet or more from a significant wetland identified on the LWI map or a determination, but not an approved delineation. This is not a buffer or setback, it is an allowance for LWI map inaccuracy when the expense of a precise delineation may not be warranted. (Please note that compliance with State

and Federal wetland regulations for all wetlands, mapped or unmapped, remains the legal responsibility of the landowner.)

- D. Applications for plan approvals, development permits, building permits, or plans for proposed public facilities on parcels containing a wetland protection area or a portion thereof that are within 50 feet of the wetland boundary, shall include the following:
  - 1. A delineation of the wetland boundary completed by a professional wetland scientist, or similar expert, qualified to delineate wetlands in accordance with Oregon Division of State Lands rules. If the proposed project is designed to avoid wetlands, a wetland determination report may be provided in place of the delineation.
  - 2. A scale drawing that clearly depicts the wetland boundary, the surface water source, existing trees and vegetation, property boundaries, and proposed site alterations including proposed excavation, fill, structures, and paved areas.
  - 3. Verification that the application packet has been submitted to the Oregon Department of Fish and Wildlife for review and comment.
- E. The City shall report all development in wetlands, identified in the Dunes City local Wetland Inventory and Riparian Inventory to the Division of State Lands.
- F. Protection During Construction. The requirements of Dunes City's erosion control regulations shall be followed during construction.

#### **155.2.5.500.1 Approval Criteria**

The City shall base its decision on the following criteria in addition to the required criteria for any other permit or approval that is being sought. Approvals shall be based on compliance with all of the following criteria:

- A. The proposed project complies with the provisions of Chapter 155 of this code.
- B. Except as otherwise allowed in 155.2.5.500.2, the proposed project will not result in grading, excavation or filling of a wetland or reduction of wetland area on a parcel that has been identified as containing a wetland.
- C. Except as otherwise allowed in 155.2.5.500.2, the proposed project will not result in development or filling of land within 50 feet of the boundary of a wetland that has been identified only on the LWI map or by a determination, but not an approved delineation.

#### **155.2.5.500.2 Allowed Activities Within Wetland Protection Areas**

- A. Any use, sign, or structure, and the maintenance thereof, that lawfully existed on the date of adoption of this Section is allowed to continue within a wetland protection area. Such use, sign, or structure may continue at a similar level and manner as existed on the date of adoption. The maintenance and alteration of pre-existing ornamental landscaping is permitted within a wetland protection area so long as no additional native vegetation is disturbed. The provisions of this Section shall not be affected by any change in ownership of properties containing a wetland protection area.

- B. The following activities and maintenance thereof are allowed within a wetland protection area, provided that any applicable State or Federal permits are secured:
1. Wetland restoration and rehabilitation activities, including native vegetation;
  2. Cutting and removal of trees that pose a hazard to life or property due to threat of falling;
  3. Removal of non-native vegetation, if replaced with native plant species at similar coverage or density, so that natives are dominant;
  4. Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices avoid sedimentation and impact to native vegetation, and any spoils are placed in uplands;
  5. Replacement of a permanent, legal, non-conforming structure in existence on the date of adoption of this ordinance with a structure on the same building footprint, if it does not disturb additional area, and in accordance with the provisions of this chapter;
  6. Expansion of a permanent, legal, non-conforming structure in existence on the date of adoption of this ordinance, if the expansion area is not within and does not disturb the wetland protection area, and in accordance with the provisions of this chapter;
  7. Emergency stream bank stabilization to remedy immediate threats to life or property; and
  8. Maintenance and repair of existing roads and streets, including repaving and repair of existing bridges, and culverts, provided that such practices avoid sedimentation and other discharges into the wetland or waterway.
  9. Uses allowed by Section 155.2.3.300.B.

#### **155.2.5.500.3 Prohibited Activities within Wetland Protection Areas:**

- A. The following activities are prohibited within significant:
1. Placement of structures or impervious surfaces, including fences, decks, etc.
  2. Excavation, grading, fill, stream alteration or diversion, or removal of native vegetation, except for perimeter mowing for fire protection purposes or the installation of a water line to a lake.
  3. Expansion of pre-existing, non-native ornamental vegetation such as lawns.
  4. Dumping, piling, or disposal of refuse, yard debris, or other material.
  5. Any use not specifically listed in Section 155.2.5.500.2.

#### **155.2.5.500.4 Notification and Coordination with State Agencies**

- A. The City shall notify the Oregon Division of State Lands in writing of all applications to the City for development activities that may affect any wetland identified in the DCLWIRI. This applies

for both significant and non-significant wetlands. The Division provides a Wetland Land Use Notification form for this purpose. [See OAR 660-23-100(7); ORS 227.350 for cities and ORS 215.418 for counties.]

#### **155.2.5.600 Variances**

- A. The City Council shall be the approving authority for applications for variances to the Wetland Protection Area provisions. The procedures of Section 155.5.1 shall be followed for approval of a variance except that the variance criteria of this section shall apply subject to the approval of DSL and U.S. Army Corp. of Engineers.
- B. Mapping Error Variances and Corrections. The City may correct the location of the wetland protection overlay zone when the applicant has shown that a mapping error has occurred and the error has been verified by the DSL. Delineations verified by DSL shall be used to automatically update and replace DCLWIRI mapping. No formal variance application or comprehensive plan amendment is needed for map corrections where approved delineations are provided.
- C. Hardship Variances. The City Council may grant a variance to the provisions of this ordinance only when the applicant has shown that all of the following conditions exist:
  1. Through application of this ordinance, the property has been rendered not buildable;
  2. The applicant has exhausted all other options available under this chapter to relieve the hardship;
  3. The variance is the minimum necessary to afford relief;
  4. No significant adverse impacts on water quality, erosion, or slope stability will result from approval of this hardship variance, or these impacts have been mitigated to the greatest extent possible; and
  5. Loss of vegetative cover shall be minimized.

#### **155.2.6 Riparian Overlay Zone**

##### **Sections**

|             |   |
|-------------|---|
| 155.2.6.100 | Purpose   |
| 155.2.6.200 | Goal 5 Requirements                                   |
| 155.2.6.300 | Definitions   |
| 155.2.6.400 | Determination of Local Significant Riparian Corridors |
| 155.2.6.500 | Protection of Riparian Corridors                      |
| 155.2.6.600 | Variances   |

#### **155.2.6.100 Purpose**

The purpose of the Riparian Overlay Zone is to protect the values of significant riparian corridors (defined in Section 155.2.6.300 below), which occur within the boundaries of the City.

## **155.2.6.200      Goal 5 Requirements**

Oregon Statewide Planning Goal 5 requires cities to protect significant riparian corridors within their boundaries and also defines alternative rules that may be applied to satisfy the goal. Dunes City has adopted the standard Goal 5 process as defined by OAR 660-023-0020(1) to meet Goal 5 requirements.

## **155.2.6.300      Definitions**

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

**Locally Significant Riparian Corridor** is any boundary area of lake or stream that is fish bearing.

**Riparian area** is a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream [ORS 541.351(10)]. See also OAR 660-023-0090(1)(b).

**Riparian corridor** is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. OAR 660-023-0090(1)(c). Along all lakes, and fish-bearing streams with average annual stream flow less than 1,000 cfs, the riparian corridor boundary shall be 50 feet from the top of bank OAR 660-023-0090(5)(b).

**Riparian corridor boundary** is an imaginary line that is a certain distance upland from the top of bank, for example, as specified in section (5) of this rule [OAR 660-023-0090(1)(d)]. See also Section 155.2.6.500 A.

**Stream** is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels and excluding man-made irrigation and drainage channels. [OAR 660-023-0090(1)(e)]

**Structure** is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances. [OAR 660-023-0090(f)].

**Top of bank** shall have the same meaning as "bank full stage" defined in OAR 141-085-0010(2), "Top of Bank" means the distinct break in slope between the stream bank or shoreline and the stream bottom or marine beach or bed, excluding areas of sloughing. For steep banks that extend into the water, the toe may be submerged below the ordinary high water line. For artificial structures, such as jetties or bulkheads, the toe refers to the base of the structure, where it meets the streambed or marine beach or bed.

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

## **155.2.6.400      Determination of Local Significant Riparian Corridors**

- A. For inventory resources to be protected as a significant Goal 5 Resources, the City shall determine that the information used is adequate in accordance with OAR 660-023-0030(3). Upon written objection to the adequacy of the inclusion in the DCLWIRI, the adequacy shall be addressed by the Planning Commission and may be appealed to the City.

- B. The City shall determine which riparian corridors are locally significant in accordance with rules adopted by the Oregon Department of Land Conservation and Development in OAR 660-023-0090(8) and OAR 660-023-0030(4). Only significant riparian corridors shall be listed in the DCLWIRI.
- C. Significant riparian corridors are identified on the DCLWIRI map. These riparian corridors shall be mapped to an accuracy of at least 25 feet and shall be based upon the DCLWIRI.

#### **155.2.6.500 Protection of Riparian Corridors**

- A. Locally Significant Riparian Corridors, as listed in the DCLWIRI, shall determine its riparian corridor boundary at 50 feet from the top of bank.
- B. Where the riparian corridor includes all or portions of a LSW, the boundary shall be measured from the upland edge of the wetland.
- C. With the exception of the following instances listed below, and only when these instances are designed to minimize intrusion into the riparian corridor, grading involving cutting and filling, and placement of structures or impervious surfaces shall not be allowed. Exceptions:
  1. Streets and paths;
  2. Utilities and pumps;
  3. Water-dependent and water-related uses, including one access path not to exceed eight feet in width; and
  4. Replacement of existing structures in the same position with structures that do not disturb additional areas within the riparian corridor.
- D. Where a hardship is shown through a successful variance application, the setback may be allowed to average 50 feet provided that the design of the development minimizes impact to the riparian corridor.
- E. For existing parcels that, through application of the requirements of this section, have no usable building site, a variance may be granted to allow a building site on the parcel, provided that the design of the development minimizes impact to the riparian corridor.
- F. Within the riparian corridor, riparian vegetation shall not be removed except:
  1. Removal of non-native vegetation and replacement with native plant species shall be allowed.
  2. Riparian vegetation may be removed if necessary for the development of water-dependent or water-related uses or specified in (C) above, provided such removal is minimized to reduce impact to the riparian corridor and to protect water quality.
- G. Permitted vegetation removal and pruning within the riparian corridor shall comply with the provisions of Chapter 154 of this Code.
- H. Erosion control measures approved by appropriate regulatory agencies.

## **155.2.6.600 Prohibited Activities Within Riparian Corridors**

- A. The following activities are prohibited within a riparian corridor, except as may be allowed by Section 155.2.5.6.500.C.:
1. Placement of structures or impervious surfaces, including fences, decks, etc.
  2. Excavation, grading, fill, stream alteration or diversion, or removal of native vegetation, except for perimeter mowing for fire protection purposes.
  3. Expansion of pre-existing, non-native ornamental vegetation such as lawns.
  4. Dumping, piling, or disposal of refuse, yard debris, or other material.
  5. Application of chemicals such as herbicides, pesticides, and fertilizers unless applied in accordance with state and federal regulations.

## **155.2.6.700 Variances**

- A. The City Council shall be the approving authority for applications for variances to the Riparian Corridor Area provisions. The procedures of Section 155.5.1 shall be followed for approval of a variance except that the variance criteria of this section shall apply subject to the approval of DSL and U.S. Army Corp. of Engineers.
- B. Mapping Error Variances and Corrections. The City may correct the location of the wetland protection overlay zone when the applicant has shown that a mapping error has occurred and the error has been verified by the DSL. Delineations verified by DSL shall be used to automatically update and replace DCLWIRI mapping. No formal variance application or comprehensive plan amendment is needed for map corrections where approved delineations are provided.
- C. Hardship Variances. The City Council may grant a variance to the provisions of this ordinance only when the applicant has shown that all of the following conditions exist:
1. Through application of this ordinance, the property has been rendered not buildable;
  2. The applicant has exhausted all other options available under this chapter to relieve the hardship;
  3. The variance is the minimum necessary to afford relief;
  4. No significant adverse impacts on water quality, erosion, or slope stability will result from approval of this hardship variance, or these impacts have been mitigated to the greatest extent possible; and
  5. Loss of vegetative cover shall be minimized.

## SECTION 155.3 DESIGN STANDARDS

### Sections

- 155.3.0 - Design Standards Administration
- 155.3.1 - Access and Circulation
- 155.3.2 - Landscaping, Street Trees, Fences and Walls
- 155.3.3 - Vehicle and Bicycle Parking
- 155.3.4 - Public Facilities Standards
- 155.3.5 - Surface Water Management
- 155.3.6 - All Uses
- 155.3.7 - Solar Access
- 155.3.8 – Traffic Impact Studies

### **155.3.0     Design Standards Administration**

#### **155.3.0.1    Applicability**

All partitions and subdivisions shall conform to the design and development standards specified in the following sections and the Comprehensive Plan. The standards specified in this section shall be considered as the minimum appropriate for normal partition or subdivision development and are not intended to limit the partitioner or subdivider from using higher standards of design and development. The city may require appropriate higher design and development standards than the minimum required by this section upon a finding by the Planning Commission or the City Council that the division is located in an area possessing natural conditions that require special consideration or the division is intended for especially intensive development. All divisions shall be evaluated in terms of efficiency in the use of land, protection of natural features, and pleasing, convenient, and functional design. Requirements not otherwise contained in this section may be prescribed when needed to ensure that established criteria and standards of professional subdivision design are maintained in the city.

Natural conditions that require higher design standards include but are not limited to the following:

- Vegetated topography of slopes of greater than 12 percent within 1,000 feet of a lake shoreline that is particularly susceptible to erosion.
- Steep inner gorges of intermittent and perennial streams with signs of natural slope instability.
- Significant or non-significant wetlands located at the base of slopes greater than 12 percent that would be susceptible to filling with sediment from a cleared hill slope or road construction above.
- Sandy or saturated soil types that require specialized septic treatment.

All developments within the City must comply with the provisions of Sections 155.3.1 through 155.3.6. Some developments, such as major projects requiring land division may require detailed findings demonstrating compliance with each Section of the code. For smaller, less complex projects, fewer code provisions may apply. Though some projects will not require land use or development permit approval (e.g., building of single family houses on platted lots, that are not subject to Section 155.3.6 - All Uses), they are still required to comply with the provisions of this Section.

#### **155.3.0.2    Types of Design Standards**

The City's development design standards are contained in both Section 155.2 and Section 155.3. It is important to review both Sections, and all relevant code sections within the sections, to determine which

standards apply. The City may prepare checklists to assist property owners and applicants in determining which sections apply.

- A. Section 155.3. The design standards contained within the following sub-sections apply throughout the City, for all land use types:

155.3.1 - Access and Circulation  
155.3.2 - Landscaping, Street Trees, Fences and Walls  
155.3.3 - Automobile and Bicycle Parking  
155.3.4 - Public Facilities Standards  
155.3.5 - Surface Water Management  
155.3.6 - Other Design Standards  
155.3.6 - All Uses  
155.3.7 - Solar Access

- B. Section 155.2. Each land use district (Section 155.2) provides design standards that are specifically tailored to the district. For example, the Residential District contains building design guidelines that are different than those provided in the Community Commercial District, due to differences in land use, building types, and compatibility issues. In addition, each district provides special standards that are meant to address the impacts or characteristics of certain land uses.

### **155.3.1 Access and Circulation**

#### **Sections:**

155.3.1.1 - Purpose  
155.3.1.2 - Vehicular Access and Circulation  
155.3.1.3 - Pedestrian Access and Circulation

#### **155.3.1.1 – Purpose.**

The purpose of this Section is to ensure that developments provide safe and efficient access and circulation, for pedestrians and vehicles. Sub-section 155.3.1.2 provides standards for vehicular access and circulation. Sub-section 155.3.1.3 provides standards for pedestrian access and circulation. Standards for transportation improvements are provided in Sub-section 155.3.4.1.

#### **155.3.1.2 Vehicular Access and Circulation**

- A. **Intent and Purpose.** The intent of this Section is to manage vehicle access to development through a connected street system, while preserving the flow of traffic in terms of safety, street capacity, and efficiency. Access shall be managed to maintain an adequate “level of service” and to maintain the “functional classification” of streets as required by the City’s Master Road Plan. Major streets including highways, arterials, and collectors serve as the primary system for moving people and goods. “Access management” is a primary concern on these streets. Local streets and alleys provide access to individual properties. If vehicular access and circulation are not properly designed, these streets will be unable to accommodate the needs of development and serve their transportation function. This Section attempts to balance the right of reasonable access to private property with the right of the citizens of the City and the State of Oregon to safe and efficient travel. It also requires all developments to construct planned streets (arterials and collectors) and to extend local streets.

To achieve this policy intent, state and local streets have been categorized in the Master Road Plan by function and classified for access purposes based upon their level of importance and function. (See Section 155.3.4.1.) Regulations have been applied to these streets for the purpose of reducing traffic accidents, personal injury, and property damage attributable to access systems, and to thereby improve the safety and operation of the street network. This will protect the substantial public investment in the existing transportation system and reduce the need for expensive remedial measures. These regulations also further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed street and access systems and discouraging the unplanned subdivision of land.

- B. Applicability.** This section shall apply to all streets within the City and to all properties that abut these streets.
- C. Access Permit Required.** Access to a public street requires an Access Permit in accordance with the following procedures:
  1. Permits for access to City streets shall be subject to review and approval by the Road Commission based on the standards contained in this Section, and the provisions of Subsection 155.3.4.1 - Transportation Standards. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.
  2. Permits for access to State highways shall be subject to review and approval by Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the City or Lane County. In that case, the City or County shall determine whether access is granted based on its adopted standards.
  3. Permits for access to County roads or highways shall be subject to review and approval by Lane County, except where the County has delegated this responsibility to the City, in which case the City shall determine whether access is granted based on adopted County standards.
- D. Traffic Study Requirements.** The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See Section 155.3.4.1 - Transportation Standards.)
- E. Conditions of Approval.** The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. In the Community Commercial District, access to and from off-street parking areas shall discourage backing onto a public street.
- F. Access Options.** When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (a minimum of 10 feet per lane is required). These methods are “options” to the developer/subdivider, unless one method is specifically required by Section 155.2 (i.e., under “Special Standards for Certain Uses”).
  1. Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.

2. Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). An access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.
3. Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in Section G, below.
4. Subdivisions Fronting Onto an Arterial Street. New residential land divisions fronting onto an arterial street shall be required to provide alleys or secondary (local or collector) streets for access to individual lots. When alleys or secondary streets cannot be constructed due to topographic or other physical constraints, access may be provided by consolidating driveways for clusters of two or more lots (e.g., includes flag lots and mid-block lanes).
5. Double-Frontage Lots. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. Except for corner lots, the creation of new double-frontage lots shall be prohibited in the Residential District, unless topographic or physical constraints require the formation of such lots. When double-frontage lots are permitted in the Residential District, a landscape buffer with trees and/or shrubs and ground cover not less than 10 feet wide shall be provided between the back yard fence/wall and the sidewalk or street; maintenance shall be assured by the owner (i.e., through homeowners association, etc.).

#### **Important cross-references to other code sections**

Sections 155.2 and 155.3 may require buildings to be placed near the front property line and driveways and parking areas oriented to the side or rear yard. The City may require the dedication of public right-of-way and construction of a street (e.g., frontage street, alley or other street) when the development impact is proportionate to the need for such a street, and the Comprehensive Plan or the Master Road Plan identifies the street. (Refer to Section 155.3.4.1 - Transportation Standards.)

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

1. Local Streets. A minimum of 50 feet separation (as measured from the sides of the driveway/street) shall be required on local streets (i.e., streets not designated as collectors or arterials), except as provided in subsection 3, below.
2. Arterial and Collector Streets. Access spacing on collector and arterial streets, and at controlled intersections (i.e., with four-way stop sign or traffic signal) shall be determined based on the policies and standards contained in the City’s Master Road Plan.
3. Special Provisions for All Streets. Direct street access may be restricted for some land uses, in conformance with the provisions of Section 155.2 - Land Use Districts. For example, access consolidation, shared access, and/or access separation greater than that specified by subsections 1 and 2 above, may be required by the City, County or ODOT for the purpose of protecting the function, safety and operation of the street for all users. (See Section ‘I’, below.) Where no other alternatives exist, the permitting agency may allow construction of an access connection

along the property line farthest from an intersection. In such cases, directional connections (i.e., right in/out, right in only, or right out only) may be required.

**H. Number of Access Points.** For single-family, two-family, and three-family housing types, one street access point is permitted per lot, when alley access cannot otherwise be provided; except that two access points may be permitted for two-family and three-family housing on corner lots (i.e., no more than one access per street), subject to the access spacing standards in Section 'G', above. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Section I, below, in order to maintain the required access spacing, and minimize the number of access points.

**I. Shared Driveways.** The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

1. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).
2. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval (Section 155.4.3) or as a condition of site development approval (Section 155.4.2).
3. Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, parcel configuration, and similar conditions) prevent extending the street/driveway in the future.

**J. Street Access.** A lot capable of future division and greater than five acres shall be created only if it fronts a street for at least 60 feet. A driveway shall serve a maximum of four tax lots.

**K. Driveway Standards and Fire Access.** Dunes City has many developable lots of large size and standards need to exist for potential multiple lot usage of driveways and for fire and rescue vehicle access and egress. The Oregon Uniform Fire Code (UFC) requires fire and emergency vehicle access to within 150 feet of any portion of any structure.

It is the intent of Dunes City that fire truck access requirements for driveways and streets coincide. Therefore, the driveway specifications for a lot on which any portion of any structure is beyond 150 feet from a City street should meet the minimum UFC requirements for a fire access street.

Grading or excavation needed for a driveway may require a permit as specified in section 151.042 of the Dunes City Code of Ordinances.

**Standards:** All driveways shall meet the following as a minimum:

- a. Single driveways shall have at least a 12-foot running surface width.

- b. A driveway on a two, three or four lot shared easement shall have at least a 30-foot width and be constructed with no less than a 12-foot asphalt or concrete running surface with 2.5 feet of rocked shoulders. The easement shall be at least 30 feet wide plus any additional width needed to support the driveway surface and any required fill.
- c. Each driveway accessing a street shall have at the intersection with the street running surface, an asphalt or concrete pad at least 8 feet in length and as wide as the running surface of the driveway plus an approach radius on each side.
- d. To ensure proper storm water management, any driveway with a slope in excess of 10% shall be designed by an engineer licensed in Oregon.
- e. If any lot or parcel that shares a driveway meets the requirements for further division and exceeds five-acres, the driveway easement shall be a minimum of 50 feet in width.

