

**ORDINANCE 182
DRAFT FINDINGS OF FACT**

A. Consistency with Dunes City Comprehensive Plan

Finding #1: Dunes City Comprehensive Plan Policy A1 contemplates a Committee for Citizen Involvement (CCI) that will be involved in all phases of the planning process.

Finding #2: The Dunes City CCI was initially involved in the revision to the subdivision and zoning regulations of the DCCO but was not thereafter formally included in the ongoing revision process until late in 2006.

Finding #3: Dunes City Comprehensive Plan Policy C6 requires that development on slopes between 12 and 16 percent is subject to site review and that development on slopes over 16 percent be subject to documentation from a licensed Oregon Engineer that shows the development is safe.

Finding #3a. Section 155.2.0.140.A.1 of Ordinance 182 requires site review for slopes in excess of 12 percent. The site review procedures in Section 155.4.2 of Ordinance 182 do not require documentation from a licensed Oregon Engineer for development on slopes in excess of 16 percent.

Finding #3b. Section 155.3.4.1.N (Transportation Standards—Grades and Curves) of Ordinance 182 generally limits grades to 12 percent except for local or residential access streets with segments of no greater than 250 (15 percent).

Finding #3c. Section 155.2.4.200.B.2 (Excessive Slopes) of Ordinance 182 does require a licensed Oregon Engineers report documenting the safety of development on slopes in excess of 16 percent.

Finding #3d. The provisions of Section 155.4.3 (Land Divisions...) of Ordinance 182 do not incorporate the 16 percent slope standard of Comprehensive Plan Policy C6. ORS 197.195(1) has been interpreted to require that comprehensive plan policies must be specifically included or referenced in land division ordinances to qualify as approval criteria. [*Patterson v. City of Bend*, 201 Or App 344 (October 20, 2005)]

[I recommend that Section 155.4.3.140.A.1 of Ordinance 182 be amended to include a reference to the excessive slope requirements of Section 155.2.4.200.B.2.]

B. Consistency with Applicable Statewide Planning Goals

Goal 1: Citizen Involvement

Goal 1 requires that a citizen involvement program be adopted that provides an opportunity for citizens to be involved in all phases of the planning process. Dunes City's citizen involvement process includes the use of a Committee for Citizen Involvement (CCI) that makes recommendations to the Planning Commission regarding post acknowledgement plan amendments. [Comp. Plan Policy A.1.]

Finding #1: The City Council suggested that the Planning Commission review the subdivision and zoning provisions of the Dunes City Code of Ordinances (DCCO) in Fall of 2000. This meeting was noticed in accordance with Oregon Open Meetings Law requirements.

Finding #2: The Planning Commission requested that the Road Commission review the subdivision ordinance for changes on November 9, 2000. This meeting was noticed in accordance with Oregon Open Meetings Law requirements.

Finding #3: The Road Commission, at their November 15, 2000 meeting, agreed that the subdivision and zoning regulations of the DCCO should be modified, using the Creswell Development Code format. This meeting was noticed in accordance with Oregon Open Meetings Law requirements.

Finding #4: The Planning Commission, at its December 20, 2000 meeting, decided to adopt the Model Development Code & User's Guide for Small Cities, 1st Edition (Model Code) instead of patching the current DCCO. This meeting was noticed in accordance with Oregon Open Meetings Law requirements.

Finding #5: On February 21, 2001, the Planning Commission requested that the Lane Council of Governments (LCOG) pursue grant funds to revise the subdivision and zoning regulations of the DCCO. This meeting was noticed in accordance with Oregon Open Meetings Law requirements.

Finding #6: Dunes City, through LCOG, requested a TGM grant to assist in the revision of the subdivision and zoning regulations of the DCCO. This meeting was noticed in accordance with Oregon Open Meetings Law requirements.

Finding #7: A work session between the Planning Commission and members of the City Council was held on November 14, 2001 to discuss procedures to review the subdivision and zoning regulations of the DCCO. This meeting was noticed in accordance with Oregon Open Meetings Law requirements.

Finding #8: At a February 21, 2002 work session, members of the Planning Commission were assigned sections of the Model Code to review in light of possible modifications to the subdivision and zoning regulations of the DCCO.

Finding #9: Between March of 2002 and December of 2004, planning commission members met, usually on a Friday, to review progress on integrating

the subdivision and zoning regulations of the DCCO into Model Code format. Often a quorum of the Planning Commission were present at these work sessions, which were not noticed in accordance with Oregon Open Meetings Law requirements.

Finding #10: At the February 12, 2004 city council meeting, Lee Riechel, Planning Commission Chair, reported on the progress of the code update.

Finding #11: On April 14, 2005, the City Council reviewed the status of the draft changes to the subdivision and zoning regulations of the DCCO.

Finding #12: On January 17, 2005 the Planning Commission reported to the City Council that the Planning Commission's work on the revision to the land use code was completed.

Finding #13: The CCI, on January 10, 2006, considered the issue of the Planning Commission's role in decision-making in regard to the draft revision to the land use code.

