

EXHIBIT A

Section**DIVISION** 155.1 — INTRODUCTION

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155.1.1 – How to Use the Development Code

155.1.1 How to Use the Development Code

Welcome to the Dunes City Development Code. This is a comprehensive land use and development code that governs all ~~of the~~ land within the incorporated limits of Dunes City (see Dunes City Zoning Map). It may also be referred to as “Development Code” or “Code.” The six ~~sections~~ divisions of the Code are used together to govern land use, review land use applications and protect the visual character of the City and the health, welfare and safety of its residents. They are organized as follows:

Division 155.1 - ~~In addition to this brief introduction, Section~~ Division 155.1 provides definitions for selected terms used throughout Chapter 155 and information on the legal construct of the Code. It also explains the City’s authority to enforce the Development Code.

Division 155.2 - Every parcel, lot, and tract of land within the City’s incorporated boundaries is also within a “land use ~~district~~ zone.” (Land use ~~district~~ zones are shown on the City’s official ~~zoning~~ Zoning map.) ~~Section~~ Division 155.2 identifies the land uses that are ~~permitted~~ allowed within each ~~district~~ zone, and the standards that apply to each type of land use (e.g., lot standards, setbacks, and use-specific design standards). As required by State law, the zones (historically referred to as or “land use districts”) conform to the goals and policies set forth in the Dunes City Comprehensive Plan. The ~~district~~ zones reserve land for planned land uses, provide compatibility between different uses, and ~~implement planned housing densities~~ promote uses that are consistent with the development policies of the City’s Comprehensive Plan.

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

Division 155.4 - ~~Section~~ Division 155.4 provides ~~all of~~ the application requirements and procedures for obtaining permits required by this Code. Four types of permit procedures are ~~covered~~ described: Type I (non-discretionary, “ministerial” decision); Type II (discretionary, “~~administrative~~ quasi-judicial” decision); Type III (discretionary, “quasi-judicial” decision with public hearing); and Type IV (“legislative” decision by City Council with public hearing and a recommendation from the Planning Commission).

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

Division 155.6 - ~~Appendix: Lot, Street, and Block Diagrams.~~ Division 155.6 provides diagrams illustrating examples of lot lines and setbacks, various types of lots, types of streets, and driveway/alley vision clearance requirements.

155.1.2 General Administration

Sections:

| | |
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| 155.1.2.100 | Severability |
| 155.1.2.210 | Compliance and Scope |
| 155.1.2.3120 | Consistency with Comprehensive Plan and Laws |
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155.1.2.100 Severability

~~The provisions of this Title 15 are severable. If any chapter, section, sentence, clause or phrase of this title is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of this title. If any section, subsection, sentence, clause, phrase, or portion of this Chapter 155 is judicially declared to be invalid, unenforceable, and/or void by a court of competent jurisdiction, such decision shall not have the effect of invalidating or voiding the remainder of this Chapter, and the part(s) of this Chapter so held to be invalid, unenforceable, and/or void shall be deemed stricken, and the remainder of this Chapter shall have the same force and effect as if such stricken part(s) had never been included.~~

155.1.2.2110 Compliance and Scope

A. Fees and Costs.

1. Deposits Required. All land use applications will require a deposit, as determined by the current Fees and Deposits Schedule established by the City Council in effect at the time the application is made. If the application deposit is insufficient to cover the costs of processing the application, the applicant will be notified of the deficiency and shall pay and submit an additional deposit in the identical amount as the initial deposit. If there is a balance in the application deposit, or any additional deposit required, when the City Council has taken final action on the application, the balance will be refunded to the applicant.
2. Expenditures Defined; Accounting Schedule. Expenditures will be tracked by application. Expenditures are all costs associated with the permit including, but not limited to, mailing costs, newspaper notification costs, staff labor, costs associated with services provided by a professional planner, and appropriate review by the City Engineer, the City Attorney, etc. All expenditures will be tallied on a monthly basis and the applicant will be notified of the balance or deficiency of the application deposit no later than the end of the calendar month following the calendar month for which the accounting is being made. Any deficiency will be billed and will be paid by the applicant to the City within thirty (30) calendar days of the date of billing. In any event, all expenditures incurred by the City associated with the permit will be fully paid prior to final approval by the City Council.

3. Modification of Fees. The schedule of deposits and/or permit fees may be hereafter modified by Resolution duly adopted by the City Council. The addition of any new activities to the Fees and Deposits Schedule will only be done by Ordinance duly adopted by the City Council.

~~A~~B. Compliance with ~~the~~ provisions in the Development Code. Land and structures shall ~~may~~ be used or developed by construction, reconstruction, alteration, occupancy and use only as this Development Code (“Code”) or any amendment thereto permits. ~~A~~ ~~No~~ plat may not ~~shall~~ be recorded and a ~~nor~~ building permit may not ~~shall~~ be issued except in ~~without~~ compliance with the provisions of this Code.

~~B~~C. Obligation by successor. The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons’ successors in interest.

~~C~~D. Most restrictive regulations apply. Where there is a conflict between the provisions within this Code or between this Code and ~~imposes greater restrictions than those imposed or required by~~ other rules or regulations, the most restrictive or that imposing the higher standard for development ~~shall~~ governs.

~~D~~E. Variances. The provisions of Section 155.5.1 shall govern variances.

~~E~~F. Transfer of development standards prohibited. ~~A~~~~No~~ lot area, yard or other open space or off-street parking or loading area which is required by this Code for one use may not serve as ~~shall be~~ a required lot area, yard or other open space or off-street parking or loading area for another use, except as otherwise specifically allowed by this Code.

155.1.2.3120 Consistency with Comprehensive Plan and Laws

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

155.1.2.4130 Use of a Development

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

155.1.2.5140 Pre-Existing Approvals

A. Legality of p~~Pre-existing approvals.~~ ~~Developments, including subdivisions, projects requiring development review or site review approval, or other development applications for which~~ Uses, structures, streets and utilities that are explicitly authorized by, or that are

necessary to carry out the uses or development explicitly authorized by, a final City approvals ~~may be established~~ ~~were granted prior to the effective date of this Code, may occur~~ pursuant to such ~~an~~ approvals, ~~and are not required to conform to changes made to this~~ Chapter 155 after the City's approval was issued. To the extent ~~except~~ that modifications to such approvals may be allowed under ~~development approvals shall comply with~~ Section 155.4.6 (Modifications) ~~to Approved Plans and Conditions of Approval, any application to~~ modify such an approval will be subject to compliance with Section 155.4.6, including compliance with current Code requirements.

- B. ~~Subsequent development~~ Pre-existing applications. The City will evaluate ~~Aall~~ development application based upon the standards and criteria in this Code that are in effect on the date the application is ~~proposals~~ received by the City so long as the application is deemed by the City to be complete when first received or is made complete by the applicant's submittal of all requested additional information within 180 days of the date the application is received ~~after the adoption of this Code shall be subject to review for conformance with the standards under this Code or as otherwise provided by State law.~~

155.1.2.6 150 Building Permit and Certificate of Occupancy

- A. Building permit. A building permit is required as defined in Chapter ~~151~~ 93 of the Dunes City Code.
- B. Certificate of occupancy required. To ensure completion of a development or use in the manner approved, a development ~~shall~~ may not be occupied and a use ~~shall~~ may not begin until the City has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable land use and building permits.
- C. Prior to final completion. Prior to the final completion of all work, a certificate of occupancy may be issued for a portion of the structure conditioned upon further work being completed by a date certain.

155.1.2.7 160 Official Action

~~A. Official Action~~ All officials, departments, and employees (including contractor-officials) of the City vested with authority to issue permits or grant approvals shall adhere to and require conformance with this Code, and ~~shall~~ may not issue ~~no~~ any permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Code.

~~B. Severability. Any permit or approval issued or granted in conflict with the provisions of this Code shall be void.~~

~~C. Notice. The failure of any person to receive mailed notice or failure to post a notice will shall not invalidate any actions pursuant to this Code.~~

155.1.3 Definitions

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

Abate - To end a violation of this Code.

Abatement - The process to end a violation of this Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Berm - A small rise or hill in a landscape.

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

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

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

Boat House - A covered or enclosed structure used to store, shelter, or protect a boat or boats and boating equipment. A structure containing a dwelling does not qualify as a boat house.~~used in part, or only occasionally for any purpose other than to shelter or protect a boat or boats and boating equipment shall be considered a combination structure. See OAR 141-082-0020(14).~~

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

Bond or Performance Agreement-Guarantee - A financial commitment by the petitioner or subdivider executed by a state licensed surety company in an amount equal to the full cost of

construction and improvements as required in this chapter and conditioned upon the faithful performance thereof.