**Additional Requirements for Long Driveways:**

To construct or modify a driveway on a lot where any portion of any existing or proposed structure is 150 feet or more away from a Dunes City street, a fire-access street approval issued by the Siuslaw Valley Fire and Rescue (SVFR) is required prior to issuance of a building permit. An application form and information sheet for the fire-access street approval is available during normal business hours at the Dunes City Hall.

In the event of a disagreement between the Building Official, SVRFD and/or the applicant, the applicant shall have the right to appeal to the Dunes City Council for final disposition.

For requirements related to cul-de-sacs, please refer to sub-section 155.3.4.1.M.

**L. Vertical Clearances.** Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 14 feet for their entire length and width.

**M. Vision Clearance.** No signs, structures or vegetation in excess of three feet in height shall be placed in “vision clearance areas”, as shown in Appendix 155.6 Vision Clearance Diagram. The minimum vision clearance area may be increased by the Planning Commission or Road Commission upon finding that more sight distance is required (i.e., due to traffic speeds, street alignment, etc.).

**Table 155.3.1.2.M - Vision Clearance Areas (See 155.6.7 Appendix for vision clearance diagrams)**

| <i>Vision Clearance</i>            |         |
|------------------------------------|---------|
| Street-street intersection         | 25 feet |
| Street-alley/driveway intersection | 10 feet |

**155.3.1.3 - Pedestrian Access and Circulation. *[Reserved]***

**Section 155.3.2 Landscaping, Street Trees, Fences and Walls**

**Sections:**

**155.3.2.1 Purpose**

- 155.3.2.2 Landscape Conservation
- 155.3.2.3 New Landscaping
- 155.3.2.4 Street Trees
- 155.3.2.5 Fences and Walls

#### **155.3.2.1 - Purpose.**

The purpose of this Section is to promote community health, safety and welfare by protecting natural vegetation, and setting development standards for landscaping, street trees, fences and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Trees and other plants can also buffer pedestrians from traffic. Walls, fences, trees and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces.

#### **Section 155.3.2.2 - Landscape Conservation** Refer to Chapter 154

#### **Section 155.3.2.3 -New Landscaping** *[Reserved]*

#### **Section 155.3.2.4 - Street Trees** *[Reserved]*

**Section 155.3.2.5 - Fences and Walls,** Refer to Sections 155.2.1.123B; 155.2.2.123C; 155.3.3.3D; 155.5.2.2.F.

### **Section 155.3.3 — Vehicle and Bicycle Parking**

#### **Sections:**

- 155.3.3.1 - Purpose**
- 155.3.3.2 - Applicability**
- 155.3.3.3 - Vehicle Parking and Loading Standards**
- 155.3.3.4 - Bicycle Parking Standards**

#### **155.3.3.1 – Purpose.**

The purpose of this Section is to provide basic and flexible standards for development of vehicle and bicycle parking. The design of parking areas is critically important to the viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Historically, some communities have required more parking than is necessary for some land uses, paving extensive areas of land that could be put to better use. Because vehicle-parking facilities can occupy large amounts of land, they must be planned and designed carefully to use the land efficiently while maintaining the visual character of the community. This Section recognizes that each development has unique parking needs by providing a flexible approach for determining parking space requirements (i.e., “minimum” and “performance-based” standards). This Section also provides standards for bicycle parking because many people use bicycles for recreation, commuting, and general transportation. Children, as well as adults, need safe and adequate spaces to park their bicycles throughout the community.

#### **155.3.3.2 - Applicability.**

All developments subject to site review (Section 155.4.2), including development of parking facilities, shall comply with the provisions of this Section.

### 155.3.3.3 - Vehicle Parking and Loading Standards

#### A. Parking requirements.

Buildings erected or enlarged or uses established or changed after the effective date of this section shall comply with the following parking requirements:

##### 1. *Required parking spaces.*

| <i>Use</i>                                       | <i>Parking Spaces Required</i>  |
|--|---|
| One- or two-family dwelling or manufactured home | Two off-street parking spaces per dwelling unit   |
| Retail, commercial establishments                | One for every 300 square feet of gross floor area or 5½ spaces per 1,000 square feet, whichever provides the greatest amount of parking   |
| Business, professional and government offices    | One for every 250 square feet of gross floor area or 2½ spaces per 1,000 square feet of gross floor area, whichever provides the greatest amount of parking                                   |
| Medical offices and clinics                      | 6½ spaces per practitioner or 150 square feet of gross floor area, whichever provides the greatest amount of parking  |
| Motels   | One space per lodging unit, plus one for every four restaurant seats  |
| Churches, clubs, lodges, etc.                    | One space for every four fixed seats, every eight feet of bench length, or every 28 square feet in the main auditorium or place of worship where no permanent seats or benches are maintained |
| Restaurants                                      | One space per 200 square feet of floor area, plus one space per employee  |

#### B. Parking requirements for uses not specified.

The parking space requirements for buildings and uses not set forth herein shall be determined by the Planning Commission and such determination shall be based upon the requirements for the most comparable building or use specified herein. The decision of the Planning Commission may be appealed to the City Council in the manner allowed for appeals of site review requirements as specified in Section 155.4.

#### C. Common facilities for mixed uses.

1. *Mixed uses.* In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses or 5.5 spaces per 1,000 feet of gross floor area, whichever provides the greatest amount of parking. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except as provided in 2.b. below.

2. *Joint use of parking facilities.* The Planning Commission may authorize the joint use of parking facilities required by the uses and any other parking facility, provided that:
  - a. The applicant shows that there is no substantial conflict in the principal operating hours of the building or use for which the joint use of parking facilities are proposed;
  - b. The parking facility for which joint use is proposed is no further than 400 feet from the building or use required to have provided parking; and
  - c. The parties concerned in the joint use of off-street parking facilities shall evidence agreement for such joint use by a legal instrument approved by the City Attorney as to form and content. Such instrument, when approved as conforming to the provisions of this section, shall be recorded in the office of the City Recorder.

#### **D. Parking area design and improvement requirement.**

All public or private parking areas, except single family dwellings, which contain three or more parking spaces and outdoor vehicle sales areas shall be designed and improved according to the following:

1. *Service drives.* Groups of five or more parking spaces, except those in conjunction with single-family dwellings on a single lot, shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a street, other than an alley, will be required. Service drives shall be designed and constructed to facilitate the flow of traffic and provide maximum safety in traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum, which will allow the property to accommodate and service, anticipated traffic.
2. *Markings.* On parking lots having five or more parking spaces, such spaces shall be clearly marked in a permanent manner.
3. *Surface and grading.* All new parking areas shall have a durable, dust-free surfacing of asphaltic concrete, Portland cement concrete, or other approved materials. All parking areas, except those in conjunction with a residential use, shall be graded so as not to drain storm water onto any abutting public or private property.
4. *Bumpers.* All parking areas, except those required in conjunction with a residential use, shall provide a substantial bumper, which will prevent cars from encroachment on abutting private and public property.
5. *Fences, walls, and hedges.* All parking areas (including service drives in the Community Commercial District), except those required in conjunction with a residential use, which abut a residential district, and which require an interior yard setback, shall be enclosed along and immediately adjacent to any interior property which abuts any residential district with an opaque, site-obscuring fence, wall, or hedge not less than three feet nor more than eight feet in height, but adhering to the visual clearance and front and interior yard requirements established for the Community Commercial District. If the fence, wall, or hedge is not located on the property line, the area between the fence, wall, or hedge and the property line shall be landscaped with lawn or low-growing evergreen ground cover, or vegetable or rock mulch. All plant vegetation in this area shall be adequately maintained, and the fence, wall, or hedge shall be maintained in good condition. Screening or planting shall be of such size as to provide the required degree of screening within 12

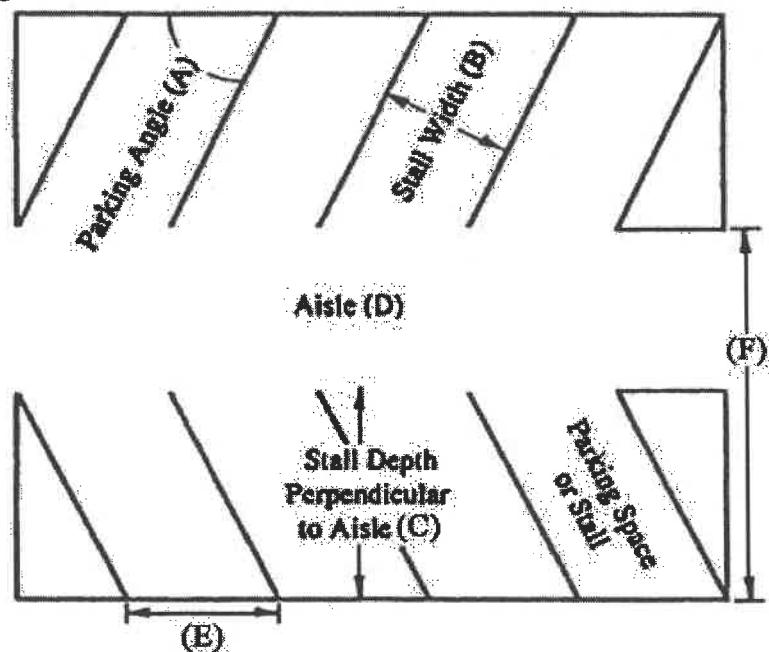
months after installation. Adequate provisions shall be maintained to protect walls, fences, or plant materials from being damaged by vehicles using the parking area.

6. *Lights.* Any lights provided to illuminate any public or private parking area shall be so arranged as to reflect the light away from any abutting or adjacent residential district.

#### E. Parking table and diagram

The following table provides the minimum dimensions of public or private parking areas based on the following diagram.

(1) *Parking diagram.*



(2) *Parking table.*

| (A)<br><i>Parking Angle</i> | (B)<br><i>Stall Width</i> | (C)<br><i>Stall Depth (Minimum) (ft.)</i> | (D)<br><i>Clear Aisle Width (Minimum) (ft.)</i> | (E)<br><i>Staff Distance at Bay Side (ft.) (Curb Length)</i> | (F)<br><i>Clear Bay Width (Minimum) (ft.)</i> | (G)<br><i>Permitted Decrease (Minimum) in Clear Aisle Width for Private Parking Areas (ft.)</i> |
|-----------------------------|---------------------------|---|---|--|---|---|
| Parallel                    | 8'0"                      |   | 12.0  | 22.0   | 20.0  | 2   |
| 20°                         | 8'0"                      | 13.6                                      | 11.0  | 23.4   | 24.6  | 1   |
|                             | 8'6"                      | 14.1                                      | 11.0  | 24.9   | 25.1  |   |

| <b>(A)</b><br><b>Parking Angle</b> | <b>(B)</b><br><b>Stall Width</b> | <b>(C)</b><br><b>Stall Depth (Minimum) (ft.)</b> | <b>(D)</b><br><b>Clear Aisle Width (Minimum) (ft.)</b> | <b>(E)</b><br><b>Staff Distance at Bay Side (ft.) (Curb Length)</b> | <b>(F)</b><br><b>Clear Bay Width (Minimum) (ft.)</b> | <b>(G)</b><br><b>Permitted Decrease (Minimum) in Clear Aisle Width for Private Parking Areas (ft.)</b> |
|------------------------------------|----------------------------------|--|--|---|--|--|
|                                    | 9'0"                             | 14.6   | 11.0   | 26.3  | 25.6   |  |
|                                    | 9'6"                             | 15.1   | 11.0   | 27.8  | 26.1   |  |
|                                    | 10'0"                            | 15.5   | 11.0   | 29.2  | 26.5   |  |
| 30°                                | 8'0"                             | 16.0   | 11.0   | 16.0  | 27.0   | 1  |
|                                    | 8'6"                             | 16.4   | 11.0   | 17.0  | 27.4   |  |
| 30°<br>(cont'd)                    | 9'0"                             | 16.8   | 11.0   | 18.0  | 27.8   | 1  |
|                                    | 9'6"                             | 17.3   | 11.0   | 19.0  | 28.3   |  |
|                                    | 10'6"                            | 17.7   | 11.0   | 20.0  | 28.7   |  |
| 45°                                | 8'0"                             | 18.4   | 14.0   | 11.3  | 32.4   | 3  |
|                                    | 8'6"                             | 18.7   | 13.5   | 12.0  | 32.2   |  |
|                                    | 9'0"                             | 19.1   | 13.0   | 12.7  | 32.1   |  |
|                                    | 9'6"                             | 19.4   | 13.0   | 13.4  | 32.4   |  |
|                                    | 10'0"                            | 19.8   | 13.0   | 14.1  | 32.8   |  |
| 60°                                | 8'0"                             | 19.7   | 19.0   | 9.2   | 38.7   | 3  |
|                                    | 8'6"                             | 20.0   | 18.5   | 9.8   | 38.5   |  |
|                                    | 9'0"                             | 20.3   | 18.0   | 10.4  | 38.3   |  |
|                                    | 9'5"                             | 20.5   | 18.0   | 11.0  | 38.5   |  |
|                                    | 10'0"                            | 20.8   | 18.0   | 11.5  | 38.8   |  |
| 70°                                | 8'0"                             | 19.8   | 20.0   | 8.5   | 39.8   | 3  |
|                                    | 8'6"                             | 20.1   | 19.5   | 9.0   | 39.6   |  |
|                                    | 9'0"                             | 20.4   | 19.0   | 9.6   | 39.4   |  |
|                                    | 9'6"                             | 20.6   | 18.5   | 10.1  | 39.1   |  |
|                                    | 10'0"                            | 20.9   | 18.0   | 10.6  | 38.9   |  |
| 80°                                | 8'0"                             | 19.2   | 25.0   | 8.1   | 44.2   | 3  |

| <i>(A)</i><br><i>Parking Angle</i> | <i>(B)</i><br><i>Stall Width</i> | <i>(C)</i><br><i>Stall Depth (Minimum) (ft.)</i> | <i>(D)</i><br><i>Clear Aisle Width (Minimum) (ft.)</i> | <i>(E)</i><br><i>Staff Distance at Bay Side (ft.) (Curb Length)</i> | <i>(F)</i><br><i>Clear Bay Width (Minimum) (ft.)</i> | <i>(G)</i><br><i>Permitted Decrease (Minimum) in Clear Aisle Width for Private Parking Areas (ft.)</i> |
|------------------------------------|----------------------------------|--|--|---|--|--|
|                                    | 8'6"                             | 19.3   | 24.0   | 8.6   | 43.3   |  |
|                                    | 9'0"                             | 19.4   | 24.0   | 9.1   | 43.4   |  |
| 80°                                | 9'6"                             | 19.5   | 24.0   | 9.6   | 43.5   |  |
| (cont'd)                           | 10'0"                            | 19.6   | 24.0   | 10.2  | 43.6   |  |
| 90°                                | 8'0"                             | 18.0   | 26.0   | 8.0   | 44.0   | 3  |
|                                    | 8'6"                             | 18.0   | 25.0   | 8.5   | 43.0   |  |
|                                    | 9'0"                             | 18.0   | 24.0   | 9.0   | 42.0   |  |
|                                    | 9'6"                             | 18.0   | 24.0   | 9.5   | 42.0   |  |
|                                    | 10'0"                            | 18.0   | 24.0   | 10.0  | 42.0   |  |

#### F. Off-street loading.

Commercial or other non-residential buildings erected or established which abut upon an alley or street shall have one permanently maintained loading space for commercial vehicles of not less than ten feet in width and 22 feet in length for each 1,000 square feet of lot area or fraction thereof upon which the building is located, provided that not more than two such loading spaces shall be required.

#### G. Disabled Person Parking Spaces.

The following parking shall be provided for disabled persons, in conformance with the Americans with Disabilities Act. Disabled parking is included in the minimum number of required parking spaces in Section A. See following table for disabled person parking requirements.

## Minimum Number of Accessible Parking Spaces

ADA Standards for Accessible Design 4.1.2 (5)

| Total Number of Parking spaces Provided (per lot) | Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles) | Van Accessible Parking Spaces with min. 96" wide access aisle | Accessible Parking Spaces with min. 60" wide access aisle |
|---|--|---|---|
| <b>Column A</b>                                   |  |   |   |
| 1 to 25   | 1  | 1   | 0   |
| 26 to 50  | 2  | 1   | 1   |
| 51 to 75  | 3  | 1   | 2   |
| 76 to 100   | 4  | 1   | 3   |
| 101 to 150  | 5  | 1   | 4   |
| 151 to 200  | 6  | 1   | 5   |
| 201 to 300  | 7  | 1   | 6   |
| 301 to 400  | 8  | 1   | 7   |
| 401 to 500  | 9  | 2   | 7   |
| 501 to 1000                                       | 2% of total parking provided in each lot                             | 1/8 of Column A*  | 7/8 of Column A**   |
| 1001 and over                                     | 20 plus 1 for each 100 over 1000                                     | 1/8 of Column A*  | 7/8 of Column A**   |

\* one out of every 8 accessible spaces

\*\* 7 out of every 8 accessible parking spaces

### 155.3.3.4. Bicycle Parking Standards [Reserved]

### Section 155.3.4 — Public Facilities Standards

#### Sections:

- 155.3.4.0 Purpose and Applicability
- 155.3.4.1 Transportation Standards
- 155.3.4.2 Public Use Areas
- 155.3.4.3 Sanitary Sewer and Water Service Improvements
- 155.3.4.4 Storm Drainage Improvements
- 155.3.4.5 Utilities
- 155.3.4.6 Fire Hydrants
- 155.3.4.7 Public Utility Easements
- 155.3.4.8 Construction Plan Approval and Assurances
- 155.3.4.9 Installation

#### 155.3.4.0 Purpose and Applicability

- A. **Purpose.** The purpose of this Section is to provide planning and design standards for public and private transportation facilities and utilities. Streets are the most common public spaces, touching virtually every parcel of land. Therefore, one of the primary purposes of this Section is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth, and provide a range of transportation options, including options for driving, walking and bicycling. This Section is also intended to implement the City's Master Road Plan.

**Important cross-reference to other standards:** The City requires that streets provide direct and convenient access, including regular intersections. Section 155.3.1 - Access and Circulation, provides standards for intersections and blocks, and requires pedestrian access ways to break up long blocks.

- B. **When Standards Apply.** Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Section. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Section.
- C. **Standard Specifications.** The City shall establish standard construction specifications consistent with the design standards of this Section and application of engineering principles. They are incorporated in this code by reference.
- D. **Conditions of Development Approval.** No development may occur unless required public facilities are in place or guaranteed, in conformance with the provisions of this Code. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development. Findings in the development approval shall indicate how the required improvements are roughly proportional to the impact.

#### **155.3.4.1 Transportation Standards**

- A. **Development Standards.** No development shall occur unless the development has frontage or approved access to a public street, in conformance with the provisions of Section 155.3.1 - Access and Circulation, and the following standards are met:
  - 1. Streets within or adjacent to a development shall be improved in accordance with the Master Road Plan and the provisions of this Section;
  - 2. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this Section, and public streets shall be dedicated to the applicable City, County or State jurisdiction;
  - 3. New streets shall be paved; and
  - 4. The City may accept a future improvement guarantee [e.g., owner agrees not to remonstrate (object) against the formation of a local improvement district in the future] in lieu of street improvements if one or more of the following conditions exist:
    - a. A partial improvement may create a potential safety hazard to motorists or pedestrians;
    - b. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;
    - c. The improvement would be in conflict with an adopted capital improvement plan; or
    - d. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets.

- B. Variances. Variances to the transportation design standards in this Section may be granted by means of a Variance, as governed by Section 155.5.1 - Variances. A variance may be granted under this provision only if a required improvement is not feasible due to topographic constraints or constraints posed by fragile lands (Section 155.2.4).
- C. Creation of Rights-of-Way for Streets and Related Purposes. Streets shall be created through the approval and recording of a final subdivision or partition plat; except the City may approve the creation of a street by acceptance of a deed, provided that the street is deemed essential by the City Council for the purpose of implementing the Master Road Plan, and the deeded right-of-way conforms to the standards of this Code. All deeds of dedication shall be in a form prescribed by the City and shall name "the public," as grantee. All dedications shall be accepted by resolution and recorded before any improvements are performed by the City.
- D. Creation of Access Easements. The City may approve an access easement established by deed when the easement is necessary to provide for access and circulation in conformance with Section 155.3.1 - Access and Circulation.
- E. Street Location, Width and Grade. Except as noted below, the location, width and grade of all streets shall conform to the Master Road Plan or subdivision plat. Street location, width and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets:
1. Street grades shall be approved by the Road Commission in accordance with the design standards in sub-section 'N', below; and
  2. Where the location of a street is not shown in an existing street plan (See sub-section 'H'), the location of streets in a development shall either:
    - a. Provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this Section, or
    - b. Conform to a street plan adopted by the City, if it is impractical to connect with existing street patterns because of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.
- F. Minimum Rights-of-Way and Street Sections. Street rights-of-way and improvements shall be the widths in Table 155.3.4.1. A variance shall be required in conformance with Subsection 155.3.4.1.B to vary the standards in Table 155.3.4.1. Where a range of width is indicated, the decision-making authority, based upon the following factors, shall determine the width:
1. Street classification in the Master Road Plan;
  2. Anticipated traffic generation;
  3. On-street parking needs;
  4. Sidewalk and bikeway requirements based on anticipated level of use;
  5. Requirements for placement of utilities;
  6. Street lighting;
  7. Minimize drainage, slope, and sensitive lands impacts, as identified by Section 155.3.4.4 – Storm Drainage, and the Comprehensive Plan;
  8. Street tree location, as provided for in Section 155.3.4;

9. Safety and comfort for motorists, bicyclists, and pedestrians;
10. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided;
11. Access needs for emergency vehicles; and
12. Transition between different street widths (i.e., existing streets and new streets), as applicable.

Table 155.3.4.1 Street Right of Way and Paving Widths

| <i>Type of Street</i>   | <i>Right-of-Way Width (ft.)</i> | <i>Paving Width (ft.)</i> |
|---|---------------------------------|---------------------------|
| Arterials   | 60–120 **                       | 24–48 **                  |
| Collector streets and all business streets other than arterials   | 60–80 **                        | 24–44 **                  |
| Local streets in single-family density areas - streets which in the judgment of the Planning Commission will never be more than 2400' in length, and which will have a relatively even division of traffic to two or more exits | 50                              | 22                        |
| Cul-de-sacs   | 92 ***                          | 70 ***                    |
| All streets not specifically provided for above   | 60 **                           | 40 **                     |
|   |                                 |                           |

\*\* The City may require a width within the limits shown based upon adjacent physical conditions, safety of the public, and the traffic needs of the community, and in accordance with specifications of this Section and the Master Road Plan.