Finding #14: The CCI group presented its recommendations to the Planning Commission on January 19, 2006 regarding the draft land use code revision.

Finding #15: On February 12, 2006, the City Council tabled its consideration of Ordinance 182.

Finding #16: On August 10, 2006, the City Council had a first reading and public hearing on Ordinance 182.

Finding #17: On September 14, 2006 the City Council had a second reading of Ordinance 182. Public testimony was considered at this meeting.

Finding #18. On October 12, 2006 the City Council had a third reading of Ordinance 182.

Goal 2: Land Use Planning

Goal 2 requires that land use plans include evaluation of alternative courses of action regarding each statewide planning goal. Goal 2 also requires that opportunities for review and comment by citizens and affected governmental units be provided during the preparation, review and revision of plans and implementation ordinances. Finally, Goal 2 has been interpreted to require that land use regulations comply with applicable statutes.

Finding #1: The Dunes City Comprehensive Plan does not reflect the policy choice to adopt a safe harbor protection for wetlands and riparian corridors. This

policy choice is, however, clearly identified in the applicable provisions of Ordinance 182.

Finding #2: Affected governmental units such as Lane County have not yet been provided a copy of Ordinance 182 for review and comment.

Finding #3: Section 155.1.2.2.F. of Ordinance 182 states that the Master Road Plan shall prevail in case of conflict with Chapter 155. The Master Road Commission has not yet been acknowledged by LCDC so this provision is inconsistent with Goal 2 until the Master Road Plan is acknowledged.

Finding #4: ORS 197.660(2) and 657A.440(4) require that residential homes and family child care facilities, respectfully, be allowed in any zoning district that allows single-family dwellings as a matter of right. The permitted use section of the Residential District should be amended accordingly and appropriate statutory definitions (or references) should be placed in the definitions section of Ordinance 182. Also, the statutory term of “property line adjustment” should be substituted for the term “lot line adjustment” that is used in Ordinance 182.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

Finding #1: Goal 5 states that wetlands and riparian corridors shall be inventoried. Policy B16 of the Dunes City Comprehensive Plan notes that the City has adopted a Local Wetlands Inventory and Riparian Inventory prepared by LCOG & Pacific Habitat Services, Inc.

Finding #2: Ordinance 185, adopted June 9, 2005, revised the Dunes City Local Wetlands Inventory and Riparian Inventory referenced in Policy B16 of the Dunes City Comprehensive Plan. The Department of Land Conservation and Development (DLCD) received notice of the first evidentiary hearing on this ordinance on March 17, 2005. Final Notice of Adoption was sent to DLCD within 5 days of the adoption of Ordinance 185 and no appeals were submitted.

Finding #3: OAR 660-023-0100(4) states that a local government can adopt a safe harbor ordinance to protect significant wetlands if it (1) places restrictions on grading, excavation, placement or fill and vegetation removal and (2) includes a variance procedure to consider hardship variances, map errors or situations where the regulations have rendered property not buildable.

Finding #3a: Section 155.2.5.200 of Ordinance 182, consistent with OAR 660-023-0100, adopts the safe harbor provisions of Goal 5 for wetlands.

Finding #3b: Section 155.2.5.500.1 of Ordinance 182 states that projects can not result in excavation or filling of a wetland, reduction of a wetland area or in development or filling of land within 50 feet of a wetland boundary. Ordinance 182 does not address grading of a wetland.

Finding #3c: Section 155.2.5.500.2.B of Ordinance 182 addresses vegetation removal within a wetland.

Finding #3d: Section 155.2.5.600 of Ordinance 182 provides for a variance procedure that address mapping errors and hardship where the property has been rendered unbuildable.