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

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

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

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

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

Building Official - Whenever the term or title “administrative authority,” “responsible official,” “building official,” or other similar designation is used herein, it shall be construed to mean the building official designated by the appointing authority of this jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Code Enforcement Officer - The City Recorder or the City Recorder's designee, including the Code Violation Investigator.

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

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

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

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

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

Conifer - Any of various mostly needle-leaved or scale-leaved, chiefly evergreen, cone-bearing gymnospermous trees or shrubs such as pines, spruces, firs, and cedars.

~~**Consensus**—Agreement or consent among participants.~~

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

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

Cottage - See **Guest House**.

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

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

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

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

~~**Deciduous**—Tree or shrub that sheds its leaves seasonally.~~

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

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

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

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

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

District - Term historically used to mean “zone.” The terms “district” and “zone” both mean: ~~A~~ portion of the incorporated territory of the City within which certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited, or within which certain yards or other open spaces are required, or within which certain lot areas are established, or within which certain height limitations are required for buildings, or within which certain off-street parking space is required, or within which a combination of such regulations are applied.

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

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

Dock/Float - ~~An individual secured and stationary or floating structure (other than a mooring buoy) used for mooring boats and for similar uses.~~ An individual, unenclosed, structure which may either be secured to the adjacent or underlying land or that floats that is used for mooring boats and for similar recreational uses such as sunbathing or as a swimming platform. ~~{OAR 141-082-0020(18)}.~~

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

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

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

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

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

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

Dwelling, Single-Family - A detached dwelling unit.

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

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

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

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

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

~~**Environmentally Sensitive Areas**—See Sensitive Lands.~~

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

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

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

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

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

Fire Apparatus Lane Access Road - ~~As defined by the Uniform Fire Code, Part 3, Section 902.~~ A road that provides fire apparatus access from a fire station to a facility or building or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane, and access roadway. (IFC 2015, Chapter 2, Section 202)

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

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

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

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

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

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

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

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

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

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

Guest House - ~~An accessory building without kitchen or cooking facilities occupied solely by nonpaying guests, or by servants employed on the premises. A subordinate residential structure that is accessory to, and dependent on, an existing primary dwelling located on the same lot or parcel as the guest house. A guest house shall be occupied solely by members of the family residing in the primary dwelling, their nonpaying guests, or by nonpaying employees who work on the premises.~~

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

Highway - See **Street**.

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

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Home Occupation - Any occupation or profession carried on by a member of the family residing on the premises. [See Section 155.4.9.](#)

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

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

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

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

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

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

Kitchen - ~~Any room, all or any part of which is designated, built, equipped, used, or intended to be used for the preparation of food and/or the washing of dishes.~~ An area within a structure that is used or designed to be used for the preparation or cooking of food and that contains one or both of the following:

(1) Cooking appliances or rough in facilities including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or microwave ovens or similar appliances, 240 volt electrical outlets or any gas lines.

Or

(2) A sink less than eighteen (18) inches in depth with a waste line drain one and one-half (1 1/2) inches or greater in diameter and a refrigerator exceeding five (5) cubic feet in capacity or space opening with an electrical outlet that may reasonably be used for a refrigerator exceeding five (5) cubic feet in capacity.

An approved kitchen may have more than one (1) sink, stove, oven, or refrigerator in the same room.

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

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

Land Use ~~District~~Zone - See ~~Section~~Division 155.2.~~0~~ – Land Use ~~District~~Zone Administration.

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

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

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

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

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

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

Lot - A single unit of land that is created by a subdivision or partition of land. ~~[ORS 92.010(30)]~~ For purposes of ~~zoning requirements~~ Dunes City Code, the terms “lot” and “parcel” may be used interchangeably and are used to describe a ~~unit of land that meets or exceeds minimum requirements for use, coverage, and area and to provide yards and other open spaces as herein required and may consist of:~~ lawfully established unit of land pursuant to ORS 92.192.

~~(1) — A single lot of record;~~

~~-~~

~~(2) — A portion of a lot of record;~~

~~-~~

~~(3) — A combination of complete lots of record, or complete lots of records and portions of lots of record; or~~

~~(4) — A parcel of land described by metes and bounds; provided, that in case of division or combination there shall have approval given to the division or combination by the Planning Commission under the conditions set forth in this chapter.~~

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

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

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

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

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

Panhandle Lot - See **Flag Lot**.

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

Lot Coverage - The area of a lot covered by ~~the outline of buildings as viewed from above~~ impervious surfaces and as allowed by the applicable land use ~~district~~ zone standards found in Sections 155.2.1.122-160 and 155.2.2.122-160.

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

Lot Line -

Front Lot Line - The lot line abutting a street. For corner lots the front line shall be that with the narrowest street frontage, and for double frontage lots the front line shall be the lot front line having frontage on a street, which is so designated by the subdivider and approved by the Planning Commission.

Rear Lot Line - The lot line, which is opposite and most distant from the front lot line. In the case of a triangular lot, the rear lot line for building purposes shall be assumed to be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

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

Lot Line Adjustment - ~~The adjustment of a property line by the relocation of a common line where no additional lots are created.~~ A relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel. This development code also defines the consolidation of lots (i.e., resulting in fewer lots) as a lot line adjustment. [See Property Line Adjustment.](#)

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

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

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

~~**Manufactured Dwelling**~~ -

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

~~-~~

~~(b) Mobile home, a structure constructed for movement on the public highways that has sleeping,~~

~~cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;~~

-

~~(c) Manufactured home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction;~~

-

~~(d) Does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer. OAR 660-007-0005(7) and OAR 660-0008-0005(6).~~

Manufactured Dwelling Park - Any place where four or more manufactured dwellings, as defined in ORS 446.003, are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. Manufactured dwelling park does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190. ~~[OAR 660-007-0005(8) and OAR 660-0008-0005(7)].~~

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Manufactured Home - ~~A structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C. Sections 5401 et seq.), as amended on August 22, 1981.) [OAR 660-007-0005(9) and OAR 660-0008-0005(8)]~~ A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. (ORS 446.003)

~~**Manufactured Structure**~~

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

-

~~———— **Manufactured dwelling** — as set forth in this section.~~

-

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

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

Ministerial Decision - A routine governmental action or decision where there are clear and objective approval criteria. ~~that involves little or no discretion~~. The issuance of a building permit is such an action. ~~See Section 155.4.1.2.A or 155.4.1.4.~~

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

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

-

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

-

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

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

Multi-Family Dwelling - ~~See Multi-Family Housing~~ A building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

Multi-Family Housing - Multi-family housing is housing that provides for ~~two~~ three or more separate dwelling units on ~~an individual~~ a single legal lot and sharing common walls, floors, ceilings, courtyard playground, parking area, or other communal amenities. ~~See Section 155.4.5.102.~~

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

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

Non-conforming Lot of Record - A parcel of land which lawfully existed as a lot in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent

zoning ordinance, no longer conforms to the lot dimension requirements for the ~~zon~~ing district in which it is located.

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

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

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

~~**Nursing Home**—Any home, place, or institution which operates and maintains facilities providing convalescent or chronic care, or both, for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick.~~

Off-Street Parking - All off-street areas designed, used, required or intended use for the parking of motor vehicles. Off-street parking areas shall conform to the requirements of Section 155.3.3.3 ([Vehicle Parking and Loading Standards](#)).

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

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

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

Ordinary Low Water (OLW) - The line on a bank or shore to which the low water ordinarily recedes annually. For Siltcoos Lake this is to be taken as six [\(6\)](#) feet above mean sea level ~~as measured from the stage gauge at Westlake Resort~~.

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

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

Overlay Zone/District - Overlay zones provide regulations that address specific subjects that may be applicable in more than one land use ~~district~~zone. ~~See Section 155.2.5-100.~~

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

Parcel - ~~A parcel is a~~ A single unit of land that is created by a partitioning of land (~~(~~ORS 92.010(6)~~)~~]). For purposes of zoning requirements, the terms “lot” and “parcel” may be used interchangeably and are used to describe a unit of land that meets or exceeds minimum requirements for use, coverage, and area and to provide yards and other open spaces. See **Lot**.