\*\*\* Measured by diameter of circle constituting circular end

G. Traffic Signals and Traffic Calming Features [Reserved]

H. Future Street Plan and Extension of Streets.

1. A future street plan shall be filed by the applicant in conjunction with an application for a partition, subdivision or P.U.D. in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within 600 feet surrounding and adjacent to the proposed land division. The street plan is not binding; rather it is intended to show potential future street extensions with future development.
2. Streets shall be extended to the boundary lines of the parcel or tract to be developed, when the Planning Commission determines that the extension is necessary to give street access to, or permit a satisfactory future division of, adjoining land. The point where the streets temporarily end shall conform to a. through c. below:
  - a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets when the adjoining property is developed.
  - b. A barricade (e.g., fence, bollards, boulders or similar vehicle barrier) shall be constructed at the end of the street by the subdivider and shall not be removed until authorized by the City or other

applicable agency with jurisdiction over the street. The cost of the barricade shall be included in the street construction cost.

- c. Temporary turnarounds (e.g., hammerhead or circular configuration) shall be constructed for stub streets over 150 feet in length.

I. Street Alignment and Connections.

1. Staggering of streets making "T" intersections at collectors and arterials shall not be designed so that jogs of less than 300 feet on such streets are created, as measured from the centerline of the street shall have a corner radius that produces a 25' tangent. See Diagram 155.6.7.
2. Spacing between local street intersections shall have a minimum separation of 125 feet unless topography requires a lesser distance, except where more closely spaced intersections are designed to provide an open space, pocket park, common area or similar neighborhood amenity. This standard applies to four-way and three-way (off-set) intersections.
3. All local and collector streets, which abut a development site, shall be extended within the site to provide through circulation unless prevented by environmental or topographical constraints, existing development patterns or compliance with other standards in this code. This exception applies when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes some reasonable street connection.
4. Proposed streets or street extensions shall be located to provide direct access to existing or planned commercial services and other neighborhood facilities, such as schools, shopping areas and parks.
5. In order to promote efficient vehicular and pedestrian circulation throughout the City, the design of subdivisions and alignment of new streets shall conform to the following standards in Section 155.3.1 - Access and Circulation: The maximum block length shall not exceed:
  - a. 600 feet in the Residential District;
  - b. 400 feet in the Community Commercial District.

J. Sidewalks, Planter Strips, Bicycle Lanes. Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the standards in Table 155.3.4.1, applicable provisions of the Master Road Plan and the Comprehensive Plan. Maintenance of sidewalks, curbs, and planter strips is the continuing obligation of the adjacent property owner.

K. Intersection Angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle or where a reduced angle is necessary to provide an open space, pocket park, common area or similar neighborhood amenity. In addition, the following standards shall apply:

1. A tangent of at least 25 feet is required for all right-of-way intersection unless topography requires a lesser distance;

2. Intersections which are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle; and
  3. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than 20 feet.
- L. Existing Rights-of-Way. Whenever existing rights-of-way adjacent to or within a tract are of less than standard width, additional rights-of-way shall be provided at the time of subdivision or development, subject to the provision of Section 155.3.4.0.D.
- M. Dead-End Streets. A dead-end street shall provide access to no more than 30 dwelling units, and shall only be used when environmental or topographical constraints, existing development patterns, or compliance with other standards in this code preclude street extension and through circulation:
1. All dead-end streets shall terminate with a circular or hammerhead turnaround. Circular turnarounds shall have a radius of no less than 45 feet, except that turnarounds may be larger when they contain a landscaped island or parking bay in their center. When an island or parking bay is provided, there shall be a fire apparatus lane of 20 feet in width; and
  2. The length of the dead-end street shall be measured along the centerline of the street from the near side of the intersecting street to the farthest point of the cul-de-sac.
- N. Grades and Curves. Grades shall not exceed 10% on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet), and:
1. Centerline curve radii shall not be less than 500 feet on arterials, 300 feet on major collectors, 200 feet on minor collectors, or 100 feet on other streets; and
  2. Streets intersecting with a minor collector or greater functional classification street, or streets intended to be posted with a stop sign or signalization, shall provide a landing averaging 5% or less. Landings are the portions of the street within 20 feet of the edge of the intersecting street at full improvement.
- O. Curbs, Curb Cuts, Ramps, and Driveway approaches.  
Concrete curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in accordance with standards specified in Section 155.3.1 - Access and Circulation.
- P. Streets Adjacent to Railroad Right-of-Way. [Reserved]
- Q. Development Adjoining Arterial Streets. Where a development adjoins or is crossed by an existing or proposed arterial street, the development design shall separate residential access and through traffic, and shall minimize traffic conflicts. The design shall include one or more of the following:
1. A parallel access street along the arterial with a landscape buffer separating the two streets;
  2. Deep lots abutting the arterial or major collector to provide adequate buffering with frontage along another street. Double-frontage lots shall conform to the buffering standards in Section 155.3.1.2.F;
  3. Screen planting at the rear or side property line to be contained in a non-access reservation (e.g., public easement or tract) along the arterial; or

- 4. Other treatment suitable to meet the objectives of this subsection;
- 5. If a lot has access to two streets with different classifications, primary access shall be from the lower classification street, in conformance with Sub-Section 155.3.1.2.
- R. Alleys, Public or Private. Alleys shall conform to the standards in Table 155.3.4.1. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have a radius at the edge of the pavements of not less than 12 feet.
- S. Street Names. No street name shall be used which will duplicate or be confused with the names of existing streets in Dunes City or the City of Florence, except for extensions of existing streets. Street names, signs and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers.
- T. Survey Monuments. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments have been reestablished and protected.
- U. Street Signs. The City, County or State with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.
- V. Mail Boxes. Plans for mailboxes to be used shall be approved by the United States Postal Service.
- W. Street Light Standards. The developer may be required to install streetlights in a pattern fitting the subdivision and according to the specifications of the Central Lincoln People's Utility District.
- X. Street Cross-Sections. The final lift of asphalt or concrete pavement shall be placed on all newly constructed public streets prior to final City acceptance of the street and within one year of the conditional acceptance of the street unless otherwise approved by the City Engineer. The final lift shall also be placed no later than when 10 % of the structures in the new development are completed or 1 year from the commencement of initial construction of the development, whichever is less.
  - 1. Sub-base and leveling courses shall be of select blasted and crushed rock;
  - 2. Surface material shall be of Class C or B asphalt concrete;
  - 3. The final lift shall be Class C asphalt concrete as defined by American Public Works Association (A.P.W.A.) standard specifications; and,
  - 4. No lift shall be less than 1-1/2 inches in thickness.

#### **155.3.4.2 Public Use Areas**

##### **A. Dedication Requirements.**

- 1. Where a proposed park, playground or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require the dedication or reservation of this area on the final plat.

2. If determined by the Planning Commission to be in the public interest in accordance with adopted comprehensive plan policies, and where an adopted plan of the City does not indicate proposed public use areas, the City may require the dedication or reservation of areas within the subdivision of a character, extent and location suitable for the development of parks and other public uses.
  3. All required dedications of public use areas shall conform to Section 155.3.4.0.D - Conditions of Development Approval.
- B. Acquisition by the City. If the developer is required to reserve land area for a park, playground, or other public use, the land shall be acquired by the City within 6 months following final plat approval, at a price agreed upon prior to approval of the plat, or the reservation shall be released to the property owner.
- C. System Development Charge Credit. Dedication of land to the City for public use areas shall be eligible as a credit toward any required system development charge.

#### **155.3.4.3 Sanitary Sewer and Water Service Improvements.**

- A. Water Supply. All lots shall be served by an approved water supply.
- B. Sewer. All lots shall be served by a sewage system that conforms to City, County and State Department of Environmental Quality standards.

#### **155.3.4.4 Storm Drainage Improvements**

- A. General Provisions. The City shall issue a development permit only where adequate provisions for storm water and floodwater runoff have been made in conformance the City's stormwater regulations, when adopted.
- B. Accommodation of Upstream Drainage. Culverts and other drainage facilities shall be large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the development. Such facilities shall be subject to review and approval by the City.
- C. Effect on Downstream Drainage. Where it is anticipated by the Planning Commission that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with City standards.
- D. Easements. Where a development is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width as will be adequate for conveyance and maintenance.

#### **155.3.4.5 Utilities**

- A. Underground Utilities. All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above. The following additional standards apply to all new partitions, subdivisions and P.U.D.s, in order to facilitate underground placement of utilities:

1. The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct vision clearance areas for vehicular traffic. See Section 155.3.1.2.M Vision Clearance.
2. The City reserves the right to approve the location of all surface mounted facilities;
3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

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

C. Exception to Under-Ground Requirement. An exception to the under-ground requirement may be granted due to physical constraints.

#### **155.3.4.6 Fire Hydrants [*Reserved*]**

#### **155.3.4.7 Public Utility Easements**

Utility Easements shall be dedicated on a final plat, or provided for in the deed restrictions. The City's standard width for utility easements shall be 10 feet unless otherwise specified by the utility company, or City Engineer.

#### **155.3.4.8 Construction Plan Approval and Assurances**

No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by City Council. The City may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements.

#### **155.3.4.9 Installation**

- A. Conformance Required. Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this Section, approved construction plans, and to improvement standards and specifications adopted by the City.
- B. Adopted Installation Standards. The Standard Specifications for American Public Works Construction, Oregon Section shall be a part of the City's adopted installation standard(s); other standards may also be required upon recommendation of the City Engineer.
- C. Commencement. Work shall not begin until the City has been notified in advance.
- D. Resumption. If work is discontinued for more than one month, it shall not be resumed until the City is notified.

- E. City Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections, and details, if unusual conditions arising during construction warrant such changes in the public interest. Modifications requested by the developer shall be subject to land use review under Section 155.4.6 - Modifications to Approved Plans and Conditions of Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.
- F. Engineer's Certification and As-Built Plans. A registered engineer shall provide written certification in a form required by the City. All improvements, workmanship and materials shall be in accord with current and standard engineering and construction practices and conform to approved plans and conditions of approval. These conditions shall be met prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide 2 sets of "as-built" plans, in conformance with the City Engineer's specifications, for permanent filing with the City.

#### **155.3.5 — Surface Water Management**

*[Reserved for Surface Water Management standards that may be adopted by City. Note: The Department of Land Conservation and the Development and the Department of Environmental Quality are planning to publish a model ordinance for Urban Surface Water Management/Water Quality that could be added to this document.]*

#### **155.3.6 All Uses**

See 155.6 for Lot, Block and Street Designs.

- A. Flag lots are discouraged in all land divisions. The Planning Commission and City Council may approve flag lots at their discretion.
- B. No plat shall be recorded until the County surveyor in the manner provided by ORS Chapter 92 approves it.

#### **155.3.7 -- Solar Access**

##### **Sections:**

- 155.3.7.1 Definitions
- 155.3.7.2 Solar Setback Requirements
- 155.3.7.3 Solar Collectors and Solar Access Permits
- 155.3.7.4 Applications
- 155.3.7.5 Procedure
- 155.3.7.6 Enforcement
- 155.3.7.7 Revocation
- 155.3.7.8 Fees

##### **155.3.7.1 Definitions**

Shade – A lot or building is deemed shaded if a structure blocks the direct solar radiation that would otherwise reach its surface during the protected period, excluding such insubstantial shadows as those caused by utility poles, wires, flagpoles, and slender antennas.

**Solar Access** – An unobstructed exposure to available solar radiation during daytime hours for the purpose of allowing solar radiation to be used to meet a portion of a building's energy requirements.

**Solar Access Plan** – A copy of the final plan that identifies those lots which will possess solar access and new and existing trees which will shade lots.

**Solar Collector** – The south face of a building which is designed to provide solar space heating, or a device which uses solar energy for generation of electricity or to reduce energy consumption for space or water heating.

**Solar Envelope** – A drawing or representation with contour lines of a three-dimensional space over a lot representing height restrictions for trees that protects solar access for a solar collector.

**Solar Setback** – The minimum distance that the highest shadow casting point of the structure shall be setback from the northern lot line.

**Sunchart** – A photograph showing the positions of the sun during different hours of the day and months of the year, and the southern skyline. The sunchart shall use as coordinates a grid of solar altitude in ten° increments and solar azimuth in 15° increments.

**Tree, exempt** - A tree that has a height greater than ten feet at the time of application for a solar access permit.

**Tree, new** - A tree that is planted after the effective date of the solar access permit.

**Tree, non-exempt** – A tree that has a height of ten feet or less at the effective date of the permit.

#### 155.3.7.2. Solar Setback Requirements.

New structures or enlargements of existing structures shall comply with the following solar setback requirements:

- A. **South wall protection standard.** No new structure or addition shall cast a shadow upon adjacent lots that is longer than that cast by an eight-foot high fence located on the north property line at solar noon on December 21. The solar setback shall not exceed one-half the distance between the north and south property lines. If the solar setback is not feasible due to waiver provisions listed in C. below, then the structure shall meet the standard set in B. below.
- B. **South roof protection standard.** No new structure or addition shall cast a shadow upon adjacent lots that is longer than that cast by a 16-foot high solar fence located on the north property line at solar noon on December 21. The solar setback shall not exceed one-half the distance between the north and south property lines. If the solar setback is not feasible due to the waiver provisions listed in C. below, then the structure shall be located as far south as is feasible.
- C. **Waiver of solar setback.** The governing body or its designated agent may partially or completely waive the solar setback for any structure or addition whose shade will affect a protected area which is already substantially shaded by other sources, or whose lot contains substantial physical constraints, including but not limited to north-facing slopes greater than 15°, septic tanks, lot dimensions, waterways, and existing legal restrictions.

#### 155.3.7.3 Solar Collectors and Solar Access Permits.

155.3.7.3.1 Purpose. The purpose of this subchapter is to allow protection of solar access to a solar collector through the limitations of growth by trees located on neighboring properties.

155.3.7.3.2 Approval Criteria. The decision to approve or deny a permit application will be based upon the following standards:

- A. The solar collector shall have at least four hours per day of unobstructed solar access between 9:00 a.m. and 3:00 p.m. during the period for which solar access protection is being sought. However, the hours and dates during which the solar collector access is protected shall not exceed that period when the sun is lower than its position at solar noon on January 21 or greater than 55° east or west of true south.
- B. The solar collector shall not be shaded by an eight-foot fence located on the south lot line or an existing structure at solar noon on December 21.
- C. There is no reasonable alternative location for the solar collector that will result in fewer restrictions on neighboring lots.
- D. Removing or trimming vegetation on the applicant's lot will not permit an alternative location that would result in fewer restrictions on neighboring lots.
- E. The solar collector shall meet the following minimum performance standards according to the end use of energy to which it is applied: 20% of the structure's space heating energy needs, 40% of the structure's domestic water heating energy needs, and/or 40% of the structure's electricity needs for appliances and lighting, excluding domestic water heating.

155.3.7.3.3. Limitations. A solar access permit shall not affect:

- A. A lot or portion thereof that is located more than 150 feet south of the proposed or existing solar collector.
- B. A lot located on a slope of 15% or more and facing within 45° of true north.
- C. An exempted tree.
- D. Any structure or addition located on a neighboring lot.
- E. A lot or portion thereof which lies within an Open Space Overlay Zone.

155.3.7.4. Applications. An application for a solar access permit shall include:

- A. A description of how the application satisfies the solar access permit standards.
- B. The hours and months for which solar access is sought.
- C. A scaled drawing of the solar collector, its dimensions, its height above ground level, and its orientation.
- D. A sunchart for the proposed location as seen from the center of the lower edge of the site of the solar collector. If the solar collector is more than 20 feet in length, a sunchart shall also be provided for the southeast and southwest corners of the lower edge of the solar collector.

- E. A site plan showing lot lines and dimensions of the applicant's lot and neighboring lots which will be affected by the solar access collector, the location of structures and trees on the applicant's lot and affected neighboring lots, and the identification of exempt and non-exempt trees.
- F. Evidence that the solar collector will not be shaded by an eight-foot fence located on the applicant's south property line at solar noon on December 21.
- G. Evidence that the solar collector is installed or a written commitment to install the proposed solar collector within one year of the effective date of the permit.
- H. Evidence that there is no reasonable alternative location for the solar collector that would result in fewer restrictions on a neighboring lot including that provided by the trimming or removal of vegetation on the applicant's lot.
- I. A solar envelope for each lot to be affected by the proposed solar access permit.

#### 155.3.7.5. Procedure.

- A. Review. The Building Official or an agent designated by the governing body shall review the application for completeness and accuracy. If the application is found to be incomplete or inaccurate, the Building Official or designated agent shall advise the applicant of its deficiencies.
- B. Notice. After an application for a solar access permit has been accepted, the City Recorder shall send notice by certified mail to each property owner to be affected by the proposed solar access permit. The notice shall contain the following information:
  1. A copy of the solar access permit which has been accepted by the Building Official or designated agent.
  2. The standards for and limits on a solar access permit.
  3. Procedures for objection by any affected property owner including comment deadline.
- C. Objections. If no written objections are filed by affected parties within 30 days following the date that all certified letters are mailed, the City Recorder shall issue the solar access permit. If any affected property owner or representative files a written objection within the specified period, and if the objection is not withdrawn after informal discussions among the objector, city staff, and the applicant, a hearing shall be held before the Planning Commission.
- D. Permit hearing. The Planning Commission shall hold a hearing on a written objection to the granting of a solar access permit.
  1. Notice. The City Recorder shall send notice of the hearing to the applicant, the property owner who objected to the permit, and other property owners who would be affected by the proposed permit.
  2. Hearing. The objector shall bear the burden of proof that the application is not accurate, that it does not satisfy the solar access permit standards or limitations, or that the estimated loss of value or cost to preserve the solar right to affected owners of neighboring property is greater than the estimated value of solar access to the applicant. The Planning Commission shall review the application, compare the provided information with the permit standards and limitations, and consider evidence presented by the objector, city staff, and the applicant.

3. **Decision.** After the close of the hearings, the Planning Commission shall state its findings and conclusions and, based thereon, shall approve, approve with conditions, or deny the application.

E. **Recording.** Within 30 days after a solar access permit is granted, the City Recorder shall:

1. File with the County Clerk, in such form as required by state law, the permit, including any exemptions to or limits on the solar access protected, site plan, sunchart, and solar envelopes.
2. Send a certified letter to each property owner affected by the solar access permit that the permit has been granted and recorded, and a copy of a solar envelope for his or her lot.
3. Note the location of the solar collector and affected properties on the official Zoning Map.

155.3.7.6. **Enforcement.** In the event that a non-exempt tree on a neighboring property is shading a solar collector for which a solar access permit has been granted, then the permittee shall take the following actions to protect his or her solar access:

A. **Documentation of solar permit violation.** The solar access permittee shall submit the following information to the City Recorder. The Building Official or designated agent shall review the permittee's complaint for accuracy and completeness.

1. A copy of the solar access permit.
2. Evidence that the solar collector is still functioning.
3. A new sunchart documenting that non-exempt or new trees are shading the solar collector during the protected period.
4. The legal description of the lot on which the non-exempt and new trees are located, the address of the property owner, and scaled plot plan showing the location of the non-exempt and new trees.
5. Evidence that no vegetation located on the permittee's lot is shading the solar collector during the protected period.

B. **Notice.** If the permittee's complaint is found to be complete and accurate, the City Recorder shall notify by registered mail the owner of the allegedly shading tree. The notice shall include information submitted by the complaining permittee to the city, a description of the rights and responsibilities of the affected property owner under the provisions of the solar access permit, a form to request a Planning Commission hearing, and a description of specific actions the alleged violator shall take to comply with the permit provisions.

C. **Hearing.** Within 14 days of the date the notice is mailed, the owner of the allegedly shading tree, or his or her representative, may request a hearing before the Planning Commission to review the alleged violation. The City Recorder shall send notice of the hearing to the permittee and the alleged permit violator and his or her representative. The hearing shall be held within 30 days after a request has been received. At the hearing, the Planning Commission shall determine whether the tree that is the subject of the permittee's complaint violates the solar access permit. Within seven days of the hearing, the City Recorder shall mail notice of the Planning Commission's decision to the affected parties. If the Planning Commission finds that a violation exists, the notice shall be sent by registered mail to the owner of the offending tree and shall describe the specific actions the violator is required to take.

D. **Remedy.** Within 30 days after the City Recorder mails written notice of the violation or, if a hearing is held, within 30 days after the City Recorder mails notice of the Planning Commission's decision, the

owner of the offending tree shall trim the tree and notify the City Recorder of his or her action. If the owner does not trim the tree at that time, than an injunction may be issued, upon complaint of the permittee, by a court of competent jurisdiction. The injunction may order the tree owner to trim that part of the tree that violates the provisions of the solar access permit, to pay court costs, and to pay the permittee reasonable attorney's fees. If personal jurisdiction cannot be obtained over the property owner whose tree violates the permit, then the city or a designated agent may enter upon the property and trim that part of the tree that violates the solar access permit.

E. Assignment of costs. All costs for trimming a non-exempt tree shall be borne by the permittee. All costs for trimming a new tree shall be borne by the tree owner.

155.3.7.7. Revocation The City Recorder shall revoke the solar access permit if the solar collector does not function for 12 consecutive months or if requested by the permittee or his or her successor in interest. The City Recorder shall send the permittee, the owner of all properties affected by the permit, and the County Clerk a notice of termination.

155.3.7.8. Fees. The city shall set fees as is appropriate to cover costs for permit processing and enforcement.

### **155.3.8 – Traffic Impact Studies**

#### Sections:

- 155.3.8.1      Purpose
- 155.3.8.2      When A Traffic Impact Study is Required
- 155.3.8.3      Preparation

155.3.8.1 Purpose. The purpose of this section of the code is to assist in determining which road authorities participate in land use decisions, and to implement Section 660-012-0045 (2) (e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.

155.3.8.2 When a Traffic Impact Study is Required. The City or other road authority with jurisdiction may require a Traffic Impact Study (TIS) as part of an application for development, a change in use, or a change in access. A TIS shall be required when a land use application involves one or more of the following actions:

- A.      A change in zoning or a plan amendment designation;
- B.      Any proposed development or land use action that a road authority states may have operational or safety concerns along its facility(ies);
- C.      An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more; or
- D.      An increase in peak hour volume of a particular movement to and from the State highway by 20 percent or more; or
- E.      An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or

- F. The location of the access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or
- G. A change in internal traffic patterns that may cause safety problems, such as back up onto a street or greater potential for traffic accidents.

