

Chapter 155

Zoning and Development

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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-1)
- 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

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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
- J. Recreational Marijuana Producers.

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:

| <i>R-1 DISTRICT LOT AND STRUCTURE REQUIREMENTS</i> | |
|---|--|
| ITEM | REQUIREMENT |
| 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 ORS 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 ORS 446.155 through 446.285, OAR 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.

155.2.1.270 Recreational Marijuana Producers

For purposes of this Section 155.2.1.270, the following definitions apply:

Marijuana means all parts of the plant Cannabis family *cannabaceae*, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its resin. It does not include the stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

Recreational Marijuana Producer means the growing, or other production, of five (5) or more plants of the Cannabis family *cannabaceae*, or any part of the plant Cannabis family *cannabaceae* and the seeds of the plant by any business licensed by the Oregon Liquor Control Commission.

Recreational Marijuana Business means any business licensed by the Oregon Liquor Control Commission to engage in the business of producing, processing, wholesaling, researching, testing, or selling marijuana or marijuana items.

In addition to all other requirements set forth in Section 155.2.1, Recreational Marijuana Producers shall comply with the following additional standards:

- A. All Recreational Marijuana Producers shall hold, in good standing, a license issued by the Oregon Liquor Control Commission.
- B. The facility must comply with all applicable laws and regulations of the Dunes City Code including, but not limited to, the development, land use, zoning, building, and fire codes.
- C. All doorways, windows and other openings shall be located, covered or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area.
- D. Facilities must use an air filtration and ventilation system which is certified by an Oregon licensed mechanical engineer to ensure, to the greatest extent feasible, that all odors associated with the marijuana production is confined to the licensed premises.
- E. Facilities must maintain adequate outdoor lighting over each exterior exit, however, such lighting shall be placed to avoid reflection or glare on adjacent properties.
- F. Heat and glare created by the Recreational Marijuana Producer must not be discernible at or beyond the property line.
- G. Exterior lighting shall be directed away from and shall not reflect on adjacent properties.
- H. No unreasonable noise, as described in Section 91.04 of the Dunes City Code of Ordinances, will be created or allowed to exceed the requirements as set forth in said Section 91.04 of the Dunes City Code of Ordinances.
- I. Written evidence must be provided to show that a plan showing and describing the security measures to be utilized within and around the facilities has been provided to the Lane County Sheriff's Department and Siuslaw Valley Fire and Rescue.
- J. Written evidence must be provided to show that all applicable fees have been paid and there are no governmental liens, fines or violations existing against the property proposed for use by the Marijuana Producer.

K. Witten evidence must be provided to show the water source that will serve the property proposed by the Recreational Marijuana Producer.

L. Recreational Marijuana Producers may not be located within on thousand feet (1,000') from the following facilities, measured in a straight line from the closes property line on which the Recreational Marijuana production will take place to the closest edge of the property line on which the facility is located. These distance limitations between facilities are based upon the facilities surrounding the proposed Recreational Marijuana Producer facility at the time the proposed Recreational Marijuana Producer facility application for a Conditional Use Permit is first submitted pursuant to Section 155.2.1.111:

a. A public park;

b. A campground or resort which serves children under eighteen (18) years of age;

c. A commercial or residential recreational facility which serves children under eighteen (18) years of age; or

d. A school bus stop location which serves children under eighteen (18) years of age, at the location of the stop at the time the Conditional Use Permit is issued.

M. No more than one Marijuana Business may be located on the same property, parcel, address, or tax lot.

N. No drive-up or drive through services shall be permitted.

O. Any other conditions deemed necessary by the Planning Commission or the City Council to protect the public health and safety of the residents of Dunes City.

155.2.1.271 Termination of Conditional Use Permit for Recreational Marijuana Producers

Should the real property for which a Conditional Use Permit for Recreational Marijuana Producers has been issued pursuant to this Section 155.2.1 no longer be used for the purpose of producing or growing recreational marijuana, or should said real property change ownership in any manner, the Conditional Use Permit shall be automatically terminated, effective immediately.

155.2.2 Community Commercial (CC) DISTRICT

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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.