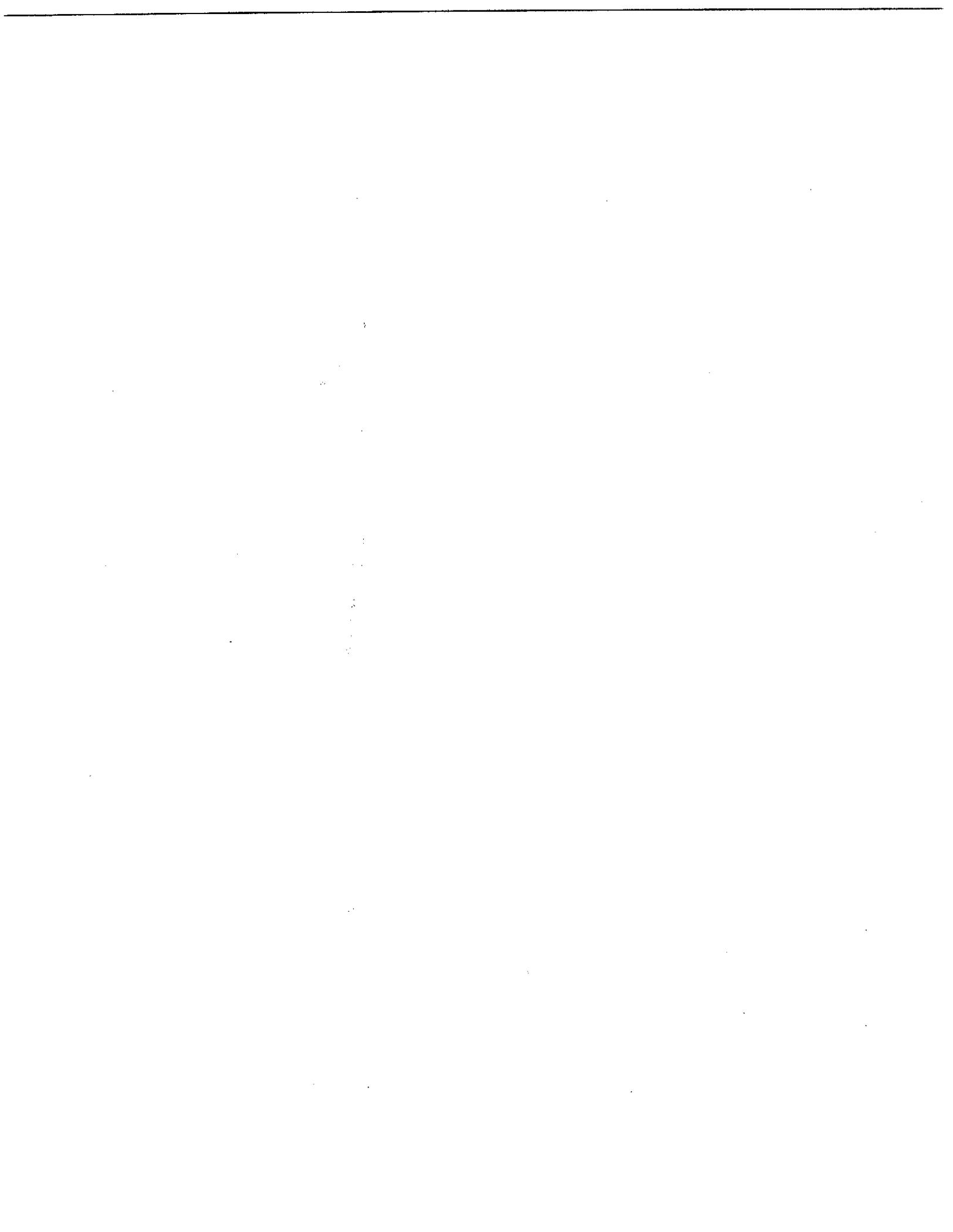
Finding #4: OAR 660-023-0090(8)] states that a local government can adopt a safe harbor ordinance to protect a significant riparian corridor if it (1) prevents permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces (except for streets, drainage facilities, water-related and water-dependent uses, and replacement of existing structures; (2) it contains provisions to control the removal of riparian vegetation; and (3) it contains a procedure to consider hardship variances, claims of map error, or situations where the regulations have rendered property not buildable.

Finding #4a: Section 155.2.6.200 of Ordinance 182, consistent with OAR 660-023-0090(8), adopts the safe harbor provisions of Goal 5 for riparian corridors.

Finding #4b: Section 155.2.6.500.C. of Ordinance 182 generally prohibits grading involving cutting and filling and the placement of structures or impervious surfaces and includes the exceptions contained in the OAR 660-023-0090(8).

Finding #4c: Section 155.2.6.500.F. of Ordinance 182 generally limits the removal of riparian vegetation, consistent with the OAR 660-023-0090(8).

Finding #4d: Section 155.2.6.600 of Ordinance 182 requires the use of the traditional variance procedure contained in proposed §155.5.1. The variance procedures do not comply with OAR 660-023-0090(8) and should be changed to more closely reflect the circumstances identified in the rule that require a specific variance procedure.



COMPARISON OF EXISTING DEVELOPMENT CODE AND ORDINANCE 182 CHANGES

Existing Chapter 155

I strongly recommend that proposed section §155.4.3 of Ordinance 182 be given its own section, such as §155.7.

1. §155.046 Requirements of Tentative Plan [Proposed §155.4.3.130.B]

- The current code provisions of [§155.046(A)(1)] prescribes standard sizes for the tentative plan. No standard sizes are required under the Ordinance 182 provisions of §155.4.3.130.B.
- Current standard [§155.046(A)(2)] is that tentative plans be prepared by a surveyor who is a state registered engineer or registered state land surveyor. The submission requirements of §155.4.3.130.B do not require a professional to prepare the tentative plat.
- Currently, §155.046(B)(2) requires the tentative plat to have the names of contiguous subdivisions. Ordinance 182 does not incorporate this requirement.
- Both versions require a showing of easements on the tentative plat but Ordinance 182 also requires that all utilities on and abutting the site be identified also. [§155.4.3.130.B.2.c]
- Existing code provision §155.046(B)(8) requires the identification of reserve strips on the tentative plat. This requirement is not carried over to the Ordinance 182 revisions.
- The current code [§155.046(B)(7)] requires that the tentative plat be marked with two-foot contour intervals for ground slopes up to 10 percent and five-foot contour intervals for ground slopes exceeding 10 percent. Section 155.4.3.130.B.2.d of Ordinance 182 only requires ground elevation contours at five-foot intervals for slopes exceeding 12 percent. The current code is also more specific regarding the registration of elevation base data.
- The current code [§155.046(B)(11)] requires a showing of areas subject to inundation or storm water overflow, and all areas covered by water and the location, width, and direction of flow of all water courses.