**155.3.8.3. Preparation.** A Traffic Impact Study shall be prepared by a professional engineer in accordance with the requirements of the Road Commission, in consultation with the Oregon Department of Transportation's (ODOT) regional development review planner and OAR 734-051-180.

## **155.4 — Applications and Review Procedures**

### **Sections:**

- 155.4.0 Administration of Land Use and Development Permits
- 155.4.1 Types of Applications and Review Procedures
- 155.4.2 Site Review
- 155.4.3 Land Divisions and Lot Line Adjustments
- 155.4.4 Conditional Use Permits
- 155.4.5 Planned Unit Development Procedures.
- 155.4.6 Modifications to Approved Plans and Conditions of Approval
- 155.4.7 Land Use District Map Amendments
- 155.4.8 Code Interpretations
- 155.4.9 Miscellaneous Permits

### **155.4.0 - Administration of Land Use and Development Permits**

Section 155.4 provides all of the application requirements and procedures for obtaining permits required by this code section. Refer to Table 155.4.1.2 in Section 155.4.1 for a key to determining which land use permits and procedures are required, and the decision-making body for a particular type of permit application.

### **155.4.1 — Types of Applications and Review Procedures**

#### **Sections:**

- 155.4.1.1 Purpose
- 155.4.1.2 Description of Permit/Decision-making Procedures
- 155.4.1.3 General Provisions
- 155.4.1.4 Type I Procedure (Ministerial)
- 155.4.1.5 Type II Procedure (Administrative)
- 155.4.1.6 Type III Procedure (Quasi-Judicial)
- 155.4.1.7 Type IV Procedure (Legislative)
- 155.4.1.8 Expedited Land Use Decision
- 155.4.1.9 Limited Land Use Decision

#### **155.4.1.1      Purpose.**

The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way.

#### **155.4.1.2      Description of Permit/Decision-making Procedures.**

All land use and development permit applications, except permits required in Chapters 151, 153 and 154, shall be decided by using the procedures contained in this Chapter. General procedures for all permits are contained in Section 155.4.1.3. Specific procedures for certain types of permits are contained in Sections 155.4.1.4 through 155.4.1.8. The procedure “type” assigned to each permit governs the decision-making process for that permit. There are six types of permit/decision-making procedures: Type I, II, III, IV, Expedited Land Use decisions and Limited Land Use Decisions. These procedures are described in subsections A through D below. Table 155.4.1.2 lists all of the City’s land use and development applications and their required permit procedures.

- A. Type I Procedure (Ministerial). Type I decisions are made by the Planning Secretary, or someone he or she officially designates, or by the Planning Commission if requested by the Planning Secretary or by the City Council, without public notice and without the requirement for a public hearing. The Type I Procedure is used when there are clear and objective approval criteria;
- B. Type II Procedure (Administrative). Type II decisions are made by the Planning Commission with public notice.
- C. Type III Procedure (Quasi-Judicial). Type III matters are considered initially by the Planning Commission and Road Commission with final decisions made by the City Council. Type III decisions generally use discretionary approval criteria;
- D. Type IV Procedure (Legislative). Type IV Procedure applies to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and Comprehensive Plan amendments that apply to entire districts). Type IV matters are considered initially by the Planning Commission and Road Commission with final decisions made by the City Council. These procedures are typified by the requirement of passage of an Ordinance.
- E. Expedited Land Use Decision. A land use decision-making process authorized by ORS 197.360, etc.
- F. Limited Land Use Decision. Preliminary subdivision, partition and site review permit decisions are considered limited land use decisions subject to the provisions of ORS 197.015(13) and ORS 197.195.

**Table 155.4.1.2**  
**Summary of Development Decisions/Permit by**  
**Type of Decision-making Procedure\***

|  |               |                        |
|--|---------------|------------------------|
| Code Amendment   | Type IV       | Section 155.4.1.2      |
| Code Interpretation  | Type I/II     | Section 155.4.8        |
| Concept Assistance   | Type II       | Section 155.4.9.3      |
| Conditional Use Permits                                      | Type III      | Section 155.4.4        |
| Expedited Land Divisions                                     | Type II       | Section 155.4.1.8      |
| Home Occupation Permit                                       | Type I        | Section 155.4.9        |
| Land Use District Map Amendments                             | Type IV       | Section 155.4.7        |
| Manufactured Home Park                                       | Type III/IV   | Section 155.4.9.4      |
| Modification to Approved Plans and Conditions<br>of Approval | Type I/III    | Section 155.4.6        |
| Non-Conforming Uses and Development                          | Type I        | Section 155.5.2        |
| Partition: Preliminary                                       | LLU           | Section 155.4.3        |
| Partition: Final   | Type II       | Section 155.4.160      |
| P.U.D.: Preliminary  | Type III      | Section 155.4.5.115    |
| P.U.D.: Final  | Type II       | Section 155.4.5.116    |
| Sensitive Lands  | Type I/II/III | Section 155.2.3 thru 6 |
| Sign Permit  | Type I        | Section 155.2.2.130    |
| Site Review Permit   | LLU           | Section 155.4.2        |
| Subdivision: Preliminary                                     | LLU           | Section 155.4.3        |
| Subdivision: Final   | Type II       | Section 155.4.3.160    |
| Temporary Use Permits  | Type I/II     | Section 155.4.9        |
| Travel Trailer and Recreational Vehicle Parks                | Type III/IV   | Section 155.4.9.5      |
| Variances  | Type III      | Section 155.5.1        |

\*Note: The Sections referenced above in the right-hand column describe the types of land uses and development activity that require permits under each type of decision-making procedure used in Chapter 155. See other Chapters of this Code for other permit requirements.

### **155.4.1.3 General Provisions**

- A. **120-day Rule.**  
The City shall take final action on Type III applications that are subject to this Chapter within 120 days from the date the application is deemed complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions - plan and code amendments - under ORS 227.178.)
- B. **Time Computation.**  
In computing any period of time prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Friday, Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Friday, Saturday or legal holiday.

C. Concept Assistance

A discretionary, informal process where an individual appears before the planning staff or the Planning Commission and requests general guidance regarding future land development. This step occurs prior to a pre-application conference or the filing of an application. Guidance provided during this process shall not be considered as a land use determination or decision.

D. Pre-Application Conferences

1. Participants.

When a pre-application conference is required, the applicant shall meet with the City Planning Official or his/her designee(s) and other parties as appropriate;

2. Information provided by the applicant.

The following information shall be submitted by the applicant at least ten days prior to the date of such meeting:

a. A written statement on a form prescribed by the City Council setting forth:

- (1) The name and address of the applicant.
- (2) A statement of the applicant's legal interest in the property (owner, contract purchaser, lessee, renter, and the like), a description of that interest, and, in case the applicant is not the owner, that the owner knows of the application.
- (3) The address and legal description of the property.
- (4) A statement explaining the intended request.

b. Any other materials or information the applicant wishes to submit. For example, these materials might consist of a schematic development plan of the proposed development, showing:

- (1) The general location of the proposed development.
- (2) Major existing physical and natural features, such as water courses, rock outcroppings, marshes, wooded areas, and the like.
- (3) The location of the major existing drainageways and utilities.
- (4) The location and names of public streets, parks, and utility rights-of-way within or adjacent to the proposed development.
- (5) The general location and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, off-street parking, and loading areas.

- (6) The general location and approximate dimensions of proposed structures.
- (7) Major proposed landscaping features.
- (8) Approximate contours.
- (9) Sketches showing the scale, character, and relationship of buildings, streets, and open space.
- (10) The approximate location and type of proposed drainage, water, and sewerage facilities.
- (11) Site evaluation for solar access potential.

3. Information provided by the City.

At such a conference the City Planning Official or designee shall:

- a. Cite the comprehensive plan policies and map designations applicable to the proposal;
- b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
- c. Provide available technical data and assistance that will aid the applicant;
- d. Identify other governmental policies and regulations that relate to the application; and
- e. Reasonably identify other opportunities or constraints concerning the application.

4. Disclaimer.

Failure of the City Planning Official or his/her designee to provide any of the information required by this Section shall not constitute a waiver of any of the standards, criteria or requirements for the application;

5. Changes in the law.

Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

E. Applications.

1. Initiation of applications:

- a. Applications for approval under this Chapter may be initiated by:
    1. The City Council;
    2. The Planning Commission;
    3. The Planning Secretary;
    4. A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.
  - b. Any person authorized to submit an application for approval may request an agent, authorized in writing, to make the application on their behalf.
2. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:
- a. When the City receives an application, the Planning Secretary shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant;
    1. The required form;
    2. The required fee;
    3. The signature of the applicant on the required form, and signed written authorization of the property owner of record if the applicant is not the owner.
  - b. Completeness.
    1. After the application is accepted, the Planning Secretary shall review the application for completeness. If the application is incomplete, the Planning Secretary shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
    2. In accordance with the application submittal requirements of this Chapter, the application shall be deemed complete of all required information upon receipt by the Planning Secretary. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the Planning Secretary in 1., above. For the refusal to be valid, the refusal shall be made in writing and received by the Planning Secretary no later than 14 days after the date on the Planning Secretary's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on the 31<sup>st</sup> day after the Planning Secretary first accepted the application.
    3. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.
3. Once an application is deemed complete:

- a. All documents and other evidence relied upon by the applicant shall be submitted to the Planning Secretary at least 14 days before the notice of action or hearing is mailed;
- b. When the applicant submits documents or other evidence during the review period, but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see "d", below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
- d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:
  - 1. Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
  - 2. Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section A. above) on the existing application. If the applicant does not consent, the City shall not select this option;
  - 3. Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence;
- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

F. Planning Secretary's Duties. The Planning Secretary shall:

- 1. Prepare application forms based on the criteria and standards in applicable State law, the City's Comprehensive Plan, and implementing ordinance provisions;
- 2. Accept all development applications that comply with Section 155.4.1.3;

3. Prepare staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report should also provide a recommended decision of approval, denial, or approval with specific conditions that ensure conformance with the approval criteria;
4. Prepare a notice of the proposed decision:
  - a. In the case of an application subject to a Type I or II Procedure, the Planning Secretary shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
  - b. In the case of an application subject to a hearing (Type III or IV Procedure), the Planning Secretary shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 155.4.1.6.C (Type III), or 155.4.1.7.D (Type IV);
5. Assist the hearings process;
6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;
7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and
8. Assist the review process.

G. Amended Decision Process.

1. The purpose of an amended decision process is to allow the Planning Secretary to correct typographical errors, rectify inadvertent omissions and/or make other minor changes, which do not materially alter the decision.
2. The Planning Secretary may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within ten business days after the original decision would have become final, but in no event beyond the 120-day period required by State law. A new ten-day appeal period shall begin on the day the amended decision is issued.
3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures contained in Section 155.4.6. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

- H. Re-submittal of Application Following Denial. An application which has been denied, or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final City action is made denying the application.
- I. American Disabilities Act. All public-meeting notices shall comply with the American Disabilities Act.

#### **155.4.1.4 Type I Procedure (Ministerial)**

- A. Application Requirements.
  - 1. Application Forms. Type I applications shall be made on forms provided by the Planning Secretary.
  - 2. Application Requirements. Type I applications shall:
    - a. Include the information requested on the application form and by the Planning Secretary;
    - b. Address the criteria in sufficient detail for review and action.
- B. Administrative Decision Requirements. The Planning Secretary's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the Planning Secretary shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.
- C. Final Decision. The decision shall be final 14 calendar days after the date it is mailed or otherwise provided to the applicant, whichever occurs first. If the decision is to be appealed, the appeal must be filed with the Planning Secretary before the final decision date. Appeal of the Planning Secretary's decision will be to the Planning Commission during the next scheduled Planning Commission meeting without the requirement of formal public notice and public hearing. An appealed decision will be final with the Planning Commission's decision.
- D. Effective Date. The decision is effective the day it is final.

#### **155.4.1.5 Type II Procedure (Administrative)**

- A. General. The Type II Procedure will generally be used for advisory functions (e.g. Concept Assistance and Code Interpretation) in the land use processes and will not be defined by criteria outside that stated in this chapter. The application shall be heard in open public session of the Planning Commission or Road Commission with opinions and recommendations becoming part of the public record.
- B. Application requirements.
  - 1. Application Forms. Type II applications shall be made on forms provided by the Planning Secretary or Road Secretary as appropriate;

2. Submittal Information. The application shall:
  - a. Include the information requested on the application form; and
  - b. Be accompanied by the required fee.

#### **155.4.1.6 Type III Procedure (Quasi-Judicial)**

- A. Pre-application conference. Required for discretionary land use permits including preliminary P.U.D. plans and conditional use permits.
- B. Application requirements.
  1. Type III applications shall be made on forms provided by the Planning Secretary;
  2. Type III applications shall:
    - a. Include the information requested on the application form and by the Planning Secretary;
    - b. Be filed with copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
    - c. Be accompanied by the required fee; and
    - d. Include an impact study for all Type III applications. The impact study shall quantify/assess the effect of the development on the transportation system, wetlands, riparian areas and Shorelands. The study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

#### **C. Process in General**

Per ORS 197.522 a land use application shall be:

1. Approved if the application meets all City Code requirements.
2. Approved if an application does not meet all City Code requirements, but can be changed to meet all requirements. The application approval decision shall specify all reasonable conditions necessary to meet all City Code requirements.
3. Disapproved if any City Code requirement cannot be met with stipulated conditions, or the applicant declines acceptance of any stipulated condition.

#### **D. Notice of Hearing.**

1. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type III applications submitted to the City.
2. **Mailed notice.** The Planning Secretary shall give notice of a Type III application hearing in the following manner:
  - a. At least 20 days before the hearing date, notice shall be mailed to:
    - (1) The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
    - (2) All property owners of record within 300 feet of the property which is the subject of the application;
    - (3) Any governmental agency, which has entered into an intergovernmental agreement with the City that includes provision for such notice, or who is otherwise entitled to such notice;
    - (4) Any person who submits a written request to receive notice;
    - (5) For appeals, the appellant and all persons who provided testimony.
  - b. The Planning Secretary shall have an affidavit of notice prepared and made a part of the administrative record. The affidavit shall state the date that the notice was posted on the property and mailed to the persons who must receive notice;
  - c. At least 14 business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record;
  - d. At least 14 business days before the hearing, the Planning Secretary shall post notice of the hearing on the property per Subsection 3 below. The Planning Secretary shall prepare and submit an affidavit of posting of the notice that shall be made part of the administrative record.
3. **Content of Notice.** Notice of a Type III hearing to be mailed, posted and published per Subsection 2. above shall contain the following information:
  - a. The nature of the application and the proposed land use or uses, which could be authorized for the property;
  - b. The applicable criteria and standards from the development codes(s) that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date, time, and location of the public hearing;
  - e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker

an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;

- f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Dunes City, City Hall at no cost and that copies shall be provided at a reasonable cost.
4. The failure of any person to receive notice shall not invalidate the action, providing:
    - a. Personal notice is deemed given when the notice is deposited with the United States Postal Service;
    - b. Published notice is deemed given on the date it is published.

E. Conduct of the Public Hearing.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
  - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
    1. Regulate the course, sequence, and decorum of the hearing;
    2. Direct procedural requirements or similar matters; and
    3. Impose reasonable time limits for oral presentations.
  - b. No person shall address the Commission or the Council without:
    1. Receiving recognition from the presiding officer; and
    2. Stating their full name and residence address.
  - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. At the commencement of the hearing, the presiding officer shall state:
  - a. The applicable approval criteria and standards that apply to the application; or
  - b. That testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the Comprehensive Plan or land use regulations which the person testifying believes to apply to the decision;
  - c. That failure to raise an issue with sufficient detail to give the City Council or Planning Commission and the parties an opportunity to respond to the issue precludes appeals on that issue;

- d. That before the conclusion of the initial Public Hearing, any participant may ask the City Council or Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The City Council or Planning Commission shall grant the request by scheduling a date to finish the hearing (a “continuance”) per Subsection 3. below, or by leaving the record open for additional written evidence or testimony per Subsection 4. below.
- 3. If the City Council or Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
- 4. If the City Council or Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the City Council or Planning Commission shall reopen the record.
  - a. When the City Council or Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
  - b. An extension of the hearing or record granted pursuant to Subsection E is subject to the limitations of ORS 227.178 (120-day rule), unless the continuance or extension is requested or agreed to by the applicant;
  - c. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence.
- 5. The record.
  - a. The record shall contain all testimony and evidence that is submitted to the City, the Planning Commission, and the City Council and not rejected;
  - b. The City Council or Planning Commission may take official notice of judicially cognizable facts under the applicable law. If the review authority takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
- 6. Participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Subsection 7. below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

- a. At the beginning of the public hearing, City Council and Planning Commission members shall disclose the substance of any pre-hearing ex parte contacts (defined in Subsection 7. below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  - b. A member of the City Council or Planning Commission shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
  - c. Disqualification of a member of the City Council or Planning Commission due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
  - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
  - e. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the City Council or Planning Commission shall reply in accordance with this section.
7. Ex parte communications.
- a. Members of the City Council and Planning Commission shall not:
    1. Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Subsection 6. above;
    2. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
  - b. No decision or action of the City Council or Planning Commission shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
    1. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
    2. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the

communication during which action shall be considered or taken on the subject of the communication.

- c. A communication between City staff and the City Council or Planning Commission is not considered an ex parte contact.
8. Presenting and receiving evidence.
- a. The City Council and Planning Commission may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence.
  - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in this subsection.
  - c. Members of the City Council and Planning Commission may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the City Council or Planning Commission may visit the property to familiarize him or herself with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, he or she shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.

F. The Decision Process.

1. Approval or denial of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the development regulations, Comprehensive Plan for the City as a whole, and the Master Road Plan;
2. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. The City Council shall issue a final written order containing the findings and conclusions stated in Subsection 2 above, which approves, denies, or approves with specific conditions.
4. Written notice of a Type III decision shall be mailed to the applicant and to all participants of record within ten business days after the City Council decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice. The notice of decision shall include an explanation of appeal rights and briefly summarize the decision making process for the decision being made.

5. The decision of the City Council on any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires.

#### **155.4.1.7 Type IV Procedure (*Legislative*)**

##### **A. Application requirements.**

1. Type IV applications shall be made on forms provided by the Planning Secretary;
2. The application shall contain:
  - a. The information requested on the application form;
  - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
  - c. The required fee; and
  - d. Two copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

##### **B. Notice of Hearing.**

1. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications submitted to the City.
2. The Planning Secretary shall give notice of public hearings for the request in the following manner:
  - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
    1. Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a Comprehensive Plan amendment shall be notified if a rezone would be required to implement the proposed Comprehensive Plan amendment);
    2. Any affected governmental agency.
    3. Recognized neighborhood groups or associations affected by the ordinance;
    4. Any person who requests notice in writing;
    5. For a rezone affecting a manufactured home or recreational vehicle park, all mailing addresses within the park.

- b. At least 14 days before the scheduled Planning Commission public hearing date, and 14 days before the City Council hearing date, notice shall be published in a newspaper of general circulation in the City.
  - c. The Planning Secretary shall:
    - 1. For each mailing of notice provided in Subsection B.2. above, file an affidavit of mailing in the record; and
    - 2. For each published notice provided in Subsection B.2. above, file an affidavit of publication in the record;
  - d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.
3. The mailed and published notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of the Planning Secretary's office where additional information about the application can be obtained;
  - b. The identification of the Tax Map and Lot and the street address if available on the proposal;
  - c. A description of the proposal in enough detail for people to determine that a change is proposed;
  - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See Subsection C below); and written testimony shall be submitted to the City at least 14 days prior to the hearing.
  - e. Each mailed notice required by Subsection B.2. above shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The Dunes City Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
4. The failure of any person to receive notice shall not invalidate the action, providing:
- a. Personal notice is deemed given when the notice is deposited with the United States Postal Service;
  - b. Published notice is deemed given on the date it is published.

C. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:

- a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
    - 1. Regulate the course, sequence, and decorum of the hearing;
    - 2. Direct procedural requirements or similar matters; and
    - 3. Impose reasonable time limits for oral presentations.
  - b. No person shall address the Planning Commission or the City Council without:
    - 1. Receiving recognition from the presiding officer; and
    - 2. Stating their full name and residence address.
  - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Planning Commission and of the City Council, shall conduct the hearing as follows:
- a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the City Council;
  - b. The Planning Secretary's report and other applicable staff reports shall be presented;
  - c. The public shall be invited to testify;
  - d. The public hearing may be continued to allow additional testimony or it may be closed; and
  - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.
- D. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- E. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
- 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for Comprehensive Plan amendments only);
  - 2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;

3. Any applicable intergovernmental agreements; and
4. Any applicable Comprehensive Plan policies and provisions of this Code that implement the Comprehensive Plan. Compliance with Section 155.4.7 shall be required for Comprehensive Plan amendment, and Master Road Plan amendment.

F. Approval Process and Authority.

1. The Planning Commission shall, after notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.
2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the Planning Secretary within 14 days of the decision. The Planning Secretary shall provide a copy to each City Council member and place a copy in the record;
3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 30 days of its first public hearing on the proposed change, the Planning Secretary shall:
  - a. Report the failure together with the proposed change to the City Council; and
  - b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the City Council. The Planning Commission shall take no further action.
4. The City Council shall:
  - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
  - b. Consider the recommendations of the Planning Commission and Road Commission; however, it is not bound by the Commissions' recommendation; and
  - c. Act by ordinance, which shall be signed by the Mayor after the City Council's adoption of the ordinance.

G. Vote Required for a Legislative Change.

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

- H. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision. The City shall also provide notice to all persons as required by other applicable laws.
- I. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.
- J. Record of the Public Hearing.
  - 1. A verbatim record of the proceeding shall be made by electronic means. It is not necessary to transcribe the electronic record. The minutes and other evidence presented, as a part of the hearing shall be part of the record;
  - 2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
  - 3. The official record shall include:
    - a. All materials considered by the Planning Commission;
    - b. All materials submitted by the Planning Secretary to the Planning Commission regarding the application;
    - c. The verbatim record made by the stenographic, mechanical, or electronic means, the minutes of the hearing, and other documents considered;
    - d. The final ordinance;
    - e. All correspondence; and
    - f. A copy of the notices, which were given as required by this Section.