Parent DistrictZone - The primary zoning ~~district~~ for any property. Residential and Community Commercial are the only two parent ~~district~~zones in Dunes City.

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

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

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

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

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

Partition/Partition Land - To divide an area or tract of land into ~~two or~~ not more than three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. (See ORS 92.010(89)).

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

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

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

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

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

Place of Worship - Church, synagogue, mosque, temple, chapel, meeting house or other religious facility together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Planned Unit Development (PUD) - See Section 155.4.5 (Planned Unit Development Process).

Planning Commission - The Dunes City Planning Commission as defined in ~~in Section 32.60 through 32.74~~ Chapter 32 of the ~~is~~ Dunes City code Code.

Planning Official - The Planning Official is the City Recorder or the City Recorder’s designee.

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

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

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

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

Premises - A lot including its buildings.

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

Property Line Adjustment - ~~The adjustment of a property line by the relocation of a common line where no additional lots are created~~ A relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel. This development code also defines the consolidation of lots (i.e., resulting in fewer lots) as a lot line adjustment. See ~~ORS 92.010(7)(b)~~ also Lot Line Adjustment.

~~**Public Facilities** – See Section 155.3.4.~~

~~**Public Improvements** – Development of public facilities. See Section 155.3.4.~~

Quasi-Judicial - ~~Refers to a~~ An action or decision that requires substantial discretion or judgment by the Planning Commission in applying the standards or criteria of this Code, and ~~usually involves~~ may include a public hearing. ~~See Section 155.4.1.2.C and 155.4.1.6.~~

Recreational Vehicle - ~~Any self-powered vehicle that is licensed for operation over public highways and designed as a temporary dwelling for travel, vacation, and recreation.~~ A vehicle with or without motor power, that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes.

Recreational Vehicle Park - Means a plot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreational or vacation purposes.

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

Residence - Same as **Dwelling**.

Residential Care Homes and Facilities - See Section 155.2.1.250240.

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

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

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

Riding Academy - Any building or portion of property upon which the skill and subject of horsemanship is taught for remuneration, or made available for hire or remuneration for the teaching or training in the skill and subject of horsemanship. Exercise rings and show-rings for riding, breaking, roping, or showmanship, whether enclosed in a building, lot or parcel of land by a

manmade barrier for public use and remuneration shall be considered an accessory use of the premises for a riding academy.

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

Riparian - ~~Relating to or living or located on the bank of a natural watercourse (as river, or sometimes a lake or tidewater).~~ Of, or pertaining to, or situated on the edge of the bank of a river or other body of water.

Riparian Area - The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem. See also Section 155.2.6.300 – Definitions (Riparian Overlay Zone).

Riparian Corridor - An Oregon State wide Planning Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. See also Section 155.2.6.300 – Definitions (Riparian Overlay Zone).

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

Road/Roadway - See **Street**.

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

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

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

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

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

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

~~**Shared Parking**—See Section 155.3.3.3,C.2.~~

Shoreland - See **Shoreland Area**.

Shoreland Area - For purposes of construction near the shorelines of Woahink Lake, Little Woahink Lake, Siltcoos Lake, and Siltcoos River, the shoreland area is the section of land within

fifty (50) [feet](#) measured horizontally inland from the ordinary high water (OHW) line of Woahink and Siltcoos Lakes and Siltcoos River and bounded by tax lot sidelines.

Shoreland Zone - See **Shoreland Area**.

Shoreland Structure - Any Shoreland allowed construction. This includes any structure in or on Shorelands, or any structure with any contact or presence over Shorelands and extensions into water beyond [ordinary low water line \(OLW\)](#). This includes, but is not limited to, docks, floats, piers, boathouses, and wharfs.

Sidewalk - A pedestrian walkway with permanent surfacing.

Sign - Any fabricated sign for use outdoors, including its structure, consisting of any letter, figure, character, mark, point, plane, design, poster, picture, stroke, stripe, line, trademark, reading matter, or illuminating device which is constructed, attached, erected, fastened, or manufactured in any manner whatsoever to attract the public in any manner for recognized purposes to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise display. However, the term **SIGN** ~~shall~~ [does](#) not include any display of official court or public notices, nor ~~shall~~ [does](#) it include the flag, emblem, or insignia of a nation, governmental unit, school, or religious group. [See Sections 155.2.1.260-250 and 155.2.2.130180.](#)

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

Sign, Monument - [A freestanding sign that is detached from a building, generally having a low profile where the base of the sign is on the ground or has little or no space between the ground and the sign, and having a structure constructed of masonry, wood or materials similar in appearance.](#)

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

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

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

Site Plan - [A detailed drawing that shows how a site will be developed. Site plans must show the boundaries of a parcel of land, the topography, important landscape elements that impact the design and location of all planned and anticipated major improvements. The site plan must also show the locations of all existing, proposed and future buildings, access roads and driveways,](#)

stormwater facilities, septic systems and drainfields, wells, water storage structures, and utility connections. It must also include a directional orientation symbol such as a north-pointing arrow.

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

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

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

~~**Storm Water**~~**Stormwater Facility** - ~~A detention and/or retention pond, swale, or other surface water feature that provides storage during high rainfall events and/or water quality treatment. All~~ of the structures and facilities that are designed for the collection conveyance, storage, treatment, and disposal of stormwater runoff and surface water, including both man made and natural drainage systems.

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

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

Street - A public or private thoroughfare, avenue, road, roadway, highway, boulevard, parkway, drive, lane, court, cul-de-sac, or easement, providing for ingress and egress from property abutting thereon. See [Division 155.6 \(Appendix\)](#) for street diagrams.

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

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

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

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

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

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

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

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

Structural Alterations - See **Alter**.

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

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

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

Survey - [A land survey conducted by a land surveyor licensed by the State of Oregon.](#)

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

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

Temporary Easement - Any easement that does not confer upon the grantee a permanent right to use the grantor's property. For purposes of this ~~Section~~[Chapter 155](#), a temporary easement will not be considered an easement unless specifically accepted by the City Council.

Tentative Plan - ~~See Preliminary Plat~~[A preliminary drawing or diagram concerning a partition or subdivision.](#)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Variance - An ~~administrative or~~ quasi-judicial decision ([Type III](#)) to lessen or otherwise modify the requirements of this Code. [See Section 155.5.1.](#)

Vision Clearance - A triangular area at the street or highway corner lot, or the intersection of an alley and street corner lot. The right-of-way lines and a line define the space across the corner, the ends of which lie on the right-of-way lines a specified length from the corner. See [Figure 155.3.1.2110\(M\)](#).

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

Wall - See **Fence**.

Water-Dependent - A use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

Water-Related - Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, and factories are not generally considered dependent on or related to water location needs.

Wet Bar - A single sink with a waste drain line no greater than one and one-half (1 ½) inches in diameter and an under counter refrigerator no greater than five (5) cubic feet in size with cabinets and/or counter top area not exceeding six (6) lineal feet. A wet bar shall not include a refrigerator in excess of five (5) cubic feet in size or a kitchen sink greater than two (2) square feet in size or a gas or electric range, stove top and/or oven (but may include a microwave oven).

Wetland - Wetlands are land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. They are defined more specifically by the Federal Clean Water Act (Section 404) and Oregon Administrative Rules (OAR 141-~~85-010~~085-0510(101)). For more information, contact the Oregon ~~Division~~Department of State Lands.

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

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

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

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

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

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

Zone - Historically referred to as a “district,” “zone” means: a portion of the incorporated territory of the City within which certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited, or within which certain yards or other open spaces are required, or within which certain lot areas are established, or within which certain height limitations are required for buildings, or within which certain off-street parking space is required, or within which a combination of such regulations are applied.