Sections 155.4.3.130.B.2.f and 155.4.3.130.B.2.g require information about potential natural hazard areas, including areas within the flood plain and areas subject to high water and sensitive lands, including wetlands and

streams. The scope of these two provisions is not as wide as the existing code on the subject of locating water features.

- The current code [§155.046(B)(13)] requires a showing of the domestic water system proposed, including its source, quality and quantity of water. The comparable provision in Ordinance 182 [§155.4.3.130.B.3.f] only requires a showing of the proposed source of domestic water.
 - The current code [§155.046(B)(15) and §155.4.3.130.B.3.g] require a showing of plans for sewage disposal and require surface water drainage. The current code requires a showing of easements or deeds necessary for drainage and profiles for drainageways.
 - §155.4.3.130.B.3.i. of Ordinance 182 requires the preliminary plat to show changes to navigable streams, shorelines or other watercourses. If public access must be shown if it is to be provided or closed.
2. §155.047 Review by Utility Companies. Ordinance 182 does not specifically require that the tentative plat be submitted to utility companies for review.
 3. §155.048 Review by Planning Commission. This section of the current code is flawed in several respects. First, it provides that the Planning Commission must review the tentative plan within 45 days of its submission. This standard was developed prior to the 120-day rule and thus puts staff and the Planning Commission at a disadvantage if the tentative plan cannot be deemed complete at or soon after submission. Second, the approval standard in §155.049(B)(2) is pretty subjective and vague.

§155.4.3.140 of Ordinance 182 provides the general approval criteria for the preliminary plat. The criteria are more objective, clearly require conformance with City density standards, and still allow the City to require conformance with subdivision approval standards for partitions that may be further divided.

4. §155.060 Submission of Final Map or Plat. This section requires that 5 copies of the final plat, drafted on reproducible sepia, be submitted within one year. Comparable provisions are found in §155.4.3.160.A of Ordinance 182 where the final plat is also due within one year of preliminary plat approval. This section differs from §155.060 in that the format, size and number of copies of the final plat are left to the administrative discretion of the Planning Secretary.
5. §155.061 Requirements for Final Map and Plat. This section of the existing code provides a significant amount of detail regarding the drafting requirements of the final map or plat as well as the information that has to be shown on the final map or plat.

§155.4.3.160 of Ordinance 182 addresses the requirements for final plat approval. Some of the major differences in the two approaches are as follows:

- §155.4.3.160.B of Ordinance 182 makes the approval of the final plat a Type 1 procedure. Type I applications are administratively reviewed by the Planning Secretary. §155.063 of the existing code provides that the City Council shall review final plats.
 - Much of the information required by §155.061(B) is already required to be on the preliminary plat and compliance with the preliminary plat is a requirement for the final plat.
 - The City Engineer has commented that the requirement for “traverse computation sheets” in the existing code is probably not useful and having an affidavit by the surveyor who surveyed the land should be adequate.
6. §155.063 Review by City Council. [Comparable provisions in §155.4.3.160 of Ordinance 182] Besides reserving the final approval authority for the final plat, the existing code section requires the Council to consider a number of factors that may require its discretion, such as that the final plat complies with the purpose of the Chapter and that there exists an adequate quantity of water and an adequate approved sewage system. Having discretionary criteria at this stage of the process makes final plat approval a land use decision subject to appeal to LUBA. It is better to make these standards a part of the preliminary plat approval process.
7. §155.066 Delivery to County Recorder. [Comparable provisions in §155.4.3.190]
8. §155.067 Delivery to City. This provision, which has no analog in Ordinance 182, requires a reproducible copy of the plat to be furnished to the City Engineer after recording. I think this provision should be retained.
9. §155.100 – .111 Improvements. This section addresses agreements for improvements, the adoption of improvement specifications, and lists a number of improvements that should be considered.
- §155.4.3.170 and .180 of Ordinance 182 address the need for public improvements and performance agreements necessary to ensure their completion.
 - §155.3.0 of Ordinance 182 addresses design standards for partitions and subdivisions. Neither the existing code nor Ordinance 182 actually references a source of construction specifications. It seems a good idea to either have the code reference the standards that the City Engineer uses or indicate that these standards will be adopted by resolution.

- §155.106 Sidewalks. This provision requires handicapped ramps (curb cuts) at all street intersections within a subdivision. I cannot find a similar provision in Ordinance 182 but I believe that this is probably an ADA requirement.

Existing Chapter 156

10. §156.001 Zoning designations of commercial properties in Dunes City.

This section has been removed.

11. §156.002 [Proposed §155.2.0.120] Urban Growth Boundary

Current: This provision incorporated the legal description of the city limits.