K. City Initiated Changes.

Land Use Code, Master Road Plan, and Comprehensive Plan changes initiated by the City shall follow normal City Code change procedures

**155.4.1.8 Expedited Land Division**

An Expedited Land Division (“ELD”) shall be defined and may be used as in ORS 197.360.

- A. An applicant who wishes to use an ELD procedure for a partition instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;
- B. An ELD shall be reviewed in accordance with the procedures in ORS 197.365;
- C. An appeal of an ELD shall be in accordance with the procedures in ORS 197.375;

- D. The ELD process shall be a Type II Planning Commission decision conducted without a public hearing during a regular Planning Commission meeting.

#### **155.4.1.9 Limited Land Use Decision**

A Limited Land Use Decision (“LLUD”) shall be defined as in ORS 197.015(13) and ORS 197.195.

- A. Pre-application conference. Required for partitions, subdivisions and site review permit applications
- B. Application requirements.

1. An application for a limited land use shall be made on forms provided by the Planning Secretary;
2. An application for a limited land use shall:
  - a. Include the information requested on the application form and by the Planning Secretary;
  - b. Be filed with copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
  - c. Be accompanied by the required fee; and
  - d. Include an impact study. The impact study shall quantify/assess the effect of the development on the transportation system, wetlands, riparian areas and Shorelands. The study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Process in General

Per ORS 197.195(4) a land use application shall be:

1. Approved if the application meets all City Code requirements.
2. Approved if an application does not meet all City Code requirements, but can be changed to meet all requirements. The application approval decision shall specify all reasonable conditions necessary to meet all City Code requirements.
3. Disapproved if any City Code requirement cannot be met with stipulated conditions, or the applicant declines acceptance of any stipulated condition.

D. Notice of Hearing.

1. A minimum of one hearing before the Planning Commission is required for all applications for a limited land use decision (partition, subdivision, or site review) submitted to the City.

2. Mailed notice. The Planning Secretary shall give notice of a limited land use application hearing in the following manner:
  - a. At least 14–days before the hearing date, notice shall be mailed to:
    - (1) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
    - (2) All property owners of record within 300 feet of the property that is the subject of the application;
    - (3) Any governmental agency, that has entered into an intergovernmental agreement with the City that includes provision for such notice, or that is otherwise entitled to such notice;
    - (4) Any person who submits a written request to receive notice;
    - (5) For appeals, the appellant and all persons who provided testimony.
  - b. The Planning Secretary shall have an affidavit of notice prepared and made a part of the administrative record. The affidavit shall state the date that the notice was mailed to the persons who must receive notice;
  - c. At least 14 business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record;
  - d. At least 14 business days before the hearing, the Planning Secretary shall post notice of the hearing on the property per Subsection 3 below. The Planning Secretary shall prepare and submit an affidavit of posting of the notice that shall be made part of the administrative record.
3. Content of Notice. Notice of a limited land use hearing to be mailed, posted and published per Subsection 2. Above, shall contain the following information:
  - a. State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;
  - b. List, by commonly used citation, the applicable criteria for the decision;
  - c. Set forth the street address or other easily understood geographical reference to the subject property;
  - d. State the date, time, and location of the public hearing;
  - e. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

- f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
  - g. Briefly summarize the local decision making process for the limited land use decision being made.
4. The failure of any person to receive notice shall not invalidate the action, providing:
  - a. Personal notice is deemed given when the notice is deposited with the United States Postal Service;
  - b. Published notice is deemed given on the date it is published.

E. Conduct of the Public Hearing.

The conduct of a hearing on an application for a limited land use shall be the same as a Type III proceeding, as provided by Section 155.4.1.6.E.

F. The Decision Process.

1. Approval or denial of a application for a limited land use shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a limited land use application to the appropriate development regulations;
2. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. The Planning Commission shall issue a final written order based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.
4. Written notice of a limited land use decision shall be mailed to the applicant and to all participants of record within ten business days after the Planning Commission decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice. The notice of decision shall include an explanation of appeal rights and briefly summarize the decision making process for the decision being made.

G. The Appeal Process.

1. A decision of the Planning Commission on a limited land use decision may be appealed to the City council on a form provided by the Planning Secretary. Persons who have appeared before the Planning Commission orally or in writing may appeal a limited land use decision issued by the Planning Commission. Any member of the City Council may for any reason bring a limited land use decision issued by the Planning Commission before the City Council if they file an appeal with the Planning Secretary consistent with Section 155.4.1.9.G.2.

2. An appeal must be filed with the Planning Secretary within 15-days of the mailing of the notice of Planning Commission decision.
3. The City Council shall hear the appeal at a public hearing. The hearing may be limited to the record developed pursuant to the Planning Commission's decision-making process. A hearing on appeal that allows the introduction of additional testimony shall comply with the requirements of a Type III hearing process and ORS 197.763.
4. The decision of the City Council on any appeal of a limited land use application is final for purposes of appeal on the date it is mailed by the City.
5. Written notice of the decision rendered on appeal shall be given to all parties who appeared, either orally or in writing, before the hearing. The notice of decision shall include an explanation of the rights of each party to appeal the decision.

#### **155.4.2 — Site Review Permit**

- (A) Purpose. It is the purpose of this section to establish a site review permit procedure for specified uses or applications requiring comprehensive review of proposed site development in order to maintain or improve the character and attractiveness of the general area, to encourage the most appropriate development of the site compatible with the neighborhood, to prevent undue traffic and pedestrian hazards or congestion, to reduce adverse impacts upon public facilities and services, and to provide a healthful, stable, efficient, and pleasant on-site environment.
- (B) Site review permits required.
- (1) To accomplish the purpose of this section, a site review permit shall be required when:
    - (a) Commercial, mobile home, or travel trailer parks or other non-residential uses or structures are proposed for a property within 100 feet of a Residential (R-1) District boundary or residentially developed property.
    - (b) Incidental to any zoning or rezoning application approval, when it is determined by the City Council that a site review permit would be necessary to ensure that such approval would be consistent with the intent and purposes of this part.
    - (c) Incidental to an expansion of a nonconforming use of land and structures as permitted in this part.
    - (d) A district in this part specifically requires a site review permit for uses permitted outright or conditionally in the district.
  - (2) Any properties requiring a site review permit pursuant to (1)(b) above shall be designated "SR" in the amending ordinance, on a map attached as an exhibit to the ordinance, and on the official Zoning Map, as applicable.
  - (3) No building permit shall be issued until a site review permit has been obtained as required by this section. Further, the building permit can be issued only for development as approved according to the site review procedures herein specified.

(C) Criteria for site review evaluation. The Planning Commission and City Council shall consider the following minimum criteria as applicable in evaluating site review applications, to ensure that the purpose and requirements of this section are met:

- (1) The location, design, size, shape and arrangement of the uses and structures shall be in scale and are compatible with the surroundings.
- (2) There is a desirable, efficient, and workable inter-relationship among buildings, parking, circulation, open space, landscaping, and related activities and uses, resulting in an attractive, healthful, and pleasant environment for living, shopping, or working.
- (3) There is no unnecessary destruction of existing healthy trees or other major vegetation, and due consideration is given to the preservation of distinctive historical or natural features.
- (4) The quantity, location, height, and materials of walls, fences, hedges, screen planting, and landscape areas are such that they serve their intended purpose and have no undue adverse effect on existing or contemplated abutting land use.
- (5) Suitable planting of ground cover or other surfacing is provided to prevent erosion and reduce dust.
- (6) The location, design, and size of the uses are such that the residents or establishments to be accommodated will be adequately served by community facilities and service or by other facilities suitable for the intended uses, in conformity with the comprehensive plan.
- (7) Based upon anticipated traffic generation, adequate additional right-of-way and road improvements must be provided by the development in order to promote traffic safety and reduce traffic congestion. Consideration shall be given to the need and feasibility of widening and improving abutting streets and also to the necessity for such additional requirements as lighting, sidewalks, and turn and deceleration/acceleration lanes.
- (8) There must be a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular and pedestrian entrances, exits, drives, walkways, buildings, and other related facilities.
- (9) There must be adequate off-street parking and loading/unloading facilities provided in a safe, efficient, and pleasant manner. Consideration shall include the layout of the parking and loading/ unloading facilities and their surfacing, lighting, and landscaping.
- (10) The location, quantity, height, and shape of areas or structures that define interior circulation and parking arrangements must be suitable for their intended purpose.
- (11) All signs and illumination are in scale and harmonious with the site and area.

- (12) Adequate methods must be provided to ensure continued maintenance and necessary normal replacement of common facilities, uses, structures, landscaping, screening, ground cover, and similar items required to ensure compatibility with the surrounding areas and an attractive, healthful, and pleasant environment within the development area.
  - (13) The location, design, and size of the uses shall not violate the solar setback requirements.
- (D) Conditions. Reasonable conditions may be established by the Planning Commission and City Council in connection with a site review permit as deemed necessary to secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be or are being complied with.
- (E) Application for site review permit.
- (1) Application for a site review permit shall be on a form prescribed by the City Council and submitted to that office by any person(s) with a legal interest in the property. The application shall include the following:
    - (a) The name and address of the applicant.
    - (b) A statement of the applicant's legal interest in the property (owner, contract purchaser, lessee, renter, and the like) and a description of that interest, and, in case the applicant is not the owner, verification and a legal description of the property.
    - (c) The address and legal description of the property.
    - (d) A statement explaining the intended request.
    - (e) The fee required to defray the cost of processing the application.
    - (f) Any other materials or information as may be deemed necessary by the applicant to assist in evaluation of the request.
    - (g) Six copies of drawings clearly showing the following, when appropriate:
      1. The parcel location, boundaries, dimensions, and total area.
      2. The approximate location, arrangement, and dimensions of buildings and structures, and their use.
      3. The approximate location, heights, materials and finishes of existing and proposed enclosures, walls, and fences.
      4. The approximate location, dimensions, uses, and screening provisions for storage, refuse, and service areas.

5. The approximate location, arrangement, and dimensions of streets, driveways, access points, trails, bikeways, off-street parking, and loading areas.
  6. Proposed drainage, water, and sanitary systems and facilities.
  7. The approximate location, character, and type of signs and lighting facilities.
  8. A general landscaping plan depicting existing and proposed tree plantings, ground cover, screen planting, and the like.
  9. Architectural sketches or drawings, if required, to clearly establish the scale, character, and relationship of buildings, streets, ways, parking spaces, garages, and open spaces.
  10. Other data, such as information on soils, geology, and hydrology, purpose and provisions of the site review.
- (2) Application may be made concurrent with a zone change, when applicable, or at a later date prior to the approval of a building permit for construction on the development site.
- (F) Application, hearing, notice, and appeal. Procedures for application, hearing, notice, and appeal shall be as provided in this section for site review permits.
- (G) Modifications of approved site review permits. Minor changes requested by the applicant in an approved site review permit may be approved by the Planning Commission if such changes are consistent with the purposes and general character of the original application. All other modifications shall be processed in the same manner as the original application, and shall be subject to the same procedural requirements. All requests for changes or modifications, and their approval, shall be in writing.
- (H) Compliance with conditions of approval. Compliance with conditions imposed in the site review permit, and adherence to the plans submitted upon which approval of the site review permit was granted or modified, as the case may be, are required, and any departure from such conditions of approval and plans constitutes a violation of this part.
- (I) Revocation. Site review permits shall automatically be revoked if any development for which a site review permit has been granted is not established within one year from the date of final approval.

#### **155.4.3 — LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS**

##### Sections:

- 155.4.3.100 Purpose
- 155.4.3.110 General Requirements
- 155.4.3.120 Approvals Process
- 155.4.3.130 Preliminary Plat Submission Requirements
- 155.4.3.140 Approval Criteria: Preliminary Plat
- 155.4.3.150 Variances Authorized

|             |  |
|-------------|--|
| 155.4.3.160 | Final Plat Submission Requirements and Approval Criteria |
| 155.4.3.170 | Public Improvements                                      |
| 155.4.3.180 | Performance Guarantee                                    |
| 155.4.3.190 | Filing and Recording                                     |
| 155.4.3.200 | Replatting and Vacation of Plats                         |
| 155.4.3.210 | Transfer of Property                                     |

#### **155.4.3.100 Purpose.**

The purpose of this section is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions and partitions.
  - 1. Subdivisions involve the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
  - 2. Partitions involve the creation of three or fewer lots within one calendar year.
- B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
- F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage; and
- G. Encourage the conservation of energy resources.

#### **155.4.3.110 General Requirements**

- A. Subdivision and Partition Approval Through Two-step Process. Applications for subdivision or partition approval shall be processed through a two-step process: the preliminary plat and the final plat.
  - 1. The preliminary plat shall be approved before the final plat can be submitted for approval consideration; and
  - 2. The final plat shall comply with all conditions of approval of the preliminary plat.
- B. Compliance With ORS Chapter 92. All subdivision and partition proposals shall be in conformance to State regulations set forth in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- C. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two times the minimum lot size allowed by the underlying land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance

with the requirements of the land use district and this Code. A re-division plan shall be submitted which identifies:

1. Potential future lot division(s) in conformance with the housing and density standards of Section 155.2;
  2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way; and
  3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- D. Temporary Sales Office. A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 155.4.9.1 - Temporary Use Permits.
- E. Minimize flood damage. All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway. Development in a 100-year flood plain shall comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before City approval of the final plat.
- F. Determination of Base Flood Elevation. Where a development site consists of two or more lots, or is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the City.
- G. Need for Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as electrical and telephone systems located and constructed to prevent or minimize flood damage to the extent practicable.
- H. Need for Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required.

#### **155.4.3.120 Approvals Process**

- A. Review of Preliminary Plat. Review of a preliminary plat for a subdivision or partition shall be processed with a Type III Procedure under 155.4.1.6. All preliminary plats shall be reviewed using approval criteria contained in Section 155.4.3.140.
- B. Review of Final Plat. Review of a final plat for a subdivision or partition shall be processed by means of a Type I Procedure under Section 155.4.1.4, using the approval criteria in Section 155.4.3.160.

C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of one year from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within a one-year period.

D. Modifications and Extensions. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Section 155.4.6 - Modifications. The Planning Secretary shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one year, provided that:

1. Any changes to the preliminary plat follow the procedures in Section 155.4.6;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
5. The extension request is made before expiration of the original approved plan.

E. Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than two years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
  - a. Public facilities shall be constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 155.4.3.180. A temporary public facility is any facility not constructed to the applicable City or district standard;
  - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
  - d. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

#### **155.4.3.130      Preliminary Plat Submission Requirements.**

- A. General Submission Requirements. For subdivisions, the application shall contain all of the information required for a Limited Land Use Procedure under Section 155.4.1.6, except as required for P.U.D.s:
- B. Preliminary Plat Information. In addition to the general information described in Subsection A. above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:
1. General information:
    - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in the county in which it is located (please check with County surveyor);
    - b. Date, north arrow, and scale of drawing;
    - c. Location of the development sufficient to define its location in the City, boundaries, and a legal description of the site;
    - d. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey; and
    - e. Identification of the drawing as a “preliminary plat”.
  2. Site analysis:
    - a. Streets: Location, name, and present width of all streets, alleys and rights-of-way on and abutting the site;
    - b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
    - c. Utilities: Location and identity of all utilities on and abutting the site;
    - d. Ground elevations shown by contour lines with two-foot contour intervals for ground slopes up to 12% and five-foot contour intervals for ground slopes exceeding 12%. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor.
    - e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
    - f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having high erosion potential;
    - g. Sensitive lands; including wetland, shoreland and riparian areas, streams, wildlife habitat, overlay zone boundaries, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also, relevant portions of the Comprehensive Plan.);

- h. Site features, including existing structures, pavement and drainage ways, and ditches;
  - i. Name and address of owner;
  - l. Name and address of project designer, if applicable;
  - k. The percentage of the proposed development that falls within the sensitive area of the watershed serving Dunes City, as defined in the Dunes City Drinking Water Source Assessment (Lane Council of Governments 2002), including but not limited to that area within 1000 feet of the shores of Lakes Woahink, Little Woahink or Siltcoos, including major inlets and outlets;
  - l. A tree coverage map. For properties containing less than 16 conifers per acre the map shall include the location of every conifer with a diameter greater than 8 inches at 4 1/2 feet above average grade. For properties containing 16 or more conifers 8 inches or greater in diameter at 4 1/2 above average grade per acre the map shall include the outline of those areas with stands of conifers or an aerial photograph with enough detail to show conifer stands, and
  - m. Other information, as deemed appropriate by the Planning Secretary. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
3. Proposed improvements:
- a. Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts, which are being held for private use and all reservations and restrictions relating to such private tracts, shall be identified;
  - b. Easements: location, width and purpose of all easements;
  - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all lots and tracts;
  - d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use;
  - e. Proposed improvements, as required by Section 155.3.0 - Design Standards Administration, and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
  - f. The proposed source of domestic water;
  - g. The proposed method of sewage disposal, and method of surface water drainage and treatment if required;

- h. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
- i. Changes to navigable streams, shorelines or other watercourses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable;
- j. Identification of the base flood elevation for development greater than three lots or five acres, whichever is less. Evidence of contact with the Federal Emergency Management Agency to initiate a flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain;
- l. Evidence of contact with Oregon Department of Transportation (ODOT) or Lane County for any development requiring access to a highway under the State's or Lane County's jurisdiction; and
- k. Evidence of contact with the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Section 155.2.

**155.4.3.140 Approval Criteria: Preliminary Plat.**

- A. General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:
  - 1. The proposed preliminary plat complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Section, and the applicable sections of Section 155.2.0 - Land Use District Administration and Section 155.3.0 - Design Standards Administration shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Section 155.5 - Exceptions to Code Standards;
  - 2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
  - 3. The proposed streets, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat; and
  - 4. All proposed private common areas and improvements (e.g., home owner association property) are identified on the preliminary plat.
  - 5. An engineer licensed in Oregon shall document the safety of all development proposed on slopes in excess of 16 percent.
  - 6. The development of the proposed partition or subdivision will maximize the preservation of existing conifers with a diameter of 8 inches or greater at 4 ½ feet above average grade, considering topography, soil conditions, solar orientation and other factors affecting the siting of dwellings on the parcels or lots to be created.

- B. Housing Density. The subdivision meets the City's housing standards of Section 155.2.
- C. Block and Lot Standards. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements of Sections 155.2, 155.3.1 and 155.3.2.
- D. Partition Approval Criteria

A partition application shall only apply to creating smaller lots or parcels from larger lots or parcels. Any other land use change on the partition land at the time of the partition application shall disqualify the application and require a sub-division application.

If the partition may be further divided, the City may require full compliance with the subdivision approval criteria.

The criteria for approval of a partition shall address all specific requirements for shape and size as specified in Section 155.2, and street access, sanitary sewer and water service improvements, storm drainage, and utility access requirements in Section 155.3. If the partition requires a new street or an extension of an existing street, Subsection 155.3.1.2 - Vehicular Access and Circulation and Subsection 155.3.4.1 - Transportation Standards shall apply.

#### **155.4.3.150 Variances Authorized.**

Adjustments to the standards of this Section shall be processed in accordance with Section 155.5.1 - Variances. Applications for variances shall be submitted at the same time an application for land division is submitted.

#### **155.4.3.160 Final Plat Submission Requirements and Approval Criteria.**

- A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with Lane County. The applicant shall submit the final plat within one (1) year of the approval of the preliminary plat as provided by Section 155.4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Planning Secretary.
- B. Approval Criteria. By means of a Type II Procedure, the City shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:
  1. The final plat complies with the approved preliminary plat, and all conditions of approval have been satisfied;
  2. All public improvements required by the preliminary plat have been installed and approved by the City. Alternatively, the developer has provided a performance guarantee in accordance with Section 155.4.3.180.
  3. The streets for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street and easements for public utilities;
  4. The streets held for private use have been approved by the City as conforming to the preliminary plat;

5. The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, and storm drainage;
6. The applicant has provided copies of all recorded homeowners association Codes, Covenants and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
7. The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
8. Certification by the State of Oregon and Lane County, as applicable, that water and sanitary sewer service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider to the City that such services will be installed in accordance with Section 155.3.4 - Public Facilities Standards, and the bond requirements of Section 155.4.3.180. A registered professional engineer, subject to review and approval by the City; shall determine the amount of the bond, contract or other assurance by the subdivider;
9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

#### **155.4.3.170    Public Improvements.**

The following procedures apply to subdivisions and partitions when public improvements are required as a condition of approval:

- A. Public Improvements Required. Before City approval is certified on the final plat, all required public improvements should be installed, inspected, and approved. Alternatively, the subdivider shall provide a performance guarantee, in accordance with Section 155.4.3.180.

#### **155.4.3.180    Performance Guarantee.**

- A. Performance Guarantee Required. When a performance guarantee is required under Section 155.4.3.170, the subdivider shall file an assurance of performance with the City supported by one of the following:
  1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the State of Oregon;
  2. A surety bond executed by a surety company authorized to transact business in the State of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
  3. Cash in an escrow account or payment to the City.

- B. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. Itemized Improvement Estimate. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- D. Agreement. An agreement between the City and developer shall be recorded with the final plat that stipulates all of the following:
  1. Specifies the period within which all required improvements and repairs should be completed;
  2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
  3. Stipulates the improvement fees and deposits that are required.
  4. As an option provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.

The agreement may be prepared by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by the applicant, approved by the City Council, and signed by the Mayor.

- E. When Subdivider Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

#### **155.4.3.190 Filing and Recording.**

- A. Filing plat with County. Within 60 days of the signature of the Mayor on the final plat, the applicant shall submit the final plat to Lane County for signatures of County officials as required by ORS Chapter 92.
- B. Proof of recording. Upon final recording with the County, the applicant shall submit to the City a paper copy of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.
- C. Prerequisites to recording the plat.
  1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
  2. No plat shall be recorded until the County surveyor, in the manner provided by ORS Chapter 92, approves it.

#### **155.4.3.200 Replatting and Vacation of Plats**

- A. **Replatting and Vacations.** Any plat or portion thereof may be replatted or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. **Procedure.** All applications for a replat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to replat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Section 155.4.1 - Types of Applications and Review Procedures.)
- C. **Basis for denial.** A replat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, or streets; or if it cannot be made to meet applicable criteria.
- D. **Recording of vacations.** All approved plat vacations shall be recorded in accordance with 155.4.3.190 and the following procedures:
  - 1. Once recorded, a replat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
  - 2. Vacations shall also divest all public rights in the streets and public grounds, and all dedications identified on the plat.
- E. **After sale of lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.
- F. **Vacation of streets.** All street vacations shall comply with the procedures and standards set forth in ORS Section 271.