155.1.4 EnforcementSections:

| | |
|-------------|--|
| 155.1.4.100 | Provisions of This Code Declared to be Minimum Requirements |
| 155.1.4.110 | Violation of Code Prohibited |
| 155.1.4.120 | Official Action |
| 155.1.4.130 | Penalty Authority |
| 155.1.4.140 | Complaints Regarding Violations Administrative Enforcement Authority |
| 155.1.4.150 | Inspection and Right of Entry Authority to Inspect and Abate; Emergency |
| 155.1.4.160 | Abatement of Violations Recovery of Administrative Costs; Purpose |
| 155.1.4.170 | Stop Work Order Hearing Written Complaint; Exceptions |
| 155.1.4.180 | Penalty Complainant's Right of Appeal |
| 155.1.4.190 | Title XV Code Violations |
| 155.1.4.200 | Notice of Violation |
| 155.1.4.210 | Abatement or Correction; Assessment of Costs; Lien |
| 155.1.4.220 | Fine Assessment and Lien |
| 155.1.4.230 | Prohibition Against Issuance of City Permits |
| 155.1.4.240 | Cease and Desist, or Stop Work, Orders |
| 155.1.4.250 | Stipulation Agreement |
| 155.1.4.260 | Commencement of Civil Court Action |
| 155.1.4.270 | Joint Responsibility |
| 155.1.4.280 | Penalty |

155.1.4.100 Provisions of This Code Declared to be Minimum Requirements

~~A. — Minimum requirements intended.~~ In their interpretation and application, the provisions of this Title XV, Chapter 155, of the Dunes City Code of Ordinances shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.

~~B. — Most restrictive requirements apply. When the requirements of this Code vary from other provisions of this Code or with other applicable standards, the most restrictive or that imposing the highest standard shall govern.~~

155.1.4.110 Violation of Code Prohibited

No person, firm or corporation ~~shall~~ may erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain or use any building or structure or building service equipment, shall use, or divide or transfer any land in violation of ~~this the~~ provisions of Chapter 155 of the Dunes City Code or any amendment thereto of Ordinances.

155.1.4.120 Official Action

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

155.1.4.130 ~~Penalty~~ Authority

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

Any condition caused, maintained or allowed to exist in violation of any provisions of this Chapter 155 of the Dunes City Code of Ordinances, or conditions attached to ordinances or orders creating subdivisions or planned unit developments (PUDs), or other orders, may be abated by the City pursuant to the procedures set forth herein, except those where any other individual or body has been expressly deemed responsible for such enforcement activity.

155.1.4.5140 Complaints Regarding Violations Administrative Enforcement Authority

- ~~A. Filing written complaint. Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a signed, written complaint. The Code Enforcement Officer has the authority to make the determination in the first instance whether a violation of Chapter 155 Code provisions has occurred or exists, and has the authority to take appropriate action to gain compliance with the provisions of this Code. The Code Enforcement Officer further has the authority to issue notices of violation, findings, and orders, the power to inspect public and private property pursuant to this Chapter 155, and the power to utilize the administrative remedies available under this Code.~~
- ~~B. File complaint with City. Such complaints, stating fully the causes and basis thereof shall be filed with the City. The City shall properly record such complaints, investigate and take action thereon as provided by this Code. The City Recorder, with approval of the City Council, may hire individuals with the skills, knowledge and expertise to serve as Code Violation Investigators. The Code Violation Investigator will conduct investigations or inspections or accompany the Code Enforcement Officer on any investigations or inspections conducted pursuant to this Chapter 155, and will have the same power as the Code Enforcement Officer to inspect public and private property. The Code Violation Inspector will report and make recommendation to the Code Enforcement Officer to aid the Code Enforcement Officer in making a determination as to whether a violation of this Code has occurred or exists.~~

C. The Dunes City Code Enforcement Officer is responsible for the enforcement of all provisions of Chapter 155 of the Dunes City Code of Ordinances except those where any other individual or body has been expressly deemed responsible for such enforcement activity.

155.1.4.6150 ~~Inspection and Right of Entry~~ Authority to Inspect and Abate;
Emergency

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

A. Entrance on Property with Permission of the Person in Charge. With the permission of the Person in Charge of the property, the Code Enforcement Officer and/or a Code Violation Investigator is authorized to enter upon any property or premises at a reasonable time in order to ascertain if a Chapter 155 Code violation exists on the property, and to make any investigations, examinations, and surveys as may be necessary in the performance of his enforcement duties. This may include, but is not limited to, taking of photographs, taking measurements, or collecting samples of other physical evidence. With the permission of the Person in Charge, the Code Enforcement Officer is further authorized to enter onto property to abate a Chapter 155 Code violation in accordance with the requirements of this Section 155.1.4.

B. Entrance on Property without Permission of Person in Charge. In the event that the Code Enforcement Officer cannot gain permission from the Person in Charge to enter onto property when such entry is sought pursuant to this Section 155.1.4, the Code Enforcement Officer may seek entry through any legal means including, without limitation, making application to any court of competent jurisdiction for issuance of a warrant. The warrant application shall identify the premises upon which entry is sought, the purpose for which entry is desired, and the facts giving rise to the belief that a condition which is a violation of this Code exists on such premises, and if applicable any abatement actions that will be taken.

C. Emergency. In cases where a violation of this Chapter 155 Code unmistakably exists and the violation imminently endangers human life or property, the Code Enforcement Officer shall immediately notify the appropriate county, state or federal office having oversight and jurisdiction over the subject matter of the violation and the Code Enforcement Officer may proceed summarily to abate the violation.

155.1.4.7160 ~~Abatement of Violations~~ Recovery of Administrative Costs; Purpose

~~Any use which is established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to the zoning requirements shall be and is hereby declared to be unlawful and a public~~

~~nuisance, and may be abated as such. Abatement proceedings are to be conducted pursuant §91.25 et seq., which sections are incorporated herein by reference as a part of this chapter. The Dunes City Council finds there is a need to recover costs incurred by the City in its Code enforcement efforts. These costs shall be referred to as administrative costs, and will include time spent by City personnel re-inspecting properties throughout the City in an effort to ensure compliance with the provisions of this Chapter 155, and costs incurred in the investigation, inspection, re-inspection, recording of notices, title search, and any other costs associated with violations specified on any notice.~~

155.1.4.8170 ~~Stop-Work Order Hearing~~Written Complaint; Exceptions

- A. ~~Stop work order issued. Whenever any work is being done in violation of the provisions of the Code or a condition of any permit or other approval granted pursuant hereto, the City may order the work stopped by notice in writing served on persons engaged in doing such work or causing such work to be done. All work under the permit or approval shall cease until it is authorized to continue.~~Any person may submit to the Code Enforcement Officer a signed, written complaint alleging that a violation of Chapter 155 of the Dunes City Code of Ordinances has occurred. The complaint must contain: the contact information, including name, address, telephone number and email address, if any, of the complainant; a full description of the alleged violation; and the Dunes City Code section which has allegedly been violated. If the Code Enforcement Officer finds the complaint to be credible, the Code Enforcement Officer may investigate the complaint.
- B. ~~Stop work order hearing. The City shall schedule a hearing, if requested on the stop work order for the earliest practicable date, but not more than 7 days after the effectiveness of any required notice. At the discretion of the City, such hearing may be:~~The Code Enforcement Officer may undertake investigations of possible code violations in the absence of a written complaint if a potential Code violation is reported by an employee or contractor for the City, or the state or federal governments.

1. ~~Part of a hearing on revocation of the underlying development approval; and/or~~

2. ~~To determine whether a violation has occurred. The affected City committee/Commission shall hold this hearing and shall make written findings as to the violation within 7 days. Upon a finding of no violation, the affected City Committee/Commission shall require the issuance of a resume work order. Upon finding a violation, the stop work order shall continue to be effective until the violating party furnishes sufficient proof to the City that the violation has been abated. The decision is subject to appeal under Section 155.4.1.6 – Type III (Public Hearing) Procedure.~~

155.1.4.180 Complainant's Right of Appeal

- A. In the event the Code Enforcement Officer finds a complaint is not credible, the Complainant has the right to appeal that decision to the City Council by submitting written notice of appeal, together with appeal administration fees, within ten (10) calendar days of the date of

notification of finding that the complaint is not credible. Upon receipt of a timely filed notice of appeal, the matter will be placed on the agenda for consideration at the next regularly scheduled City Council meeting. The Council's decision on appeal shall be final.

B. The City Council will, by Resolution, set the amount to be collected for filing of a notice of appeal. All appeal administration fees shall be paid at the time of filing of the notice of appeal. In the event of a finding by the City Council in favor of the Complainant, the City will assume all costs associated with processing the appeal. In the event the finding of the City Council upholds the decision of the Code Enforcement Officer, the Complainant will reimburse the City for any and all costs associated with processing the appeal. Collection of such fees shall be made in the same manner as provided in Section 155.1.4.12 – Abatement or Correction; Assessment of Costs; Lien.