Proposed: The legal description has been removed.

The legal description not correct and the statement is factually wrong based upon the *Carlson* case.

Carlson v. City of Dunes City, 139 Or App 343 (1996): This case dealt with proposed subdivision within the Dunes City corporate limits but outside of UGB. The Court of Appeals said that even though the Comprehensive Plan says the UGB is the same as the city limits, it wasn't as the city was not aware of that the property had been annexed at the time the comprehensive plan was adopted the city and approved by the state. (Property purportedly annexed in 1966 via Ordinance 15.)

12. §156.003 Adopted September 16, 1967 zoning map.

Not present in Ordinance 182. Has this map changed since that date? If not, it should be retained or, in the alternative, adopt current map.

13. §156.015 – §156.017 Title, Authority and Purpose.

Essentially not replaced by Ordinance 182 but not necessary if adopting ordinance (182) references the police power purpose.

14. §156.018 Interpretation.

Current: Says that it is the duty of the Council to interpret policy.

Proposed: Does not address Council's authority in this area but that authority is inherent in its legislative power unless it delegates it away. It can be argued that there is a possible conflict between the Council's authority and proposed §155.2.0.130.A where the Planning Commission is given the authority to interpret "all boundary ambiguities."

15. §156.019 Definitions [Proposed §155.1.3]

See Exhibit “A” for terms that have been added and deleted.

- The definition of “Apparent Shoreline” was removed from most recent draft of proposed ordinance.
- “Family Child Care Facility” definition should be revised to reflect statutory maximum of 16 children as provided by ORS 657A.440(4). May be best to merely cite the statute for the definition as is done for “Residential Care Facility.”
- “Commercial” This newly added definition defines commercial as where the buying and selling of goods or services is the primary activity. Arguably, it limits the city’s ability to restrict commercial operations out of residences where the residential activity is predominant.
- “Lot Line Adjustment” should use the term “Property Line Adjustment” and refer to definition in ORS 92.010(11).
- The definition of “Residential Home” as defined by ORS 197.660(2) should be included. [“Residential home” means a residential treatment or training or adult foster home licensed by or under the authority of the Department of Human Resources, 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.]
- Signs: some terms are included in the definition section and some are within the body of the sign regulations (§155.2.2.130)
- Solar access definitions probably should be reinserted into the definition section if the solar access provisions are kept.
- “Vision Clearance” the definition seems confusing.

16. §156.030, .031, 0.32 Appeals to Council, Hearing Rules, Hearing Notice.

These provisions have been replaced with the model code procedures incorporated within §155.4. of Ordinance 182.

Currently, §156.032(B) addresses how to reschedule a public hearing. I think it provides excellent guidance to staff and I don’t believe that its provisions have been incorporated into Ordinance 182.

17. §156.033 Conformance and Permits Required

In general, the provisions of this section are replaced by §155.1.4.2.

18. §156.034 Effective Filing Date

Replaced by more thorough requirements for completeness in §155.4.1.3.C.2.b, etc.

19. §156.035 Limitations on Refiling Applications

Prohibition on refiling application within one year Proposed in §155.4.1.3.F. which replaces the vague “good clause” limitation with “same or substantially similar” language.

20. §156.045 – .047 Districts Established, Zoning Map, Interpretation of Zoning Boundaries.

Replaced by §155.2.0.100 –.130. and §155.4.7.

- §156.047(A) [Proposed §155.2.0.130.B]

Current: “Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.”

Proposed: “Boundaries indicated as approximately following the centerline of streets shall be construed as following such centerlines.”

- There is a potential conflict between §155.2.0.130.A and with current §156.018 which provides that it is the duty of the Council to interpret matters of policy.

- §156.047(D) [Proposed §155.2.0.130(E)]

Current: “Boundaries indicated as following railroad lines and public utility easements shall be construed to be midway between the main tracks or utility easements, whichever is applicable.”

Proposed: “Boundaries indicated as following public utility easements shall be construed to be midway between the utility easements boundary.”

21. §156.048 Zoning of Annexed Areas.

Ordinance 182 does not address the zoning of property that is annexed to the city which means that (1) property must be zoned at the time of annexation on a case-by-case basis (2) with no guidelines. A simple statement that the zoning most closely approximating the existing County zoning will be applied would be helpful. Ordinance 182 does not define the annexation process but then neither does the current code.

22. §156.060 – .064 Residential District [Proposed §155.2.1.100 –.270]

- “Accessory buildings and uses customarily provided in conjunction with a use permitted in the district” was removed from the list of permitted uses in current code §156.061 but proposed §155.2.1.100B says they may not be sited prior to the issuance of a residential building permit.
- “Family Child Care Facilities” must be allowed as a matter of right in residential and commercial districts under ORS 657A.440(4) as the statute says that you can’t apply conditions to this use that are more restrictive than conditions imposed on other residential dwellings in the same zone.
- “Kennels,” “Duplexes, triplexes and quadplexes,” and “campgrounds, including youth camps,” were removed from the list of conditional uses and “bed and breakfast” facilities were added.
- “Residential Home” must be included in any district that allows single-family dwellings under ORS 197.665(1)(a).