#### **155.4.3.210 Transfer of Property**

- A. The transfer of property between adjacent parcels is permissible without approval by the City so long as the transfer does not result in the creation of a lot, which is less than one acre in size, or unless the "donating" lot is less than one acre in size prior to the transfer of property to the adjoining parcel. In the event the transfer would create a lot less than one acre in size, or the donating lot is less than one acre in size, such transfer shall require approval of the City. Approval shall be conditional and subject to a conditional use permit being granted pursuant to the general provisions of this part providing for the granting of a conditional use permit.
- B. Lots, which are conforming prior to donations of a portion of the lot to an adjoining lot, shall remain conforming, so long as the transfers are made to conform to A. above.

#### **Section 155.4.4 — Conditional Use Permits**

##### **Sections:**

- 155.4.4.1 Purpose
- 155.4.4.2 Approval Process
- 155.4.4.3 Application Submission Requirements
- 155.4.4.4 Criteria, Standards and Conditions of Approval
- 155.4.4.5 Additional Development Standards for Conditional Use Types

#### **155.4.4.1      Purpose.**

There are certain uses that, due to the nature of their impact on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as "Conditional Uses" in Section 155.2 - Land Use District Administration. The purpose of Section 155.4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

#### **155.4.4.2      Approvals Process.**

- A. Initial Application. An application for a new conditional use shall be processed as a Type III Procedure (Section 155.4.1.6). The application shall meet submission requirements in Section 155.4.4.3, and the approval criteria contained in Section 155.4.4.4.
- B. Modification of Approved or Existing Conditional Use. Modifications to approved or existing conditional uses shall be processed in accordance with Section 155.4.6 - Modifications.

#### **155.4.4.3      Application Submission Requirements.**

In addition to the submission requirements required in Section 155.4.1, an application for conditional use approval must include the following information (A through H), as applicable.

- A. Existing site conditions;
- B. Site plan;
- C. Preliminary grading plan;
- D. A landscape plan including a tree coverage map. For properties containing less than 16 conifers per acre the map shall include the location of every conifer with a diameter greater than 8 inches at 4  $\frac{1}{2}$  feet above average grade. For properties containing 16 or more conifers 8 inches or greater in diameter at 4  $\frac{1}{2}$  above average grade per acre the map shall include the outline of those areas with stands of conifers or an aerial photograph with enough detail to show conifer stands;
- E. Architectural drawings of all structures;
- F. Drawings of all proposed signs;
- G. A copy of all existing and proposed restrictions or covenants; and.
- H. Narrative report or letter documenting compliance with all applicable approval criteria in Section 155.4.4.4.

#### **155.4.4.4      Criteria, Standards and Conditions of Approval**

The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following standards and criteria:

- A. Use Criteria.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, slopes, odor, dust, visibility, safety, and aesthetic considerations;
2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and
3. All required public facilities have adequate capacity to serve the proposal.
4. The proposal is consistent with applicable policies of the Comprehensive Plan for Dunes City.
5. The location, size, design, and operating characteristics of the proposed use:
  1. Will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity, and
  2. Will not be adversely affected by the development of abutting properties and the surrounding vicinity. (Consideration may be given to harmony in bulk coverage and density, to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character, to the generation of traffic and the capacity of surrounding streets and roads; and to any other relevant impact of the use.
6. Will not be adversely affected by known natural hazards, such as floods, slides, erosion.
7. Will not create a hazardous natural condition such as erosion, landslide, flooding.

B. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking areas;
6. Requiring street rights-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;

8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, design, and/or intensity of outdoors lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands; and
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of Section 155.3.4.2 – Public Use Areas..

C. Revocation. A conditional use permit is automatically revoked without special action if:

1. The permit has not been exercised within two years of the date of approval.
2. The use approved by the conditional use permit is discontinued for any reason for one continuous year or more.
3. The City Council may revoke any conditional use permit for failure to comply with any prescribed condition of the conditional use approval.
  - a. A hearing for revocation of a conditional use permit shall be held when the City Council is of the opinion any or all of the bases for revocation as stated in this section exist.
  - b. The public hearing, notification, and appeal procedures for revocation hearings by the City Council shall be the same as those for original conditional use application hearings and appeals provided in this section.

#### **155.4.4.5 Additional Development Standards for Conditional Use Types**

- A. Concurrent Variance Application(s). A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.
- B. Additional Development Standards. Development standards for specific uses are contained in Section 155.2 - Land Use District Administration.

#### **155.4.5 Planned Unit Development Procedures**

##### **Sections:**

- |             |             |
|-------------|-------------|
| 155.4.5.101 | Purpose     |
| 155.4.5.102 | Description |

|             |   |
|-------------|---|
| 155.4.5.103 | Objectives  |
| 155.4.5.104 | Permitted Uses  |
| 155.4.5.105 | Size  |
| 155.4.5.106 | Land Coverage   |
| 155.4.5.107 | Residential Density   |
| 155.4.5.108 | Lot Area and Dimension Standards  |
| 155.4.5.109 | Perimeter Standards and Visual Screening                                  |
| 155.4.5.110 | Open Space Standards  |
| 155.4.5.111 | Maintenance of Common Land and Facilities, Owners or Tenants Associations |
| 155.4.5.112 | Dedications, Easements, and Similar Requirements                          |
| 155.4.5.113 | Construction Standards  |
| 155.4.5.114 | Approvals Process   |
| 155.4.5.115 | Procedure for Preliminary Plan Approval                                   |
| 155.4.5.116 | Procedure for Final Plan and Plat Approval                                |
| 155.4.5.117 | Approval Criteria   |
| 155.4.5.118 | Procedure to Change Approved Final Plan                                   |
| 155.4.5.119 | Revocation of Planned Unit Development (P.U.D.)                           |
| 155.4.5.120 | Applicant's Design Team   |

The provisions of this subsection shall be known as "Planned Unit Development Procedures."

#### **155.4.5.101      Purpose**

The purpose of this section is to set forth the objectives, principles, standards, and procedures to be used in developing a Planned Unit Development (P.U.D.). This section is designed to permit the flexibility needed to encourage the appropriate development of tracts of land that are large enough to allow the use of individualized comprehensive planning. It is intended to provide flexibility in the application of certain regulations in a manner consistent with the general intent and provisions of the Comprehensive Plan and zoning ordinance, thereby promoting a harmonious variety of uses, the economy of shared services and facilities, compatibility of surrounding areas, and the creation of attractive, healthful, efficient, and stable environments for living, shopping, recreation, or working.

#### **155.4.5.102      Description**

A P.U.D. is an optional approach to community development that allows modification of the more or less rigid setback, lot size specification, and land use provisions of the building code, and this Chapter 155. A P.U.D. establishes broad standards and goals to be followed, thus enabling and encouraging flexibility of design and development in order to cluster housing and protect areas with open space and natural values. Based on the concept of cluster housing, it allows single-family and attached multi-family dwellings of varying sizes and other uses to be built in the same development, thus inviting considerable variety in both tract and building design and uses, the possible retention of natural settings or community recreational areas, and reduced street and utility installation cost. Although the density of the total area remains consistent with that of normal development, emphasis is placed on the relationship between buildings, uses, and open space, and the most efficient use of both natural and development resources, rather than planning on a lot-by-lot or building-by-building basis.

#### **155.4.5.103      Objectives**

The general objectives of the P.U.D. are:

- A.      To encourage innovations and variety in the development or reuse of property.

- B. To maximize choice in the type of environment available in the City.
- C. To encourage a more efficient use of land and of public services and facilities.
- D. To take advantage of and promote functional land use design.
- E. To provide for the enhancement and preservation of property with unique features (such as, historical, topographical, and natural landscape).
- F. To simplify processing of development proposals for developers and the Planning Commission by providing for concurrent review of land use, subdivision, public improvements, and siting.
- G. To enable special problem areas or sites in the City to be developed or improved, in particular where these areas or sites are characterized by special features of geography, topography, size, or shape.
- H. To provide an environment of stable character in harmony with surrounding development or use, or proposed development or use.
- I. To permit flexibility of design that will create desirable public and private common open spaces and a variety in type, design, and layout of buildings, and utilize to the best possible extent the potentials of each individual site.
- J. To assist in reducing the public service cost of development.
- K. To provide for enhancement and preservation of desirable vegetation and trees within the P.U.D.

#### **155.4.5.104      Permitted Uses**

The following buildings and uses may be permitted either singly or in combination in a P.U.D. Except as specifically provided or referred to in this Section, the building and uses permitted in a P.U.D. shall be governed by the basic uses of the parent district.

- A. Single-family dwellings.
- B. Multiple family dwellings.
- C. Manufactured homes, modular homes.
- D. All other uses permitted in the parent district.
- E. Conditional uses permitted in the parent district.
- F. Open space.
- G. Public and private nonprofit parks and playgrounds, community centers, and recreational facilities.
- H. Hiking and riding trails.

- I. Neighborhood shopping centers and convenience shops where they are deemed appropriate to a larger neighborhood of which the P.U.D. is an integral part and are designed to primarily serve the residents of the P.U.D. with goods and services.
- J. Accessory structures and uses to the extent necessary and normal to the uses permitted in this section.

#### **155.4.5.105 Size and Facility Standards**

A P.U.D. shall be of sufficient size to allow the objectives and standards of this section to be met and shall, as a minimum, comply with the following:

- A. The minimum size for a tract of land to be developed as a P.U.D. shall be not less than five contiguous acres and of such configuration as to be conducive to a P.U.D.
- B. Notwithstanding the provisions of Section A. above, a P.U.D. application may be filed on a tract of land less than five contiguous acres, but no approval shall be given to such application unless the Planning Commission determines, upon a showing by the applicant, that the minimum size required in A. above should be waived because a P.U.D. is in the public interest and that one or more of the following conditions exist:
  - 1. Because of unusual physical features of the property or of the neighborhood in which it is located, a substantial deviation from the regulations otherwise applicable is necessary or appropriate in order to conserve a physical or topographical feature of importance to the City.
  - 2. The property or its neighborhood has historical character of economic importance to the City that will be protected by use of a P.U.D.
  - 3. The property is adjacent to property which has been officially approved, developed, or redeveloped as a P.U.D., and that a P.U.D. on the subject property can be effectively integrated with the existing P.U.D.
  - 4. The property is determined to be an isolated problem area that has been bypassed in the course of development and for which a P.U.D. is determined to be the most feasible method of developing the area.
- C. A community sewage system and a community water system may be required for PUDs with five or more lots.

#### **155.4.5.106 Land Coverage**

- A. In residential developments, at least 40% of the gross area shall be devoted to common open space. Streets, rights-of-way and setbacks on individually owned lots shall not be considered open space.

#### **155.4.5.107 Residential Density**

- A. The residential density shall be equivalent to not more than one family unit per acre.
- B. The overall density of a P.U.D. shall be calculated by dividing the total net development area by the number of family units. The net development area shall be determined by subtracting from the gross development area lands intended or used for public or semi-public uses not intended to primarily serve the residents of the P.U.D.

#### **155.4.5.108      Lot Area and Dimension Standards**

The minimum lot area, width, depth, height, and setback requirements of this chapter applicable to the zoning district in which the P.U.D. lies shall not dictate the strict guidelines for development within the P.U.D., but shall serve as a guideline to ensure that the development will be in harmony with the character of the surrounding area. Individual buildings, accessory buildings, off-street common parking, loading facilities, open space, landscaping, and screening may be located without reference to lot lines, except the boundary lines of the P.U.D.

#### **155.4.5.109      Perimeter Standards and Visual Screening**

When the Planning Commission determines that topographical or other existing barriers, or the design of the P.U.D., do not provide adequate screening or privacy necessary for properties adjacent to the P.U.D., the Planning Commission shall require that:

- A.      Structures located near the perimeter of a P.U.D. are designed and located so as to protect the privacy and amenity of adjacent existing uses.
- B.      A permanent visual screening be established, either by appropriate structures or vegetation or both, along those portions of the site boundaries requiring such screening to assure compatibility with adjacent existing or prospective land uses.

#### **155.4.5.110      Open Space Standards**

The location, shape, size, and character of the open space shall be provided in a manner to meet the specific needs of the P.U.D. and consistent with the standards set forth below, and shall be used only for those uses so specified:

- A.      Open space may be used for scenic, landscaping, or outdoor recreational purposes. The uses designated for the open space shall be appropriate to the scale and character of the P.U.D., considering its size, density, expected population, topography, and the number and type of dwellings to be provided.
- B.      Open space shall be developed and improved to the extent that it will serve the purpose for which it is designated. Outdoor areas containing natural features and natural vegetation may be left unimproved. Evergreen trees will be preserved whenever possible.
- C.      Any building, structure, and improvements within the open space shall be appropriate to the uses which are authorized for the open space and shall conserve and enhance the amenities of the open space having regard to its topography and unimproved condition.
- D.      The development schedule, which is part of the development plan, must coordinate the improvement of the open space and the construction of residential dwellings and other buildings in the P.U.D.
- E.      All structures, grading, landscaping, and improvements indicated on the plan, as being in the open space or common ground shall be completed before any portion of the P.U.D. is sold.

#### **155.4.5.111      Maintenance of Common Land and Facilities, Owners or Tenants Associations**

Whenever any lands or facilities, including streets or ways, are shown on the final development plan as being held in common, the Planning Commission shall require that an association of owners or tenants be created into a nonprofit corporation under the laws of the state and that such corporation shall adopt articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on such common areas and facilities to the satisfaction of the Planning Commission. The association shall be formed and continued for the purpose of maintaining such common open space and facilities. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessment levies to maintain the areas and facilities for the purposes intended. The period of existence of such association shall be not less than 20 years, and it shall continue thereafter until a majority vote of the members shall terminate it.

#### **155.4.5.112      Dedications, Easements, and Similar Requirements**

The Planning Commission may, as a condition of approval for any development, require that portions of the P.U.D. be set aside, improved, conveyed, or dedicated for the following uses:

- A. Easements necessary to the orderly extension of public utilities.
- B. Streets and pedestrian ways necessary to the proper development of the P.U.D. and/or adjacent properties.
- C. Recreational areas or open spaces suitable for the owner, residents, employees, or patrons of the P.U.D. and the general public.

#### **155.4.5.113      Construction Standards**

Except as expressly provided herein, the provisions of the building code, this chapter, and all other City ordinances and codes shall apply to and control all design and construction of improvements within a P.U.D.

#### **155.4.5.114      Approvals Process**

- A. Review of Preliminary Development Plan and Plat. Review of a preliminary development plan and plat for a P.U.D. shall be processed with a Type III Procedure under 155.4.1.9. All preliminary plans and plats shall be reviewed using approval criteria contained in Section 155.4.5.107.
- B. Review of Final Plan and Plat. Review of a final development plan and plat for a P.U.D. shall be processed with a Type II Procedure under 155.4.1.5. All final plans and plats shall be reviewed using approval criteria contained in Section 155.4.5.107.
- C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of one year from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within a one year.
- D. Modifications and Extensions.

The applicant may request changes to the approved preliminary plan and plat or conditions of approval following the procedures and criteria provided in Section 155.4.6 - Modifications. The Planning Secretary shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one year; provided that:

1. Any changes to the preliminary plat follow the procedures in Section 155.4.6;

2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required;
5. The extension request is made before expiration of the original approved plan.
6. The applicant may request minor changes to the approved final plan and plat:

The City Council may approve minor changes in an approved Final P.U.D. application requested by the applicant if such changes are consistent with the purposes and general character of the application. All other modifications, including extension or revisions of the stage development schedule, shall be processed in the same manner as the original application or final approval and shall be subject to the same procedural requirements. All requests for changes or modifications and their approval shall be in writing.

E. Phased Development.

1. The City may approve a time schedule for developing a P.U.D. in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than two years without reapplying for a preliminary plat.
2. The criteria for approving a phased P.U.D. proposal are:
  - a. Public facilities shall be constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 155.4.3.180 - Performance Guarantee. A temporary public facility is any facility not constructed to the applicable City or district standard;
  - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
  - d. The application for phased development approval shall be reviewed concurrently with the preliminary plan and plat application and the decision may be appealed in the same manner as the preliminary plan and plat.

F. Ownership

The tract or tracts of lands included in a proposed P.U.D. application must be in one ownership or control, or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase shall be deemed the owner of such land for the purposes of this section.

#### **155.4.5.115 Procedure for Preliminary Plan Approval**

Applications for preliminary approval shall be made by the owner(s) of all property included in the P.U.D. or his or her authorized agent and shall be filed on a form prescribed by the City Council and filed with the City Recorder. The application shall also indicate all owners of record, contract purchasers, holders of options, and proposed developers. Preliminary P.U.D. applications shall be accompanied by the filing fee to defray the cost of processing the application, and shall include the following:

- A. One copy of a written statement made up of the following information:
  1. An explanation of the character of the P.U.D. and the form of organization proposed to own and maintain the common areas and facilities, and the type of ownership of individual units or spaces.
  2. Drafts of proposed covenants, deed restrictions, and other documents relating to the dedication, improvement, and maintenance of common and private areas or facilities.
  3. A development schedule indicating:
    - a. The approximate date when construction of the project can be expected to begin.
    - b. The proposed stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
    - c. The approximate dates when the development will be completed.
    - d. The area, uses, and location of common open space that will be provided at each stage.
    - e. A tabulation of land area to be devoted to various uses and a calculation of the average residential density per net acre.
    - f. The identify of the Applicant's Design Team. See Section 155.4.5.201.
    - g. The percentage of the proposed development that falls within the sensitive area of the watershed serving Dunes City, as defined in the Dunes City Drinking Water Source Assessment (Lane Council of Governments 2002), including but not limited to that area within 1000 feet of the shores of Lakes Woahink, Little Woahink or Siltcoos, including major inlets and outlets.
- B. Eight copies of a preliminary development plan(s) and plat of the entire development, which shall include, at a minimum, the following:
  1. Topography of the proposed development with two-foot contour intervals for ground slopes up to 12% and five-foot contour intervals for ground slopes exceeding 12%.
  2. The approximate location, arrangement, and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, bikeways, off-street parking, and loading areas.

3. The approximate location and dimensions of building and structures and their use, open space, and dedicated or reserved properties.
4. Proposed drainage, water, and sanitary systems and facilities as required.
5. The location, character, and type of signs and lighting facilities.

#### **155.4.5.116 Procedure for Final Plan and Plat Approval**

##### **A. Application.**

1. Within one year after the granting of Preliminary P.U.D. Approval, the applicant shall file with Planning Secretary a "Final P.U.D. Application" for the entire development or, when submission in stages has been authorized, for the first stage of development. The Final P.U.D. Application shall conform in all major respects with the Preliminary P.U.D. application. The application shall include the following information:
  - a. One copy of the final plat for each tax lot created and a reproducible transparency of the final plan(s) shall be submitted. This plan shall be sufficiently detailed to indicate fully the ultimate operations and appearance of the development and shall include, at a minimum, the following:
    1. Detailed locations of water, sewage, drainage facilities and utility easements.
    2. A detailed plan showing the location of all buildings and structures.
    3. Detailed exterior building plans and elevations.
    4. Detailed plans showing the character and locations of signs and lighting facilities.
    5. Detailed plans for streets, pedestrian ways, and parking improvements.
    6. Detailed grading or earth moving plans.
    7. Detailed landscaping plans.
    8. A tree coverage map. For properties containing less than 16 conifers per acre the map shall include the location of every conifer with a diameter greater than 8 inches at 4 ½ feet above average grade. For properties containing 16 or more conifers 8 inches or greater in diameter at 4 ½ above average grade per acre the map shall include the outline of those areas with stands of conifers or an aerial photograph with enough detail to show conifer stands;
  - b. A final subdivision plat;
  - c. All documents relating to dedication, improvements, maintenance agreements, covenants, deed restrictions, and bylaws of neighborhood associations, cooperatives, and improvements of the district shall be submitted. The documents so submitted shall be approved by an attorney and shall be further approved as to form by the City Attorney.

2. Within five days after a complete application for final approval is duly submitted to the Planning Secretary, the Planning Secretary shall distribute copies thereof to the City Council and to such other agencies or individuals as deemed appropriate.
- B. Review by City Council: Within 45 days after receipt of the application for final approval, the Planning Commission shall consider the Final P.U.D. Application along with any referrals received concerning the application. If it appears from the evidence presented that the Final Application substantially conforms to the Preliminary P.U.D. Application, the conditions, stipulations, and limitations or changes required by the Order of Preliminary P.U.D. Approval, and all applicable laws and ordinances, the Planning Commission shall approve the application. If the Planning Commission determines that the application does not comply with such provisions, it shall either:
1. Require such changes in the Final P.U.D. Application as are in its judgment necessary to ensure conformity to the Preliminary P.U.D. Application, the conditions, stipulations, and limitations or changes required by the Preliminary P.U.D. Approval, and all applicable laws and ordinances, and in so doing the applicant may revise the Final Application and resubmit the application to the City Council within 45 days. The Revised Final P.U.D. Application shall be heard at the next regular City Council meeting.
  2. Disapprove the Final P.U.D. Application, and the action of the City Council shall become final in ten days unless within the ten-day period.

#### **155.4.5.117 Approval Criteria.**

- A. Approval criteria. In addition to the following development and maintenance standards and principles, the City Council shall expressly find that the following criteria are met before it approves a P.U.D.:
1. The location, size, design, and uses must be consistent with the Comprehensive Plan.
  2. The location, design, and size must be such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding land uses, that the location and design will adequately reduce the impact of the development.
  3. The location, design, size, and land use must be such that traffic generated by the development can be accommodated safely and without congestion on existing or planned streets and will avoid as much as possible traversing local streets.
  4. The location, design, size, and land uses must be such that the residents or establishments to be accommodated will be adequately served by existing facilities and services or by facilities and services, which are planned for construction within a time period that is deemed reasonable.
  5. The location, design, size, and uses shall result in an attractive, healthful, efficient, and stable environment for living, shopping, or working.
  6. The plan shall preserve the maximum number of evergreen trees and desirable natural plants (as defined in the Erosion Control Ordinance), given the limits of the area to be developed.
- B. Limitation of approval. No excavation, grading, construction improvements, or building permits shall be authorized or issued within the adopted P.U.D. pending compliance with the following:

1. Full compliance with all provisions of this part, including the execution and filing of all documents required therein.
2. Compliance with the requirements of the building code and sections 155.2, 155.3 and 155.4 of this chapter, and all other applicable laws and regulations.
3. Full compliance with the approved Final P.U.D. application. The application shall control the issuance of all building permits and shall restrict the nature, location, and design of all uses.