155.1.4.9190 ~~Penalty~~ Title XV Code Violations

~~A fine of not more than \$1,000 shall be assessed for violations of the provisions of this Chapter. Following written notification by the City, violations of any provisions of this chapter shall be considered a separate offense for each day during which the violation continues~~ In the event of a finding of a violation of this Chapter 155 of the Dunes City Code of Ordinances, the Code Enforcement Officer may take the following actions:

- A. Seek voluntary compliance to abate the violation without any further action taken;
- B. Summarily abate the violation if the violation is an immediate threat to public health and safety or endangers property;
- C. Impose administrative costs against the person found to be responsible for the violation;
- D. Issue a notice of violation;
- E. Issue a cease and desist, or Stop Work, order;
- F. Withhold building permits on any unsold lots in a subdivision which the Code Enforcement Officer finds does not comply with:
 - 1. The provisions contained in this Chapter 155; or
 - 2. Any conditions attached to the order which created the subdivision.
- G. Abate;
- H. Fine;
- I. Execute a stipulation agreement; and/or
- ~~A.~~ J. Commence civil proceedings.

155.1.4.200 Notice of Violation

A. If the Code Enforcement Officer determines that a Chapter 155 Code violation exists, the Code Enforcement Officer shall serve a notice of violation on the property owner and the Person Responsible. The notice of violation will be served by certified mail, return receipt requested, or by personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon whom notice can be served, the Code Enforcement Officer shall post a copy of the notice of violation on the property.

The notice of violation shall contain:

1. Findings of fact with corresponding conclusions of law, which describe the code violation(s) and the corresponding code section(s), and/or rule(s) which have been violated;
2. Order for corrective action, which describes specifically how each violation must be corrected and the timeframes within which the corrections are required to be made. The order for corrective action shall include a statement that if the violation is not appealed or corrected within twenty (20) days of the date of service of the notice of violation, the City will abate or correct the violation and charge the costs of abatement or correction to the Person Responsible. The order for corrective action shall also include a statement that failure to correct or abate the code violation may result in the imposition of a fine.
3. A description of the additional administrative and judicial enforcement actions that could be pursued by the Code Enforcement Officer if the violations are not satisfactorily corrected.
4. A statement that the Person Responsible or the property owner may appeal the order for corrective action to the City Council by delivering a written request for review to the City Recorder within ten (10) calendar days after the date of issuance of the notice of violation. If the Person Responsible or the property owner fails to timely file a written request for review, the Code Enforcement Officer's finding that a violation has occurred shall be final.

B. An error in the name or address of the property owner or Person Responsible will not void the notice of violation.

~~A.C.~~ Upon receipt of a timely filed written request for review, the matter will be placed on the agenda for consideration at the next regularly scheduled City Council meeting. If the Council determines that a code violation exists, the property owner or Person Responsible shall abate or correct the code violation within five (5) days of the date of the Council's decision, unless the Council allows a longer time for abatement or correction. The Council's decision on the appeal shall be final.

155.1.4.210 Abatement or Correction; Assessment of Costs; Lien

- A. If the violation has not been abated or corrected by the property owner or Person Responsible within the required timeframe, the Code Enforcement Officer may abate or correct the violation, provided that the estimated cost of the abatement or correction does not exceed TWO THOUSAND DOLLARS (\$2,000.00). If the estimated cost of the abatement or correction exceeds TWO THOUSAND DOLLARS (\$2,000.00), the Code Enforcement Officer shall seek approval of the expenditure of said amounts from the City Council at the City Council's next regularly scheduled meeting. In addition to abating or correcting the violation, the Code Enforcement Officer may assess a penalty against the Person Responsible, and recover the costs of the abatement from the Person Responsible.
- B. The Code Enforcement Officer shall keep a record of the abatement or correction costs incurred by the City, including administrative expenses and costs of appeal, and report all work done for which assessments are to be made, stating and certifying the description of the real property, lots or parcels involved and the amount assessable to each.
- C. The Code Enforcement Officer shall forward a notice of costs to the property owner and Person Responsible stating:
1. The total cost of the abatement or correction;
 2. The amount of any penalty for violation of the code;
 3. That the costs and any penalties will be assessed to and become a lien against the real property if not paid within thirty (30) days of the date of the notice;
 4. That the amount of costs and penalties may be appealed to the City Council by submitting a written notice of appeal to the City Recorder within ten (10) calendar days of the date of the notice.
- D. Upon receipt of a timely filed written request for review, the matter will be placed on the agenda for consideration at the next regularly scheduled City Council meeting. The Council's decision on the appeal shall be final.
- E. Unless prior arrangements have been made with the City Recorder, if the costs of abatement or correction and any penalties assessed are not paid within thirty (30) calendar days of the date of the notice of costs, the amount owed will be entered into the docket of City liens and will constitute a lien on the property where the violation took place.
- F. The lien may be enforced in the same manner as liens for street improvements are enforced, and will bear interest at a legal rate of interest. Interest will begin to run on the date of entry in the lien docket.

- G. An error in the name or address of the property owner or Person Responsible for a failure to receive the notice of costs will not void the assessment and it will remain a valid lien on the property.
- H. Abatement or correction of a Code violation is not a penalty, but is an additional remedy. Imposition of a penalty for a Code violation does not relieve the Person Responsible of the duty to abate or correct the violation.

155.1.4.220 Fine Assessment and Lien

- A. Any person found to be in violation of any section or provision of Dunes City Code, where no other penalty is set forth, may be punished by a fine not to exceed FIVE HUNDRED DOLLARS (\$500.00) for any one offense, each day constituting a separate offense.
- B. In all cases where the same violation is made punishable or is created by different clauses or sections of Dunes City Code, the Code Enforcement Officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense, provided that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.
- C. Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of Dunes City Code, and there shall be no fine or penalty specifically declared for such breach, the provisions of this Chapter 155 shall apply.
- D. No provisions of Dunes City Code designating the duties of the Code Enforcement Officer, or designated Code Enforcement Officer, shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intent of the City Council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.
- E. The Code Enforcement Officer shall forward a notice of imposition of penalty to the property owner and Person Responsible stating:
 - 1. The amount of any penalty for violation of Dunes City Code;
 - 2. That the penalty shall be assessed to and become a lien against the real property if not paid within thirty (30) calendar days of the date of the notice;
 - 3. That the penalty may be appealed to the City Council by submitting a written notice of appeal to the City Recorder within ten (10) calendar days of the date of the notice and paying any fees associated with the filing of notice of appeal.
- F. Upon receipt of a timely filed written request for review, the matter will be placed on the agenda for consideration at the next regularly scheduled City Council meeting. The Council's decision on the appeal shall be final.

- G. Unless prior arrangements have been made with the City Recorder, if the penalties assessed are not paid within thirty (30) calendar days of the date of the notice of imposition of penalty, the amount owed will be entered into the docket of City liens and will constitute a lien on the property where the violation took place.
- H. The lien may be enforced in the same manner as liens for street improvements are enforced and will bear interest at a legal rate of interest. Interest will begin to run on the date of entry in the lien docket.
- I. An error in the name or address of the property owner or Person Responsible for a failure to receive the notice of imposition of penalty will not void the imposition and it will remain a valid lien on the property.
- J. Abatement or correction of a Code violation is not a penalty, but is an additional remedy. Imposition of a penalty for a Code violation does not relieve the Person Responsible of the duty to abate or correct the violation.

155.1.4.230 Prohibition Against Issuance of City Permits

For properties where a notice of violation has been issued, the City may withhold permits for repair, construction and/or alteration, other than those necessary to achieve compliance with the provisions of this Code, on the affected property until a notice of compliance has been issued by the Code Enforcement Officer.

155.1.4.240 Cease and Desist, or Stop Work, Orders

- A. Cease and desist orders, also known as stop work orders, may be issued when the Code Enforcement Officer has probable cause that an activity regulated by this Chapter 155 is being or has been conducted without a permit or in violation of Chapter 155. When activity has been stopped by a cease and desist order, it shall not be resumed until the reason for the activity stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.
- B. The cease and desist order may be appealed to the City Council by submitting a written notice of appeal to the City Recorder within ten (10) calendar days of the date of the issuance of the cease and desist order and paying fees associated with the filing of notice of appeal. The City Council may impose a fee by adopted Resolution for the filing of a notice of appeal of the Code Enforcement Officer's decision.
- C. Upon the filing of a notice of appeal of Code Enforcement Officer's decision and payment of the filing fee therefore, the City shall schedule a hearing on the cease and desist order at the earliest practicable date, but not more than seven (7) days after the effectiveness of any required notice. At the discretion of the City, such hearing may be:
 - 1. Part of a hearing on revocation of the underlying development approval; and/or

2. To determine whether a violation has occurred, the City Council shall hold this hearing and shall make written findings as to the violation within seven (7) days. Upon a finding of no violation, the City Council shall direct the Code Enforcement Officer to issue a resume work order. Upon a finding that a violation has occurred, the cease and desist order shall continue to be effective until the violating party furnishes sufficient proof to the Code Enforcement Officer that the violation has been abated. The decision of the City Council shall be final.