23. §156.064 [Proposed §155.2.0.130.2 and §155.4.3.210] Transfer of Property Between Adjacent Parcels

Current language retained although the procedure is termed “lot line adjustment” instead of “property line adjustment.”

24. §156.075 – .077 [Proposed §155.2.2] Community Commercial District

§156.076 Permitted Uses: Service stations, marinas and taverns have been removed. Alleys (bowling?) have been added.

§156.077 Conditional Uses: Service stations, marinas and taverns were moved to this section.

25. §156.079 & §156.138 Signs

- §156.079 Signs. Proposed verbatim in §155.2.2.130
- §155.089 Access [Proposed 155.3.1]

Access standards are Proposed included in a new chapter titled “Design Standards,” which includes standards for access and circulation, landscaping, fences and walls, parking, public facility standards, surface water management and solar access.

- §155.089(C)(3)(a) allows no more than 3 lots, parcels, etc. to be accessed by any portion of an easement. Proposed §155.3.1.2.J. allows a driveway to serve up to four tax lots.
 - Proposed §155.3.1.2.K does a good job tying access requirements with the Uniform Fire Code.
 - Most of the access requirements of the existing code are retained or implemented through different language.
 - Proposed §155.3.1.2.K has very explicit standards for driveways that are not present in the current code.
- §156.138 Sign Requirements. [Proposed §155.2.1.260].

Recommendation: Sign regulations should be merged in a chapter just on signs rather than having them appear in several different areas of the code.

26. §156.090 Open Space Overlay District [Proposed §155.2.2.100 unchanged]

27. §156.091 Lakes [Proposed 155.2.3.200]

- §156.091(A)(1) [Proposed §155.2.3.200.A.1] Scope reduced from “Recreational uses such as swimming, fishing, …” to “Swimming, fishing, boating and water systems.”
- §156.091(B)(1)(c) [Proposed 155.2.3.200.B.3] Should this standard be modified?: “The City shall have the right to ~~require~~ determine placement of the structure at its discretion.”
- §156.091(D)(3)(d)3 [Proposed §155.200.C.3.d.3] Changed from “Piling tops cut no shorter than two feet above the 100 year flood elevation” to “Piling tops to be no shorter than two feet above ordinary high water.”
- §156.091(G) Penalty. This section removed but covered in overall enforcement provisions of the replacement ordinance.

28. §156.092 Shorelands [Proposed 155.2.3.300]

- 156.092(A) Definition. Ordinance 182 Shoreland definition amended to remove reference to “apparent shoreline” language.

- 156.092(C)(1) [Proposed 155.2.3.300.C.1] Changed to remove the following: “The planning commission shall review all vacations of rights-of-way and easements against the requirements outlined in the Comprehensive Plan policy.”
29. §156.093 Booth Island [Proposed §155.2.3.400] Beckman amendments incorporated.
30. §156.105 – §156.124 Fragile Lands [Proposed 155.2.4]
- §156.106(B)(2) [Proposed §155.2.4.200.B.2] Ordinance 182 substitutes “licensed Oregon Engineer’s report” for “an engineering geologist’s report or a foundation design by a licensed architect or engineer” to establish safety of a proposed development.
 - §156.107(C) Conditional uses on sand dunes [Proposed §155.2.4.300.C] Should the proposed language be modified to read: “Conditional uses are subject to a conditional use permit granted pursuant to the general provisions of this ~~section~~ chapter for the granting of conditional use permits....”?
 - §156.120 – §156.123 Wetlands [Proposed §155.2.5] Proposed code changes adopt a safe harbor approach. Department of Land Conservation and Development administrative rules [OAR 660-023-0100(4) state that a local government can adopt a safe harbor ordinance to protect significant wetlands if it (1) places restrictions on grading, excavation, placement or fill and vegetation removal and (2) includes a variance procedure to consider hardship variances, map errors or situations where the regulations have rendered property not buildable.
- Proposed §155.2.5.500.1 state that projects can not result in excavation or filling of a wetland, reduction of a wetland area or in development or filling of land within 50 feet of a wetland boundary. §155.2.5.500.2.B addresses vegetation removal but the regulations do not address grading.
- Proposed §155.2.5.600 provides for a variance procedure that addresses mapping errors and hardship where the property has been rendered not buildable.
- §156.124 Riparian Areas [Proposed §155.2.6] Proposed code changes adopt a safe harbor approach. Department of Land Conservation and Development administrative rules [OAR 660-023-0090(8)] state that a local government can adopt a safe harbor ordinance to protect a significant riparian corridor if it (1) prevents permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces

(except for streets, drainage facilities, water-related and water-dependent uses, and replacement of existing structures; (2) it contains provisions to control the removal of riparian vegetation; and (3) it contains a procedure to consider hardship variances, claims of map error, or situations where the regulations have rendered property not buildable.