#### **155.4.5.118      Procedure to Change Approved Final Plan**

Changes to the approved plans shall be in accord with Section 155.4.6 – Modifications.

#### **155.4.5.119      Revocation Of Planned Unit Development.**

In the event of a failure to comply with the approved P.U.D. application or any prescribed condition of approval, including failure to comply with the stage development schedule, City Council may initiate a review of the P.U.D. at a public hearing to determine whether or not its continuation in whole or in part is in the public interest, and if found not to be shall revoke approval of the P.U.D.

#### **155.4.5.120      Applicant's Design Team.**

- A. The talents of qualified professionals, working as a team, are required for the planning, development, and construction of a P.U.D. to ensure that the objectives of this subsection may be most fully realized and appreciated by the community and that the project enables the most expeditious processing of P.U.D.s by facilitating coordination and communication between the developer, the various professionals, the public agencies, the City Council and the Planning Commission. The composition of the applicant's design team shall include, but not be limited to, a qualified architect, a landscape architect, and an engineer or land surveyor, licensed by the State.
- B. One of the required professionals shall be designated by the applicant to be responsible for conferring with the City Council and Planning Commission with respect to the concept and details of the development plan, and shall act as the liaison between City and the design team. The selection of this coordinator shall not limit the applicant or any member of the team from consulting with or presenting material to the Planning Commission and City Council.
- C. The composition of the design team may be modified by the City or the applicant in accordance with the following provisions:
  1. The City Council or the Planning Commission may require that, in addition to the design team, the expertise of other professionals be utilized in the formation, planning, and development of a P.U.D. if the City Council or Planning Commission makes a determination that the site merits special consideration due to its unusual and adverse physical features or conditions.
  2. The applicant may limit, except as provided in division (1) above, the composition of the design team to an architect, or a landscape architect and an engineer or a land surveyor, if the proposed P.U.D. is intended for single-family dwellings.

#### **155.4.6 — Modifications to Approved Plans and Conditions of Approval**

##### Sections:

|           |                     |
|-----------|---------------------|
| 155.4.6.1 | Purpose             |
| 155.4.6.2 | Applicability       |
| 155.4.6.3 | Major Modifications |
| 155.4.6.4 | Minor Modifications |

#### **155.4.6.1      Purpose.**

The purpose of this Section is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources.

#### **155.4.6.2      Applicability.**

- A. This Section applies to all development applications approved through the provisions of Section 155.4, including:
  - 1. Site Review;
  - 2. Subdivisions, Partitions, and Lot Line Adjustments;
  - 3. Conditional Use Permits;
  - 4. Planned Unit Development; and
  - 5. Conditions of approval on any of the above application types.
- B. This Section does not apply to land use district changes, text amendments, temporary use permits, or other permits.

#### **155.4.6.3      Major Modifications.**

- A. Major Modification Defined. The Planning Secretary shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:
  - 1. A change in land use. See Section 155.2;
  - 2. An increase in the number of dwelling units;
  - 3. A change in the type and/or location of access ways, drives or parking areas that affect off-site traffic;
  - 4. An increase in the floor area proposed for non-residential use by more than 10 percent where previously specified;
  - 5. A reduction of more than 10 percent of the area reserved for common open space and/or usable open space;
  - 6. A reduction to specified setback requirements to a degree that the minimum setback standards of the land use district cannot be met; or

7. Changes similar to those listed in 1 through 6, which are likely to have an adverse impact on adjoining properties.

**B. Major Modification Request.** An applicant may request a major modification as follows:

1. Upon the Planning Secretary determining that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval, however, the review shall be limited in scope to the modification request. Notice shall be provided in accordance with the applicable review procedure.

**155.4.6.4      Minor Modifications.**

- A. **Minor Modification Defined.** Any modification to a land use decision or approved development plan, which is not within the description of a major modification, as provided in Section 155.4.6.3, above, shall be considered a minor modification.
- B. **Minor Modification Request.** An application for approval of a minor modification is reviewed using Type I Procedure. A minor modification shall be approved, approved with conditions, or denied by the Planning Secretary based on written findings on the following criteria:
1. The proposed development is in compliance with all applicable requirements of the Development Code; and
  2. The modification is not a major modification as defined in Section 155.4.6.3, above.

**155.4.7      Land Use District Map Amendments.**

All zoning changes shall be noted on the Comprehensive Plan land use district map, and will be accomplished by a Type IV Procedure with a resulting ordinance passed by the City Council to make such change.

**155.4.8      Code Interpretations.**

**Sections:**

- |           |                               |
|-----------|-------------------------------|
| 155.4.8.1 | Purpose                       |
| 155.4.8.2 | Code Interpretation Procedure |

**155.4.8.1      Purpose.**

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

**155.4.8.2      Code Interpretation Procedure.**

- A. **Request.** A request for a code interpretation shall be made in writing to the Planning Secretary. The Planning Secretary may develop written guidelines for the application process.

- B. Decision to Issue Interpretation. The Planning Commission shall have the authority to review a request for an interpretation. The Planning Secretary shall advise the requester in writing within 45 days after the request is made, on whether or not the City will issue the requested interpretation.
- C. Declining Requests for Interpretations. The Planning Commission is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject Code section affords only one reasonable interpretation and the interpretation does not support the request. The Planning Commission decision to issue or decline to issue an interpretation is final when the decision is mailed to the party requesting the interpretation.
- D. Written Interpretation. If the Planning Commission decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within 14 days after the regular Planning Commission meeting where interpretation is issued. The decision shall become effective 14 days later, unless an appeal is filed in accordance with E through G below.
- E. Appeals. The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the City Council within 14 days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the City.
- F. Appeal Procedure. City Council shall hear all appeals of a Planning Commission interpretation as a Type II Procedure pursuant to Section 155.4.1.5, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.
- G. Final Decision/Effective Date. The decision of the City Council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the City Council's decision is filed, the decision remains effective unless or until the Land Use Board of Appeals or a court of competent jurisdiction modifies it.
- H. Interpretations On File. The Planning Secretary shall keep on file a record of all code interpretations.

#### **155.4.9                   Miscellaneous Permits.**

##### Sections:

- 155.4.9.1               Temporary Use Permits
- 155.4.9.2               Home Occupation
- 155.4.9.3               Concept Assistance
- 155.4.9.4               Manufactured Home Parks
- 155.4.9.5               Travel Trailer and Recreational Vehicle Parks

#### **155.4.9.1               Temporary Use Permits.**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Three types of temporary uses require permit approval (See A, B and C):

- A. **Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 30 days. Using the Type II Procedure under Section 155.4.1.5, the City shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:
1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);
  2. The applicant has proof of the property owner's permission for the event;
  3. No parking will be utilized by customers and employees of the temporary use, which is needed by the property owner to meet their minimum parking requirement under Section 155.3.3 - Vehicle and Bicycle Parking;
  4. The use provides adequate vision clearance, as required by Section 155.3.1.2.M., and shall not obstruct pedestrian access on public streets;
  5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 155.3.1.2 - Vehicular Access and Circulation;
  6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
  7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)
- B. **Temporary Sales Office or Model Home.** Using a Type II Procedure under Section 155.4.1.4, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:
1. Temporary sales office:
    - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
    - b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.
  2. Model home:
    - a. The model home shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
    - b. The model home shall be designed as a permanent structure that meets all relevant requirements of this Code.

- C. Temporary Building. Using a Type II Procedure, as governed by Section 155.4.1.5, the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:
1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
  2. The primary use on the property to be used for a temporary trailer is already developed;
  3. Ingress and egress are safe and adequate when combined with the other uses of the property, as required by Section 155.3.1.2 - Vehicular Access and Circulation
  4. There is adequate parking for the customers or users of the temporary use as required by Section 155.3.3 – Vehicle and Bicycle Parking.
  5. The use will not result in vehicular congestion on streets;
  6. The use will pose no hazard to pedestrians in the area of the use;
  7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
  8. The building complies with applicable building codes;
  9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
  10. The length of time that the temporary building will be used does not exceed twelve months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

#### **155.4.9.2 Home Occupation**

The purpose of this Section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. They are permitted by right in all residential units (dwellings), subject to the following standards:

##### **A. Appearance of Residence:**

1. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
2. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.

3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
4. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

B. Storage:

1. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
3. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

C. Employees:

1. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee at the home occupation site at any given time. As used in this section, the term "home occupation site" means the lot on which the home occupation is conducted.
2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
3. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. Advertising and Signs: Signs shall comply with Section 155.2.1.260.

E. Vehicles, Parking and Traffic:

1. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
2. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 7 p.m. to 9 a.m.
3. There shall be no more than one client or customer's vehicle at any one time and no more than eight per day at the home occupation site.

F. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 9 a.m. to 5 p.m. only, subject to Sections A and E, above.

G. Prohibited Home Occupation Uses:

1. Any activity that produces radio or TV interference, noise, glare, vibration, smoke, dust and/or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.
  2. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to A-F, above.
- H. **Enforcement:** The Planning Secretary or designee may visit and inspect the site of home occupations in accordance with this section periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations shall be processed in accordance with Section 155.1.4 - Enforcement.

#### **155.4.9.4 Manufactured Home Parks**

Manufactured Home Parks are permitted uses, and require a Type III Procedure. For this use, all the requirements, standards and processes for subdivisions or P.U.D.s of Chapter 155 shall apply.

#### **155.4.9.5 Travel Trailer and Recreational Vehicle Parks**

- 155.4.9.5.100 Purpose.
- 155.4.9.5.110 General Requirements and Definitions.
- 155.4.9.5.120 Approvals Process.
- 155.4.9.5.130 Preliminary Site Plan Submission Requirements.
- 155.4.9.5.140 Approval Criteria: Preliminary Site Plan.
- 155.4.9.5.150 Variances Authorized.
- 155.4.9.5.160 Final Site Plan Submission Requirements and Approval Criteria.
- 155.4.9.5.170 Public Improvements.

#### **155.4.9.5.180 Performance Guarantee.**

##### **155.4.9.5.100 Purpose.**

The purpose of this subsection is to:

- A. Provide rules, regulations and standards governing the approval of travel trailer and recreational vehicle parks;
- B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan;
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
- F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage; and

G. Encourage the conservation of energy resources.

#### **155.4.9.5.110 General Requirements and Definitions**

##### **A. Definitions:**

For the purposes of this subsection:

**Recreational Vehicle** - Any self-powered vehicle that is licensed for operation over public highways and designed as a temporary dwelling for travel, vacation, and recreation.

**Travel Trailer** - Any portable vehicle or structure which is less than 45 body feet in overall length at its longest point; or is less than ten body feet in width at its widest point; or has less than 800 square feet of floor space; and is currently licensed for transportation over public highways and designed as a temporary dwelling for travel, vacation, and recreation.

**Travel Trailer and Recreational Vehicle Park** - Any parcel of land of five acres or greater, composed of a lot or contiguous lots under the same ownership, and used, designed, or intended to accommodate two or more recreational vehicles or travel trailers per lot.

**Site** - Any portion of a travel trailer or recreational vehicle park designated or used for the occupancy of one travel trailer or recreational vehicle.

B. Travel trailer and recreational vehicle parks involve the creation of two or more sites on one parent lot, parcel or tract.

C. Applications for travel trailer and recreational vehicle parks approval shall be processed through a two-step process: The Preliminary Site Plan and the Final Site Plan.

D. The Preliminary Site Plan shall be approved before the Final Site Plan can be submitted for approval consideration; and

E. The Final Site Plan shall include all conditions of approval of the Preliminary Site Plan.

F. Travel trailer and recreational vehicle parks are a conditional use in Community Commercial zones.

G. All travel trailer and recreational vehicle parks shall be designed based on the need to minimize the risk of flood damage. No new site shall be created entirely within a floodway. All new sites shall be usable without requiring development within the floodway. Development in a 100-year flood plain shall comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before City approval of the final site plan.

H. Where a travel trailer and recreational vehicle park is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the City.

I. All sites shall have adequate utilities and facilities constructed to prevent or minimize flood damage to electrical and telephone systems, etc.

- J. All travel trailer and recreational vehicle park proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required.
- K. If a rezone is proposed, a Type IV Procedure shall be used for change of district maps and the Comprehensive Plan. This rezone application shall be processed separate from and concurrent with the park application.
- L. If the parcel of land used for the park is to be subdivided along with the establishment of the park, the Type III Procedure for subdivisions shall be used. The subdivision shall be processed separate from and concurrent with the park application.

#### **155.4.9.5.120 Approvals Process**

- A. Review of Preliminary Site Plan. Review of a Preliminary Site Plan for a travel trailer and recreational vehicle park shall be processed with a Type III Procedure under subsection 155.4.1. All preliminary site plans shall be reviewed using approval criteria contained in subsection 155.4.9.5.140 below.
- B. Review of Final Site Plan. Review of a Final Site Plan for a travel trailer and recreational vehicle parks shall be processed by means of a Type I Procedure under Subsection 155.4.1.4, using the approval criteria in subsection 155.4.9.5.160.
- C. Preliminary Site Plan Approval Period. The Preliminary Site Plan Approval shall be effective for a period of one year from the date of approval. The Preliminary Site Plan shall lapse if a final site plan has not been submitted within a one-year period.
- D. Modifications and Extensions. The applicant may request changes to the approved preliminary site plan or conditions of approval following the procedures and criteria provided in Subsection 155.4.6. The Planning Secretary shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one year; provided that:
  1. Any changes to the Preliminary Site Plan follow the procedures in Subsection 155.4.6;
  2. The applicant has submitted written intent to file a Final Site Plan within the one-year extension period;
  3. An extension of time will not prevent the lawful development of abutting properties;
  4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new Preliminary Site Plan Application shall be required; and
  5. The extension request is made before expiration of the original approved plan.
- E. Phased Development.
  1. The City may approve a time schedule for developing a travel trailer and recreational vehicle park in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any travel trailer and recreational vehicle park phase be greater than two years without reapplying for a Preliminary Site Plan;

2. The criteria for approving a phased land division proposal are:
  - a. Public facilities shall be constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Subsection 155.4.3.180 - Performance Guarantee. A temporary public facility is any facility not constructed to the applicable City or district standard;
  - c. The phased development shall not result in requiring the City to construct public facilities that were required as part of the approved development proposal; and
  - d. The application for phased development approval shall be reviewed concurrently with the preliminary site plan application and the decision may be appealed in the same manner as the preliminary site plan.

#### **155.4.9.5.130 Preliminary Site Plan Submission Requirements.**

- A. Preliminary Site Plan Submission Requirements. In addition to the general conditional use permit application requirements of this part, the application for a conditional use permit to construct a new park or to expand an existing park shall be accompanied by a plot plan and six copies showing the general layout of the entire park and drawn to a scale not smaller than one inch representing 40 feet. The drawing shall show the following information:
  1. The name of the person who prepared the plan.
  2. The name of the park and address.
  3. The scale and a north point of the plan.
  4. A vicinity map showing the relationship of the park and adjacent properties.
  5. Boundaries and dimensions of the park.
  6. The location and dimensions of each unit site, with designation of each site by number, letter, or name.
  7. The location and dimensions of each existing or proposed building.
  8. The location and width of park streets.
  9. The location and width of walkways.
  10. The location of each lighting fixture for lighting the park.
  11. The location of recreational areas and buildings and area of recreational park.
  12. The location and type of landscaping plantings, fences, walls, or combination of any of these, or other screening materials.

13. The location of the point where the park water system connects with the public system.
14. The location of available fire and irrigation hydrants.
15. The location of public telephone service for the park.
16. An enlarged plot plan of a typical unit site, showing the location of the pad, any patio, storage space, parking, sidewalks, utility connections, and landscaping.

#### **155.4.9.5.140 Approval Criteria: Preliminary Site Plan.**

- A. General Approval Criteria. The City may approve, approve with conditions, or deny a preliminary site plan based on the following approval criteria:

1. The proposed preliminary site plan complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Section and the applicable Subsections of Section 155.2. - Land Use District Administration and Section 155.3.0 - Design Standards Administration shall apply. Where a variance is necessary to receive preliminary site plan approval, the application shall also comply with the relevant subsections of Section 155.5. - Exceptions to Code Standards;
2. The proposed site plan name is not already recorded for another park in Lane County west of Mapleton;
3. The proposed streets, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary site plan.

#### **155.4.9.5.150 Variances Authorized.**

Adjustments to the standards of this Section shall be processed in accordance with Subsection 155.5.1 Variances. Applications for variances shall be submitted at the same time an application for the travel trailer and recreational vehicle park is submitted.

#### **155.4.9.5.160 Final Site Plan Submission Requirements and Approval Criteria**

- A. Submission Requirements. Final site plans shall be reviewed and approved by the City. The applicant shall submit the final site plan within one year of the approval of the preliminary site plan as provided by Subsection 155.4.9.5.120. Specific information about the format and size of the site plan, number of copies and other detailed information can be obtained from the Planning Secretary.
- B. Final site plan submission requirements. At the time of application for a permit to construct a new park, or expansion of an existing park, the applicant shall submit six copies of the following required detailed plans:
1. New structures.
  2. Water supply and sewage disposal systems.

3. Electrical systems.
  4. Road, sidewalk, and patio construction.
  5. The drainage system.
  6. Recreational area improvements.
  7. The replacement of existing or construction of new stick-built or manufactured home-type structures situated within the park shall be subject to the requirements of the Oregon Uniform Building Code or controlling State Codes.
- C. Approval Criteria. By means of a Type I Procedure, the Planning Secretary shall review the final site plan and shall approve or deny the final site plan based on findings regarding compliance with the following criteria:
1. The final site plan complies with the approved preliminary site plan, and all conditions of approval have been satisfied;
  2. All public improvements required by the preliminary site plan have been installed and approved by the City. Alternatively, the developer has provided a performance guarantee in accordance with Subsection 155.4.9.5.180;
  3. The streets for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street and easements for public utilities;
  4. The streets held for private use have been approved by the City as conforming to the preliminary site plan;
  5. The final site plan contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, and storm drainage;
  6. The applicant has provided copies of all recorded homeowners association Codes, Covenants, and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the final site plan;
  7. The final site plan complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary site plan approval);
  8. Certification by the State of Oregon and Lane County, as applicable, that water and sanitary sewer service is available to each and every site depicted on the site plan; or bond, contract or other assurance has been provided by the applicant to the City that such services will be installed in accordance with Subsection 155.3.4 - Public Facilities Standards, and the bond requirements of Subsection 155.4.9.5.180. A registered professional engineer, subject to review and approval by the City; shall determine the amount of the bond, contract or other assurance by the applicant;

9. The final site plan contains an affidavit by the surveyor who surveyed the land, represented on the site plan to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

#### **155.4.9.5.170 Public Improvements.**

The following procedures apply to travel trailer and recreational vehicle parks when public improvements are required as a condition of approval:

- A. **Public Improvements Required.** Before City approval is certified on the final site plan, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider shall provide a performance guarantee, in accordance with Subsection 155.4.3.180.

#### **155.4.9.5.180 Performance Guarantee.**

- A. **Performance Guarantee Required.** When a performance guarantee is required under Subsection 155.4.9.5.170, the applicant shall file an assurance of performance with the City supported by one of the following:
  1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the State of Oregon;
  2. A surety bond, executed by a surety company authorized to transact business in the State of Oregon, which remains in force until the surety company is notified by the City in writing that it may be terminated; or
  3. Cash in an escrow account or payment to the City.
- B. **Determination of Sum.** The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. **Itemized Improvement Estimate.** The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- D. **Agreement.** An agreement between the City and developer shall be recorded with the final site plan that stipulates all of the following:
  1. Specifies the period within which all required improvements and repairs should be completed;
  2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
  3. Stipulates the improvement fees and deposits that are required.

4. (Optional) Provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the agreement. This agreement may be prepared by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by both the applicant and Planning Secretary.
- E. When Applicant Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

## **155.5 — EXCEPTIONS TO CODE STANDARDS**

Sections:

- 155.5.0 - Introduction
- 155.5.1 - Variances
- 155.5.2 - Non-Conforming Uses and Development

### **155.5.0 — Introduction**

This Subsection provides standards and procedures for variances and non-conforming situations (i.e., existing uses or development that do not comply with the Code). This code cannot provide standards to fit every potential development situation. The City's varied geography and complexities of land development require flexibility. Subsection 155.5 provides that flexibility, while maintaining the purposes and intent of the Code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The standards for non-conforming uses and development are intended to provide some relief from code requirements for older developments that do not comply. In this sub-section a non-conforming structure or use applies to the entire structure when any part of said structure is found to be non-conforming.

### **155.5.1 — Variances**

Sections:

- 155.5.1.1 Requirements for Variances
- 155.5.1.2 Variance Application

#### **155.5.1.1 Requirements for Variances**

##### **A. Purpose.**

The purpose of a variance is to provide relief when a strict application of the zoning requirements imposes unusual practical difficulties, or unnecessary physical hardships may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from population densities, street locations, or traffic conditions in the immediate vicinity.

The power to grant variances does not extend to use regulations. In other words, no variance can be granted which would have the effect of rezoning and granting a special privilege not shared by other property in the same district.

A variance application shall be a Type III Procedure (Subsection 155.4.1.6).

B. Criteria.

1. Variances to a requirement of this Section with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if substantive and probative evidence establishing specific findings of fact have been made that the variance conforms to the following criteria:
  - a. A strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of this Section;
  - b. There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, which do not apply generally to other properties in the same zoning district;
  - c. A strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges legally enjoyed by the owners of other properties classified in the same zoning district; and
  - d. The granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties of improvements in the near vicinity.
2. Variances in accordance with this Section should not ordinarily be granted if the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner or previous owner.
3. Variances to requirements of this Section with respect to off-street parking and loading facilities may be authorized as applied for or as modified, if, on the basis of the application, investigation, and the evidence submitted, the following express written findings, in addition to those prescribed in the criteria above, are made:
  - a. Neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Section;
  - b. The granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets; and
  - c. The granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this Section.
4. A variance shall not be required for existing non-conforming structures to the extent specified in 155.5.2.2 and 155.5.2.3.