155.1.4.250 Stipulation Agreement

The Code Enforcement Officer, with the approval of the City Council, and a person alleged to have violated provisions of this Code may voluntarily enter into a stipulation agreement whereby the parties to the agreement: Identify conditions on the property that require corrective action; agree on the corrective actions that must be performed by the person; agree on the timeframes in which the corrective actions must be completed and any other necessary information. If the person fails to fulfill the requirements of the agreement, the Code Enforcement Officer may seek compliance with the terms of the agreement through a court of competent jurisdiction or pursue other enforcement action allowed by this Code.

155.1.4.260 Commencement of Civil Court Action

In the event of a violation or threat of violation of the provisions of Chapter 155 of Dunes City's Code of Ordinances, the City Council or the Code Enforcement Officer may institute appropriate civil actions or proceedings in any court of competent jurisdiction requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The City may recover all costs, including reasonable attorney's fees, incurred for the enforcement of the provisions of Chapter 155 of Dunes City's Code.

115.1.4.270 Joint Responsibility

If more than one person is a Person Responsible, they will be jointly and severally liable for abating or correction the violation, for the costs incurred by the City in abating or correcting the violation, and for any and all penalties assessed for violation of Dunes City's Code.

115.1.4.280 Penalty

The penalty for the violation of the provisions of this Chapter 155 of the Dunes City Code of Ordinances shall be in an amount of not more than FIVE HUNDRED DOLLARS (\$500.00) for each offense or, in the case of a continuing offense, not more than FIVE HUNDRED DOLLARS (\$500.00) for each day of the offense. Each day's violation constitutes a separate offense. The abatement of the violation is not a penalty for violation of Chapter 155 provisions, but is an additional remedy. Imposition of a penalty does not relieve a person of the duty to abate the violation.

DIVISION 155.2 – LAND USE ZONE ADMINISTRATION

DIVISION 155.2 — LAND USE ~~DISTRICT~~ZONE ADMINISTRATION

Sections:

155.2.0 Land Use Zone Administration

- 155.2.0.100 Classification of Land Use Zones
- 155.2.0.110 Zone Maps
- 155.2.0.120 Determination of Zone Boundaries
- 155.2.0.130 Zoning of Vacated Property

155.2.1 Residential (R-1) Zone

- 155.2.1.100 Purpose
- 155.2.1.110 Allowed Land Uses
- 155.2.1.120 Conditional Uses/Uses Subject to Review
- 155.2.1.130 Uses Not Allowed
- 155.2.1.140 Building Setbacks and Lot Area Requirements
- 155.2.1.150 Requirements in General
- 155.2.1.160 Specific Requirements
- 155.2.1.170 Additional Requirements
- 155.2.1.180 Residential Density
- 155.2.1.190 Special Standards for Certain Uses
- 155.2.1.200 Manufactured Homes and Accessory Placement Standards
- 155.2.1.210 Accessory Buildings
- 155.2.1.220 Bed and Breakfast
- 155.2.1.230 Residential Care Homes and Facilities
- 155.2.1.240 Guest Houses
- 155.2.1.250 Signs

155.2.2 Community Commercial (CC) Zone

- 155.2.2.100 Purpose
- 155.2.2.110 Allowed Land Uses
- 155.2.2.120 Conditional Uses/Uses Subject to Review
- 155.2.2.130 Uses Not Allowed
- 155.2.2.140 Building Setbacks and Lot Area Requirements
- 155.2.2.150 Requirements in General
- 155.2.2.160 Specific Requirements
- 155.2.2.170 Additional Requirements
- 155.2.2.180 Signs
- 155.2.2.200 Special Standards for Certain Uses (Reserved)

155.2.3 Open Space (OS) Overlay Zone

- 155.2.3.100 Purpose
- 155.2.3.110 Lakes and Shorelands (R-1 Zone)
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DIVISION 155.2 – LAND USE ZONE ADMINISTRATION

155.2.3.130 Booth Island

155.2.4 Fragile Lands (FL) Overlay Zone

- 155.2.4.100 Purpose
- 155.2.4.110 Excessive Slopes
- 155.2.4.120 Stabilized or Active Dunes

155.2.5 Wetland Overlay Zone

- 155.2.5.100 Purpose
- 155.2.5.110 Goal 5 Requirements
- 155.2.5.120 Definitions
- 155.2.5.130 Determination of Significant Wetlands
- 155.2.5.140 Protection of Wetland Area
- 155.2.5.150 Additional Standards for Review
- 155.2.5.160 Allowed Activities within Wetland Protection Area
- 155.2.5.170 Prohibited Activities within Wetland Protection Area
- 155.2.5.180 Notification and Coordination with State Agencies
- 155.2.5.190 Map Error Corrections and Variances

155.2.6 Riparian Overlay Zone

- 155.2.6.100 Purpose
- 155.2.6.110 Goal 5 Requirements
- 155.2.6.120 Definitions
- 155.2.6.130 Determination of Local Significant Riparian Corridors
- 155.2.6.140 Protection of Riparian Corridors
- 155.2.6.150 Prohibited Activities within Riparian Corridors
- 155.2.6.160 Variances

155.2.0 Land Use Zone Administration

Sections:

- 155.2.0.100 Classification of Land Use ~~District~~Zones
- 155.2.0.110 Zone Maps
- ~~155.2.0.120 Urban Growth Boundary~~
- 155.2.0.~~130~~120 Determination of Zone Boundaries
- 155.2.0.130 Zoning of Vacated Property

155.2.0.100 Classification of Land Use ~~District~~Zones

All areas within the urban growth boundary of the City of Dunes City are divided into land use ~~district~~zones. The use of each lot, parcel and tract of land is limited to the uses permitted by the applicable land use ~~district~~zone. The applicable land use ~~district~~zone shall be determined based on the ~~Land Use~~Dunes City ~~District~~Zoning Map, and the provisions of this Chapter 155.

~~155.2.0.100.1 Districts Established~~

In order to carry out the purpose and provisions of this ~~Section~~Chapter 155, land within the City ~~may will~~ be classified in one ~~or more~~ of the following ~~district~~zones:

- A. Residential ~~District~~Zone (R-1)
- B. Community Commercial ~~District~~Zone (CC)

155.2.0.110 Zone Maps

- A. Consistency with Land Use Zoning Map. The boundaries of each of the land use ~~district~~zones contained within this ~~Chapter~~Division 155.2 shall coincide with the land use ~~district~~zone boundaries identified on the City's official Zoning Map, retained by the City Recorder. A certified print of the adopted land use ~~district~~zone 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~~zone boundaries identified on the official Zoning Map is limited to the uses defined in this Chapter 155~~Section~~.
- C. Land Use ~~District~~Zone Map Amendments: All amendments to the City land use ~~district~~zone (~~zoning~~) map shall be made in accordance with the provisions of Section 155.4.7 (Land Use Zone Map Amendments). The City shall make available for public inspection an up-to-date copy of the revised land use ~~district~~zone 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.~~

155.2.0.130.120 **Determination of Zone Boundaries**

Where uncertainty exists regarding the specific location of a zone boundary, an application for Determination of Zone Boundaries may be submitted to the City. An application shall include the material and information required at Section 155.4.1.120(D)(2). In considering the application, the City will use the Type II procedures at Section 155.4.1.140 and will apply the following ~~criteria~~rules shall apply:

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

B.A. Boundaries indicated as approximately following the centerline of streets shall be construed to follow such centerlines.

~~C.B.~~ Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

~~D.C.~~ Boundaries indicated as approximately following City limits shall be construed as following such City limits.

~~E.D.~~ Boundaries indicated as following public utility easements shall be taken to be midway between the utility easement boundaries.

~~F.E.~~ Boundaries following shorelines shall be taken to follow the ordinary ~~low~~high 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.F.~~ Boundaries indicated as parallel to or extensions of features indicated in ~~divisions (B)~~this Determination of Zone Boundaries Subsections A through ~~(F)~~E above shall be so construed.