Proposed §155.2.6.500.C. generally prohibits grading involving cutting and filling and the placement of structures or impervious surfaces and includes the exceptions contained in the OAR.

Proposed §155.2.6.500.F. generally limits the removal of riparian vegetation, consistent with the applicable OAR.

Proposed §155.2.6.600 requires the use of the traditional variance procedure contained in proposed §155.5.1. I would recommend that the proposed variance procedure for wetlands [§155.2.5.600] is more appropriate and more closely reflects the OAR.

31. §156.135 – .167 General Development Standards

- §156.136 Building and Lot Requirements [Proposed §155.2.1.133 and §155.2.2.122] Except for the delineated wetlands, the standards remain the same.

- §156.236(B)(3)(a) Fences and Walls [Proposed 155.2.1.123.B.3]

Currently the code allows six-foot fences and walls except in the front yard setback, where the standard is 3 ½ feet. Under the proposed language of Ordinance 182, six-foot chain link fences (w/o slats) and four-foot chain link fences with slats are allowed in all setbacks and all other fences are limited to 3 ½ feet. Fences are prohibited in shoreland areas.

- §156.137 Parking and Loading Requirements [Proposed §155.3.3.3] Standards are the same except Ordinance 182 adds the ADA standards for disabled person parking spaces [§155.3.3.G]
- §156.138 Sign Requirements [Proposed §155.2.1.260]
- §156.139 Water Requirements. This section currently prohibits a building permit unless a structure has a water system meeting state codes. Proposed §155.3.4.3.A states that all lots shall be served by an approved water system.
- §156.140 & §156.160 Solar Setback Requirements [Proposed §155.3.7] Besides incorporating the provisions of §156.140 and .160, Ordinance 182

provides useful definitions and, more importantly, consolidates the solar access regulations.

- §156.141 Mobile Home Accessory Placement Standards [Proposed §155.2.1.220] Regulations unchanged
- §156.150 Mobile Home and Travel Trailer Parks [Proposed §155.2.2.210] Proposed Ordinance 182 increases the minimum manufactured home lot size from 6,000 square feet to 20,000 square feet and the minimum dimensions of each site from 60' x 100' to 100' x 200'. The proposed ordinance increases the minimum travel trailer site size from 1,500 square feet to 1,980 square feet and the minimum dimensions from 30' x 50' to 33' x 60'.

Ordinance 182 reduces the size of the parks required to have one or more 5,000 square feet outdoor recreation area (25 sites down to 14 sites). In addition, recreation areas must contain an additional 200 (up from 100) square feet for every mobile home/travel trailer site in excess of 15 (down from 50). Solar setback requirements were eliminated the issue is covered under the general regulations. References to state requirements have been removed.

- §156.151 Home Occupations [Allowed as a permitted use in the Residential District and addressed in proposed §155.4.9.2] Ordinance 182 slightly relaxes the definition by allowing one employee or restriction on the percentage of the residential unit being devoted to the home occupation.

32. §156.180 –200 Planned Unit Development [Proposed §155.2.1.210 & §155.4.512; duplicate provisions!]

Ordinance 182 §155.2.1.210:

- Zone change no longer required. [Current code provision §156.184(A)]
- Ordinance 182 also requires 40% of gross area be in open space but does not contain the limitation of §156.193 that only 25% of that space may be utilized privately by individual owners.
- Ordinance 182 has a slightly stricter overall density standard as it does not allow commercial uses be subtracted from gross development area to determine net development area.
- §156.188 contains a procedure to modify a PUD plan but Ordinance 182 does not.

- §156.191 requires a design team consisting of a qualified architect, a landscape architect and an engineer or a land surveyor licensed by the state. This PUD section of Ordinance 182 does not retain a comparable requirement.

Ordinance 182 §155.4.512:

- The Ordinance 182 version of the PUD process integrates the procedure for plan approval with the Model Development Code procedures.
- The Ordinance 182 version has provisions for phased development. [§155.4.5.104.E]
- The Ordinance 182 version provides for modifications to the approval process. [§155.4.6]
- This version requires a design team [§155.4.5.201]

33. §156.210 – .226 Procedures for Zoning, Permits, Variances, Amendments, Conditional Use Permits, Etc.

- §156.211 –.213 Procedures for applications, Review by PC and CC. [Replaced by Model Development Code procedures in Ordinance 182 sections 155.4.0 and 155.4.1]
- §156.214 Zone Amendments [§155.4.7 requires that zone changes be reflected on the Comprehensive Plan land use district map but there are no approval standards for making a zone change.
- §156.215 Conditional Use Permits [Proposed 155.4.4] The new provisions require a more thorough and complete submission of information and the approval criteria [§155.4.4.4 “Use Approval Criteria”] are more robust.

Existing provisions of §156.215(H) provide for conditions under which a conditional use permit is automatically revoked. Similar provisions in Ordinance 182?

- §156.216 Temporary Use Permits [Proposed §155.4.9.1] It is unclear why the proposed revisions address “seasonal and special events” if one of the requirements is that the use is already permitted in the underlying zoning district. Proposed §155.4.9.1.B allows temporary sales offices and model homes without any criteria to address adverse impacts.