G. Recreational Marijuana Processors.

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:

| <u>CC DISTRICT LOT AND STRUCTURE REQUIREMENTS</u> | |
|--|--|
| ITEM | REQUIREMENT |
| Lot Area | 1 acre minimum |
| Lot Average Width | 150 feet minimum |
| Lot Coverage | |
| Structures | 50% maximum |
| Structures with parking | 70% 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 wetland | |
| Delineated wetland | 0-feet |
| Non-delineated wetland | 50-feet |
| Significant Riparian Area | 50-feet |
| Structure Height: | |
| Height from average grade | Lesser of 32 feet or 2 ½ 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.

155.2.2.220 Recreational Marijuana Processors

For purposes of this Section 155.2.2.220, the following definitions apply:

Marijuana means all parts of the plant Cannabis family *cannabaceae*, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its resin. It does not include the stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

Recreational Marijuana Processor means any business licensed by the Oregon Liquor Control Commission for processing, wholesaling, researching, testing, or selling marijuana or marijuana items.

Marijuana Business means any business licensed by the Oregon Liquor Control Commission to engage in the business of producing, processing, wholesaling, researching, testing, or selling marijuana or marijuana items.

In addition to all other requirements set forth in Section 155.2.2, Recreational Marijuana Processors shall comply with the following additional standards:

- A. All Recreational Marijuana Processors shall hold, in good standing, a license issued by the Oregon Liquor Control Commission.
- B. The facility must comply with all applicable laws and regulations of the Dunes City Code including, but not limited to, the development, land use, zoning, building, and fire codes.
- C. All doorways, windows and other openings shall be located, covered or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area.
- D. Facilities must use an air filtration and ventilation system which is certified by an Oregon licensed mechanical engineer to ensure, to the greatest extent feasible, that all odors associated with the marijuana production is confined to the licensed premises.
- E. Facilities must maintain adequate outdoor lighting over each exterior exit, however, such lighting shall be placed to avoid reflection or glare on adjacent properties.
- F. Heat and glare created by the Recreational Marijuana processing must not be discernible at or beyond the property line.
- G. Exterior lighting will be directed away from and shall not reflect on adjacent properties.
- H. No unreasonable noise, as described in Section 91.04 of the Dunes City Code of Ordinances, will be created or allowed to exceed the requirements as set forth in said Section 91.04 of the Dunes City Code of Ordinances.
- I. Written evidence must be provided to show that a plan showing and describing the security measures to be utilized within and around the facilities has been provided to the Lane County Sheriff's Department and Siuslaw Valley Fire and Rescue.
- J. Written evidence to show that all applicable fees have been paid and there are no governmental liens, fines or violations existing against the property proposed for use by the Recreational Marijuana Processor.
- K. Written evidence to show the water source that will serve the property proposed by the Recreational Marijuana Processor.
- L. Recreational Marijuana Processors may not be located within one thousand feet (1,000') from the following facilities, measured in a straight line from the closest property line on which the Recreational Marijuana processing will take place to the closest edge of the property line on which the facility is located. The distance limitations between facilities

are based upon the facilities surrounding the proposed Marijuana Business location at the time of submission of a completed application for Conditional Use Permit:

- a. A public park;
- b. A campground or resort which serves children under eighteen (18) years of age;
- c. A commercial or residential recreational facility which serves children under eighteen (18) years of age; or
- d. A school bus stop location which serves children under eighteen (18) years of age, at the location of the stop at the time the Conditional Use Permit is issued.
- M. No more than one Recreational Marijuana Business may be located on the same property, parcel, address, or tax lot.
- N. No drive-up or drive through services shall be permitted.
- O. Any other conditions deemed necessary by the Planning Commission or the City Council to protect the public health and safety of the residents of Dunes City.

155.2.2.221 Termination of Conditional Use Permit for Recreational Marijuana Processors

Should the real property for which a Conditional Use Permit for Recreational Marijuana Processors has been issued pursuant to this Section 155.2.2 no longer be used for the purpose of processing recreational marijuana, or should said real property change ownership in any manner, the Conditional Use Permit shall be automatically terminated, effective immediately.

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 conditional 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

Sections

- 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 Dunes City 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 ½ 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 ± 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.