~~H.G.~~ Where a zone boundary divides ~~an ownership of property~~a lot, the boundary location shall be determined ~~by~~based on the criteria above (A through F of this Determination of Zone Boundaries section), if applicable or, if they are not applicable, by a survey conducted by a registered professional land surveyor licensed in the State of Oregon ~~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~~automatically applyies to the vacated property.

~~155.2.0.130.2 Transfer of Property Between Adjacent Parcels~~

155.2.0 – Land Use Zone Administration

~~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~~Zone

Sections:

| | |
|------------------------------------|---|
| 155.2.1.100 | Purpose |
| 155.2.1.110 | Permitted <u>Allowed</u> Land Uses |
| 155.2.1. 111 <u>120</u> | Conditional Uses/ <u>Uses Subject to Review</u> |
| 155.2.1. 112 <u>130</u> | Unpermitted Uses <u>Not Allowed</u> |
| 155.2.1. 120 <u>140</u> | Building Setbacks and Lot Area Requirements |
| 155.2.1. 121 <u>150</u> | Requirements in General |
| 155.2.1. 122 <u>160</u> | Specific Requirements |
| 155.2.1. 123 <u>170</u> | Additional Requirements |
| 155.2.1. 130 <u>180</u> | Residential Density |
| 155.2.1. 140 <u>190</u> | All Uses <u>Special Standards for Certain Uses</u> |
| 155.2.1.200 | Special Standards for Certain Uses <u>Manufactured Homes and Accessory Placement Standards</u> |
| 155.2.1.210 | Manufactured Homes and Accessory Placement Standards <u>Accessory Buildings</u> |
| 155.2.1.220 | Accessory Buildings <u>Bed and Breakfast</u> |
| 155.2.1.230 | Bed and Breakfast <u>Residential Care Homes and Facilities</u> |
| 155.2.1.240 | Residential Care Homes and Facilities <u>Guest Houses</u> |
| 155.2.1.250 | Signs |
| 155.2.1.260 | Manufactured Home Park |

155.2.1.100 Purpose

The purpose of the Residential (R-1) ~~District~~Zone 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~~Allowed Land Uses

A. In the R-1 ~~District~~Zone, the following types of buildings and uses are ~~permitted~~allowed as hereinafter specifically provided for by this Section 155.2.1 and subject to the general provisions and exceptions set forth in ~~this chapter~~Chapter 155:

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~~State. This ~~division~~provision shall not be construed as ~~abrogating~~abolishing or repealing a recorded restrictive covenant.

~~2. Home occupations.~~

~~3. Residential Care Homes~~

42. 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.

~~53.~~ Agriculture: including the growing and raising of trees, vines, shrubs, berries, vegetables, nursery stock, hay, grains, and similar food and fiber products provided such activity does not conflict with State law.

~~64.~~ Keeping dDucks, 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.~~

~~85.~~ 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~~120 Conditional Uses/Uses Subject to Review

A. The following conditional uses are ~~permitted~~allowed, subject to a conditional use permit granted pursuant to the general provisions in Section 155.4.4 – Conditional Use Permits of this ~~chapter Chapter 155~~providing for the granting of conditional use permits:

~~A1. Churches.~~Places of worship

~~B2.~~ Fraternal Lodges, grange halls, clubs

~~3C.~~ Schools, public and private

~~4D.~~ Stables, riding academies

~~5E.~~ 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.

~~6F.~~ Bed & Breakfast

~~7G.~~ Multifamily ~~Dwellings~~Housing

~~8H.~~ Guest houses

~~I. Residential Care Facility~~

- B. Residential Care Homes and Facilities. Plan 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. The Planning Commission shall do this review as a Type I procedure.
- C. Manufactured Home Parks are allowed subject to approval granted through the Subdivision or Planned Unit Development process of Chapter 155.
- D. Home Occupations are allowed subject to approval granted through the Home Occupation Permit process and provisions of Section 155.4.9.110 – Home Occupation Permit.
- E. Temporary Seasonal and Special Events, Temporary Sales Offices or Model Homes and Temporary Buildings are allowed subject to approval granted through the Temporary Use Permit process and provisions of Section 155.4.9.100 – Temporary Use Permit.
- F. Temporary occupancy of recreational vehicle and travel trailers may be allowed in the R-1 Zone subject to approval granted through the process and provisions of Section 155.4.9.120 – Temporary Occupancy of Recreational Vehicle and Travel Trailers.

155.2.1.~~112~~130 **~~Unpermitted~~ Uses Not Allowed**

All uses not listed under Sections 155.2.1.110 and 155.2.1.~~111~~120 are not ~~permitted~~allowed.

155.2.1.~~120~~140 **Building Setbacks and Lot Area Requirements**

See Sections 155.2.1.~~121~~150 – 155.2.1.~~123~~170.

155.2.1.~~124~~150 **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~~Section 155.2.1.150. See definitions for lot types and Division 155.6 – Appendix 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 one hundred fifty (150) feet and shall ~~be not~~ not be 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 (5) 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 sixty (60) feet upon a street or street easement, except:

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- a. A lot on the outer radius of a curved street or facing a cul-de-sac shall have frontage of not less than thirty-five (35) feet upon a street, measured on the arc.
- b. Lots accessed by easement shall conform to the standards of [Section 155.3.1.2](#), I & [and K](#).
- B. Lot sidelines. ~~As far as is practicable, lot~~ 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.C.~~ 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 (6) months from the date of City Council approval of a subdivision preliminary plan.
- ~~ED.~~ Lake access. When common access ~~may be~~ is provided within a subdivision, ~~where~~ maintenance ~~is~~ must be provided for in deed covenants ([CCRs](#)).
- ~~FE.~~ 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, [Section 155.6](#), 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.F.~~ Lots with water frontage. Lots with water frontage shall have a minimum of fifty (50) feet water frontage measured at the ordinary high water line.

155.2.1.~~122~~[160](#) 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:

| R-1 DISTRICT ZONE LOT AND STRUCTURE REQUIREMENTS | |
|---|----------------|
| ITEM | REQUIREMENT |
| Lot area | 1 acre minimum |

155.2.1 – Residential (R-1) Zone

| | |
|---|--|
| Lot average width | 150 feet minimum |
| Lot Coverage: | |
| Structures/ Impervious surfaces | 30% maximum |
| Structure Setbacks: | |
| 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-dependent excluded) |
| Significant Wetlands: | |
| Delineated Wetlands | 0-feet |
| Non-Delineated Wetlands | 50-feet |
| Riparian Corridor | 50-feet (water-dependent excluded) |
| Structure Height: | |
| Height from average grade | Lesser of 32 feet or 2 ½ stories maximum |

[For non-conforming lots, foundations may intrude into side yard setbacks no more than two \(2\) feet and lot coverage may not exceed forty percent \(40%\).](#)

155.2.1. ~~123~~ [170](#) Additional Requirements

A. Additional setback requirements.

1. *Building features.* The following building features may project into the required front yard set-back no more than five (5) feet and into the required interior yards setback no more than two (2) feet:

- a. Eaves, cornices, belt courses, sills, awnings, buttresses, ~~air conditioners~~ [HVAC equipment, porches, platforms, decks and landings](#), ~~or other similar features.~~

- b. Chimneys and fireplaces, provided they do not exceed eight (8) feet in width.

- c. ~~Porches, platforms, decks and landings that do not extend above the level of the first floor of the building.~~

~~cd.~~ Signs conforming to all other applicable ~~ordinances~~[provisions of Chapter 155](#).

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 [utility](#) 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 ~~district~~[zones](#) 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~~[Chapter 155](#), 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~~[zone](#) 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 (6) feet in height. Solid fencing that obstructs vision shall be limited to three and one-half (3 ½) feet in height. Fences in the side and rear yard setback areas: Fencing (all types) may not exceed six (6) feet in height.
4. Fences are not permitted in the shoreland areas.

C. Additional lot area requirements. The minimum area requirements of this ~~section~~[Chapter 155](#) 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 other~~[provisions of this chapter](#)[Chapter 155](#).

155.2.1.~~130~~[180](#) 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 (1) dwelling per acre.