Existing regulations [§156.216] allows the City to limit the duration of the temporary use.

- §156.217 Variances [§155.5.1] Ordinance 182 provisions identical. The City's variance provisions are considered "traditional" but the Model Development Code has several classes of variances. One type of variance would allow minor variances of up to 10 percent in setback or yard coverage standards. The approval criteria are more objective and could be administered by the Planning Commission.
 - §156.218 Site Review Permits [155.4.2] Ordinance 182 provisions identical.
 - §156.219 – .226 Nonconforming Uses [§155.5.2] Ordinance 182 provisions do not address situations where there exists a nonconforming use not in conjunction with a structure. They also do not address a nonconforming lot of record.
34. §156.245 – 156.999 Enforcement [Proposed §155.1.4] Ordinance 182 has similar provisions to those that currently exist.



EXHIBIT A

Terms Removed	Terms Added
Auto Wrecking Yard	Abate
Community sewage facility	Abatement
Day Nursery (Redefined)	Abutting
	Access
	Access Easement
	Access Point
	Access Management
	Accessible
	Accessory Dwelling
	Adjacent
	Administrative Decision
	Adverse Impact
	Alley (Repeated under "Street")
	Arterial (Repeated under "Street")
	Bed and Breakfast
	Berm
	Block
	Block Length
	Boarding Float
	Bollard
	Bond or performance agreement
	Boulevard
	Building pad
	Bulkhead
	Capacity
	Childcare Center (Family Child Care Facility under ORS 657A.440)
	City Council
	Clear and objective
	Collector (Repeated under "Street")
	Commercial
	Common Area
	Concept Assistance
	Conditional Use
	Consensus
	Conservation Easement
	Corner Radius
	Cottage
	County Recording Officer
	Cul-De-Sac (Repeated under "Street")
	Deciduous
	Dedication

Terms Removed	Terms Added
Family	Density
Group Care Home (obsolete term)	Developable
Loading Space	Discretionary
Lot, Through	Division of Land
	Dock
	Drip-Line
	Drive Lane/Travel Lane
	Driveway
	Driveway Apron
	Duplex
	Dwelling Unit
	Easement
	Egress
	Elevation
	Environmentally Sensitive Areas
	Established Residential Area
	Evidence
	Family Day Care
	Fence
	Fire Apparatus Lane
	Freeboard
	Frontage
	Frontage Street
	Functional Classification
	Gangway
	Grade (redefined)
	Hammerhead Turnaround
	Highway
	Home Occupations (redefined)
	Human-Scale Design
	Infill
	Ingress
	Kennel (redefined regarding age of dogs)
	Land Division
	Land Use
	Land Use District
	Landing
	Landscaping
	Legislative Decision
	Livestock
	Local Improvement District
	Butt Lot, Flag Lot, Key Lot
	Lot Line Adjustment
	Major Collector

Terms Removed	Terms Added
Mobile Home Site	Minor Collector
Modular Home	Manufactured Dwelling
	Manufactured Home
	Mobile Home Park (redefined to more closely reflect statutory language)
	Multi-Family Dwelling
	Multi-Family Housing
	Natural Hazard
	Neighborhood
	Non-Native/Invasive Plants
	Nursing Home
	Off-Street Parking
	On-Street Parking
	Open Space
	Ordinary High Water
	Ordinary Low Water
	<u>Orientation</u>
	Overlay Zone/District
	Owner
	Parcel
	Parent District
	Partition/Partition Land
	Pathway/Walkway/Access Way
	Pier
	Pile
	Planned Unit Development
	Planter Strip
	Plat
	Plaza
	Preliminary Plan
	Primary
	Public Facilities
	Public Improvements
	PUD
	Quasi-Judicial
	Recreational Vehicle
	Reserve Strip
	Residence
	Residential Care Homes/Facilities
	Residential Trailer
	Riparian
	Riparian Area
	Riparian Corridor

Terms Removed	Terms Added
Service Station (Definition reduced)	Riparian Corridor Boundary
Shade	Road/Roadway
Solar Access	Road Commission
Solar Access Plan	School
Solar Collector	Sensitive Lands
Solar Envelope	Setback
Solar Setback	Shared Driveway
Sunchart	Shared Parking
Tree, Exempt	Shoreland Area (Definition modified)
Tree, New	Shoreland Structure
Tree, Non-Exempt	Sidewalk
	Site
	Slope
	Standards and Criteria
	Storefront Character
	Storm Water Facility
	Street – Dead End
	Street – Local
	Street Connectivity
	Street Stub
	Subdivide Lane
	Subdivision
	Swale
	Tangent
	Temporary Easement
	Tentative Plan
	Terrace
	Topographical Constraint
	Townhouse
	Tract
	Transportation Facilities
	Transportation Mode
	Triplex
	Utility Easement
	Vacate Plat/Street
	Variance
	Walkway Easement
	Wall
	Wetland (Definition modified)
	Wharf
	Wireless Communication Equipment