C. Effect of substantially identical variances and modification to other City ordinances.

1. A variance granted by authority of this section eliminates the necessity of obtaining approval of a substantially identical or less extensive variance or modification to the building code and development ordinance, respectively, and constitutes a variance or modification of those ordinances as applicable.
  2. A variance shall not be required to the area, width, depth, frontage, or setback requirements of this Section for any subdivision area developed as a unit and receiving final approval in accordance with the provisions of the development ordinance when the requirements to be varied are specifically incorporated within the finally approved subdivision plat.
- D. Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being complied with.
- E. Procedures for application, hearing, notice, and appeal shall be as provided in this subsection for variances.
- F. Compliance with conditions of approval imposed in the variance, and adherence to the submitted plans as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this part.
- G. A valid variance supersedes conflicting provisions of subsequent rezoning or amendments to this part unless specifically provided otherwise by the provisions of this subsection or the conditions of approval to the variance.
- H. Variances shall automatically be revoked if not exercised within one year of the date of approval. Further, variances may be revoked if:
1. The City Council determines there is probable cause to conclude that the conditions of the variance have not been met.
  2. The City Council serves notice upon the owner of record of the property by certified mail, return receipt requested, that he or she is directed to appear and show cause why the variance should not be revoked.
  3. The notice provides a time, place, and date of the hearing.
  4. The hearing is in fact conducted, and the City Council finds by preponderance of the evidence that the conditions of the variance have in fact been violated.
- I. An application which is substantially similar to an application which has been withdrawn by the applicant or has been denied or revoked shall not be re-filed within 12 months of the date of withdrawal, revocation, or denial unless the City Council determines there is good and sufficient cause to allow a refiling.

#### **155.5.1.2 Variance Application**

The variance application shall conform to the requirements for Type III applications (Subsection 155.4.1.6), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for his/her

request, alternatives considered, and why the subject standard and criteria of (B) above cannot be met without the variance.

### **155.5.2 — Non-Conforming Uses and Development**

Sections:

- 155.5.2.1 Procedure
- 155.5.2.2 Non-Conforming Uses of Structures or Structures and Land in Combination
- 155.5.2.3 Repairs And Maintenance.
- 155.5.2.4 Non-Conforming Uses Under Conditional Use or Temporary Permits

#### **155.5.2.1 Procedure**

Non-conformities are processed as a Type I Procedure (Subsection 155.4.1.4) with appeal to the Planning Commission as a Type II Procedure (Subsection 155.4.1.5).

#### **155.5.2.2 Non-conforming Uses of Structures or Structures and Land in Combination**

If a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of adoption or amendment of this Section that would not be allowed in the district under the terms of this part, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted in this Section in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except as allowed in this section and except that a structure may be moved out of an existing or proposed street right-of-way to another portion of the parcel or lot upon which it is located.
- B. Any non-conforming use may be extended throughout any parts of a building, which were manifestly arranged or designed for such use at the time of adoption or amendment of this part, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use in the same manner and procedure provided for temporary use permits in paragraph 155.4.9 if it is determined the character and nature of the proposed use will contribute to less incompatibility between the existing non-conforming structure, or structure and premises, and the uses and structures existing in the surrounding vicinity.
- D. Remodeling, additions, or enlargements of existing single-family dwellings, multifamily dwellings, churches, and schools may be made if otherwise conforming to the requirements in effect for the district. If setback intrusion is the non-conforming use, remodeling, additions or enlargements are allowed as long as the setback encroachment is not increased.
- E. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use shall thereafter conform to the use regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

- F. Additional structures for fencing, covering, or visually improving a non-conforming use of a structure, or structure and premises in combination, which will not extend the size, area, or operation of the nonconformity and will not materially prolong its economic life, may be permitted subject to approval of a site review permit as provided in Subsection 155.4.2.
- G. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for one continuous twelve-month period, the structure, or structure and premises in combination, shall not thereafter be used, except in conformance with the regulations of the district in which it is located.
- H. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall establish the non-conforming use of land only. Destruction for the purpose of this provision is defined as damage to an extent of more than 75% of the assessed true cash value of the building at the time of destruction.
- I. Notwithstanding the provisions of this or other sections of this part, a single-family dwelling, which constitutes a non-conforming use, may be replaced if:
  - 1. The single-family dwelling constitutes the residence of the owner or operator of the premises and has been removed because it is no longer fit for human habitation. The owner or operator of the premises must have occupied the single-family dwelling within one year of the date of removal. The necessary permits must be obtained and substantial construction begun within two years of the date of removal.
  - 2. The single-family dwelling, which constitutes the residence of the owner or operator of the premises, has been destroyed. The necessary permits must be obtained and substantial construction begun within two years of the date of the deconstruction.
- J. Nothing in the provisions of Subsection I above is to be construed as allowing the replacement of an additional or other single-family dwelling which may be located on the same parcel of land as the residence of the owner or operator.
- K. If non-conforming lots are non-conforming for the sole reason they are less than one acre, the conditional use process may be used to allow intrusion of up to 20% into standard setbacks. This latter does not apply to shoreland or riparian area setbacks.

#### **155.5.2.3**

#### **Repairs and Maintenance**

- A. On any non-conforming structure or structure devoted in whole or in part to any non-conforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing, to an extent not exceeding an accumulative total of 75% of the current assessed true cash value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this subsection shall not be increased.

- B. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

**155.5.2.4 Non-Conforming Uses Under Conditional Use or Temporary Permits.**

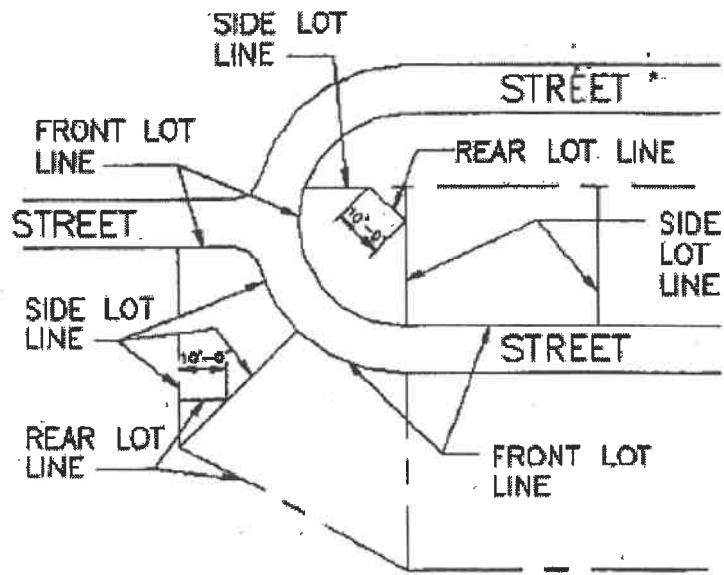
Any use for which a conditional use or temporary permit has been granted as provided in this chapter and remains valid shall not be deemed a non-conforming use.

## **155.6 Appendix Lot, Street, and Block Diagrams**

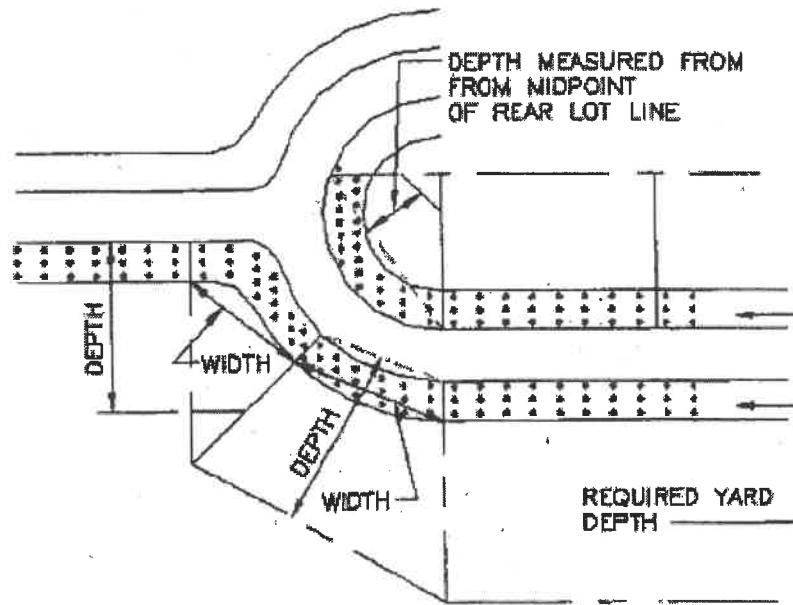
- 155.6.1 Lot lines, depth and width
- 155.6.2 Corner Lots
- 155.6.3 Interior Lots
- 155.6.4 Thorough and double frontage lots
- 155.6.5 Flag Lots
- 155.6.6 Subdivision Street types
- 155.6.7 Vision Clearance

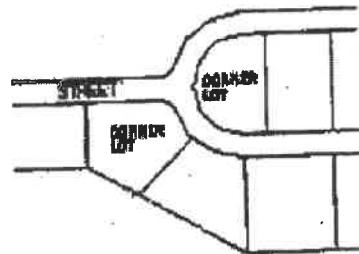
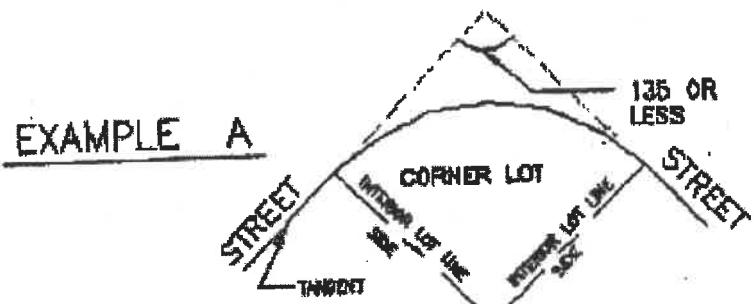
155.6.1

**Lot Lines, Depth and Width**

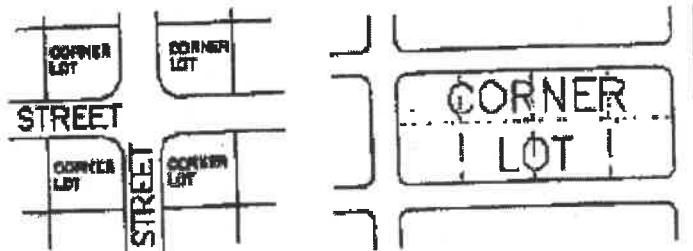


(B) Mid-point Depth of Rear Lot Line, Yard Depth





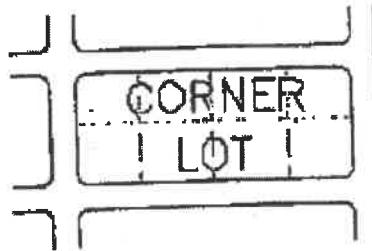
EXAMPLE B

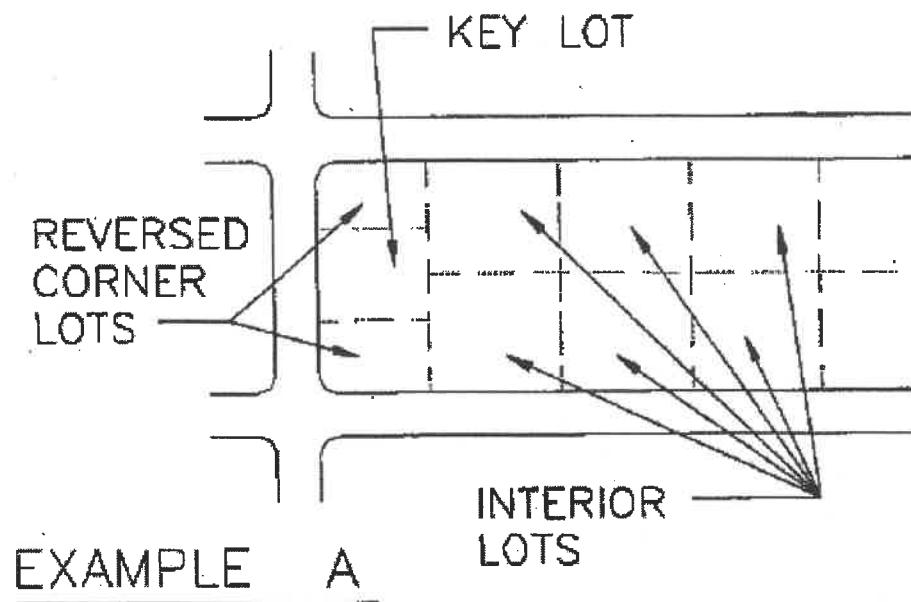


EXAMPLE C

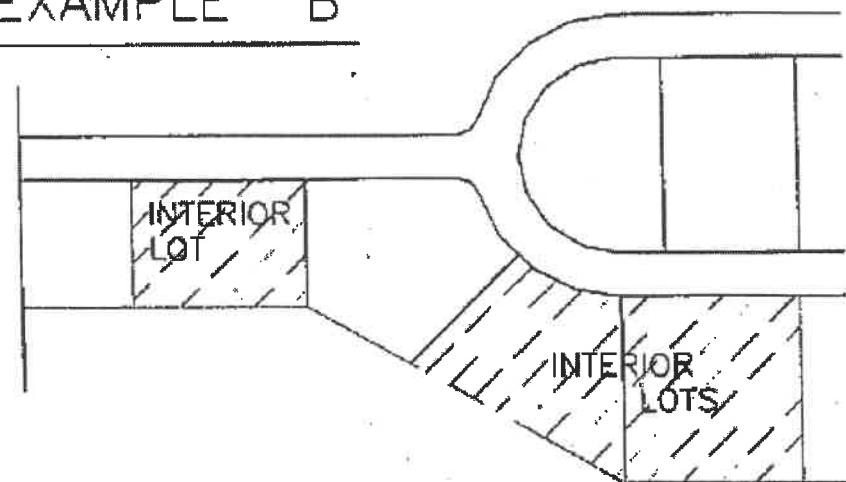


EXAMPLE D

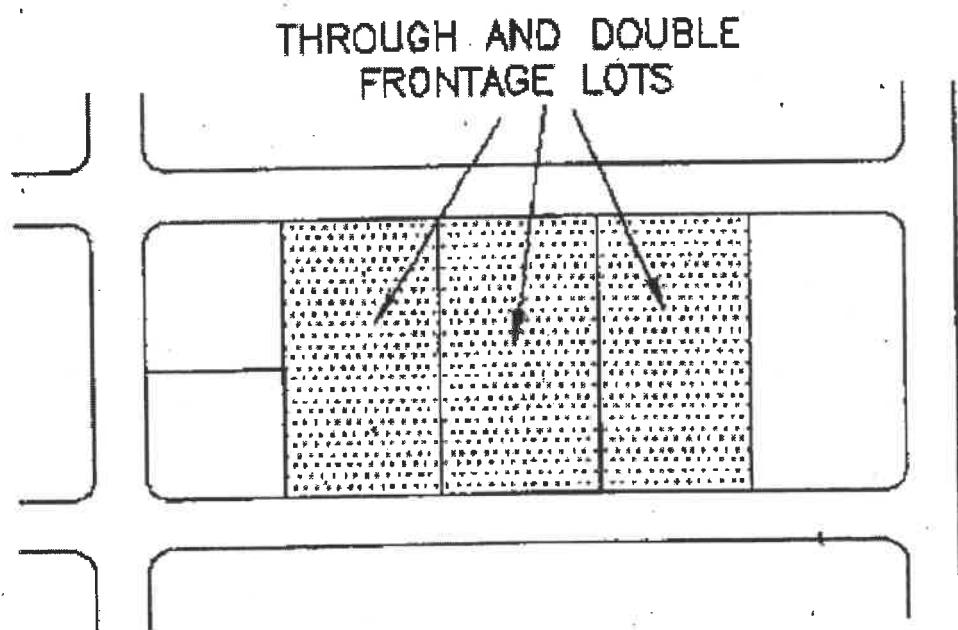


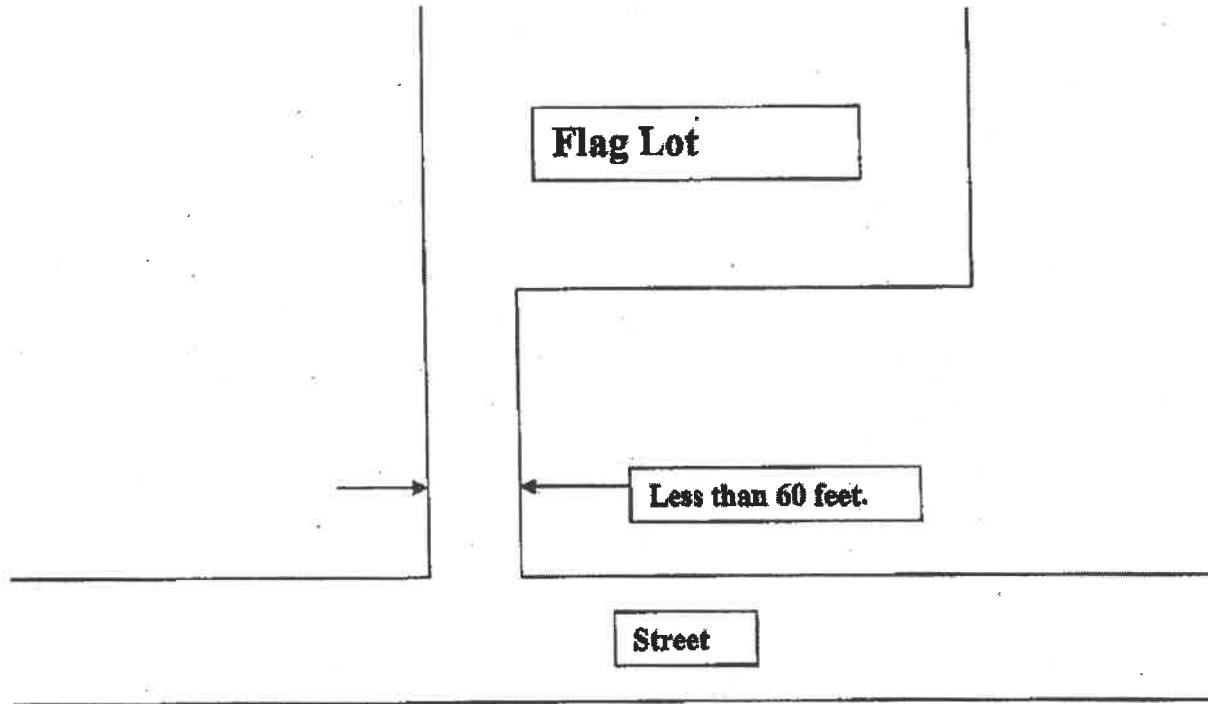


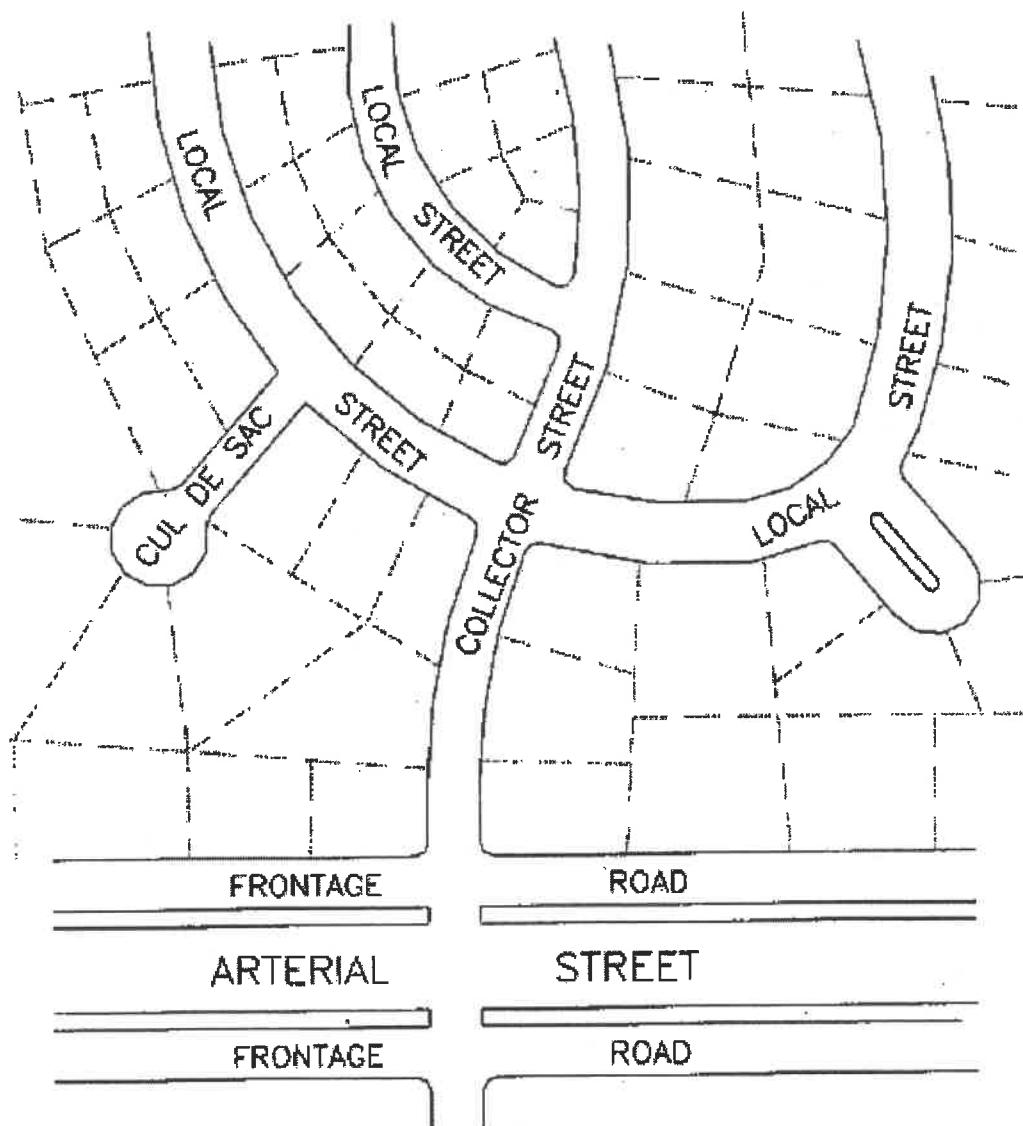
EXAMPLE B



#### **155.6.4 Through and Double Frontage Lots**







155.6.7

**Vision Clearance**  
(To be added)

**Street or Right-of-Way**