~~155.2.1.140~~ — ~~All Uses~~

~~See appendix 155.6 for lot, blocks, street uses.~~

155.2.1.~~200~~190 Special Standards for Certain Uses

~~This section~~ Sections 155.2.1.200 through 155.2.1.240 supplements the standards contained in Sections 155.2.1.100 through 155.2.1.~~130~~180. ~~It~~ They provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential ~~District~~Zone.

155.2.1.~~210~~200 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). This provision shall not be construed as abolishing or repealing a recorded restrictive covenant. Exception: The following standards do not apply to units which were legally placed within the City prior to the effective date of this ~~ordinance~~Code.

In addition to all applicable general development standards and requirements for Residential (R-1) ~~District~~Zones outlined in this ~~subsection~~Subsection 155.2.1.210, 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 one thousand (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 (3) vertical feet in height for each horizontal twelve (12) feet in width.
- D. The manufactured home shall have exterior siding and roofing which in color, material, and appearance is ~~similar~~comparable to the exterior siding and roofing material commonly used on residential dwellings within the ~~community~~City ~~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.~~

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GF. The manufactured home ~~must~~ shall be installed in accordance with ORS 446.155 through 446.285, ~~OAR 814-23-605~~ OAR 918-500 et seq., and the installation instructions as supplied by the manufacturer.

155.2.1.~~220~~ 210 Accessory Buildings

Accessory buildings in the residential ~~district~~ zone include detached garages, sheds, workshops, green-houses, guesthouses and similar structures. No accessory building in the residential ~~district~~ zone may have a kitchen facility. Accessory buildings may not be sited prior to the issuance of a residential building permit. A building permit may not be issued for an accessory building until the certificate of occupancy for the primary residence has been issued.

Accessory buildings shall be limited in size not to exceed the total square foot area of the primary residence's footprint and shall not exceed the height of the primary residence. Accessory buildings shall be constructed from the same materials and style and design of the primary residence. Exception: Buildings two hundred (200) square feet or less are exempt from the materials, style and design requirements provision.

155.2.1.~~230~~ 220 Bed and Breakfast

Bed and breakfasts in the R-1 zone ~~must~~ shall 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~~ 230 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 five (5) or fewer individuals, or "facilities" for six (6) to fifteen (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~~ one for every two (2) residents, in accordance with Section 155.3.3.3 – ~~Parking requirements~~ Vehicle Parking and Loading Standards.

~~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.~~

155.2.1.240 Guest Houses

155.2.1 – Residential (R-1) Zone

A guest house is a separate structure either constructed on site or a manufactured dwelling, but not a recreational vehicle. Guest houses shall be constructed from the same materials and style and design of the primary residence. One guest house shall be allowed per lot of record in the R-1 zone, provided that setback and height standards of the zone are met. The primary dwelling and guest house shall be considered as one dwelling unit. Land divisions separating an approved guest house from the primary dwelling shall not be allowed. A guest house must conform to the following standards:

- A. The maximum floor area of the guest house shall be eight hundred fifty (850) square feet, excluding the garage.
- B. A guest house may include a toilet or bathroom plus one additional sink but shall not include a stove, oven or other cooking appliances.
- C. The guest house shall be located within one hundred (100) feet of the primary dwelling to which it is accessory. The distance shall be measured from the closest portion of each structure.
- D. The guest house shall receive all utilities via extensions of the same service lines as that of the primary dwelling for water, electric, gas, or alternative energy. No separate meters for the guest house shall be allowed.
- E. If the primary dwelling is on a septic system, then the guest house shall use the same septic system as the primary dwelling, pending certification that the existing system is adequate to accommodate the additional residential use.
- F. The guest house shall not have a separate address from the primary dwelling.
- G. The guest house shall not be rented for any purpose other than as part of the property as a whole.

155.2.1.250

Signs

- A. Within the Residential (R-1) ~~District~~Zone, signs ~~and nameplates~~ may be installed after an application is submitted and City approval is granted pursuant to the Type I process as defined in Section 155.4.1.130. The standards for signs in the R-1 Zone are as follows:
 - 1. One nameplate not exceeding four (4) square feet in area for each dwelling unit, ~~indicating the name of the occupant and/or~~ identifying ~~the~~a home occupation. Nameplates less than four (4) square feet in area indicating the name and/or address of the occupant of a residence are exempt from the application and approval process.
 - 2. One sign not exceeding twelve (12) square feet in area for buildings other than dwellings.
 - 3. One sign not exceeding six (6) square feet pertaining to the sale or rental of ~~developed~~ property.

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4. One sign not exceeding eighteen (18) square feet in area advertising the sale of property or undeveloped property of two (2) acres or greater.

B. Signs announcing the division and improvement of property in the Residential (R-1)

~~District~~Zone may be erected according to the following provisions:

1. The sign ~~shall~~may not exceed fifty (50) square feet in area.
2. The sign may be double-faced; ~~and each side may be will not exceed~~fifty (50) square feet in area or less.
3. The top of the sign ~~shall~~may not be more than ten (10) feet above the ground level and the sign ~~shall~~may not be erected nearer than ten (10) feet to any property line.
4. Two (2) such signs are permitted in each subdivision larger than five (5) acres ~~and that~~fronting on two (2) 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.~~

- ~~6.5.~~ Two (2) directional signs, each being six (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.

6. Monument signs shall be approved at or before final plat approval using a Type II process as defined in **Section 155.4.1.110.**

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.~~
- ~~2.1.~~ 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.~~
- ~~3.2.~~ 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.
- ~~4.3.~~ Advertises or publicizes an activity, business product or service no longer conducted on the premises upon which such signs are maintained.
- ~~5.4. Carries a message on a rotating or moving part. Only minor decorative parts of signs may move or rotate.~~ Is equipped with moving, rotating or otherwise animated parts.

~~65.~~ Uses banners, flags, posters, pennants, ribbons, streamers, ~~and strings of light bulbs~~ flashing or intermittent light, lights, ~~spinners,~~ or oral or olfactory devices.

6. Is found to be a public nuisance pursuant to Chapter 91 (Nuisances) of Dunes City Code.

~~155.2.1.260 Manufactured Home Park~~

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

155.2.2 – Community Commercial (CC) Zone

155.2.2 Community Commercial (CC) ~~DISTRICT~~Zone

Sections:

| | |
|------------------------------------|--|
| 155.2.2.100 | Purpose |
| 155.2.2.110 | Permitted <u>Allowed</u> Land Uses |
| 155.2.2. 111 <u>120</u> | Conditional Uses/ <u>Uses Subject to Review</u> |
| 155.2.2. 112 <u>130</u> | Unpermitted Uses <u>Not Allowed</u> |
| 155.2.2. 120 <u>140</u> | Building Setbacks and Lot Area Requirements |
| 155.2.2. 121 <u>150</u> | Requirements in General |
| 155.2.2. 122 <u>160</u> | Specific Requirements |
| 155.2.2. 123 <u>170</u> | Additional Requirements |
| 155.2.2. 130 <u>180</u> | Signs |
| 155.2.2.200 | Special Standards for Certain Uses (Reserved) |
| 155.2.2.210 | Travel Trailer and Recreational Vehicles (RV) Parks |

155.2.2.100 Purpose

The Community Commercial (CC) ~~District~~Zone 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~~Allowed Land Uses

In the CC ~~District~~Zone, the following types of buildings and uses are ~~permitted~~allowed as hereinafter specifically provided for by this Section 155.2.2, subject to the general provisions and exceptions set forth in this Chapter 155~~section~~:

- A. Any use permitted outright or conditionally in the R-1 ~~District~~Zone
- 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

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J. Curio and gift shops

K. Boat sales and repair service

~~L. Manufactured home parks.~~

~~M. Travel trailer parks.~~

~~NL.~~ Rental facilities for boats, ~~and~~ recreational vehicles, and storage units

~~OM.~~ Post offices

~~PN.~~ Hotels, Motels

~~QO.~~ ~~Churches~~ Places of Worship

~~RP.~~ Tourist parks

~~SQ.~~ Laundromats

~~T. Other uses similar to the above.~~

~~U. Alleys~~

~~VR.~~ Marinas, boat launching, moorage facilities, boat rental, and charter services.

155.2.2.~~111~~120 Conditional Uses/Uses Subject to Review

A. The following conditional uses are allowed subject to a conditional use permit granted pursuant to the general provisions ~~of~~ in Section 155.4.4 – Conditional Use Permits of this Chapter 155 ~~this Section~~:

~~A1.~~ Taverns, cocktail lounges

~~B2.~~ Automobile or smaller vehicle repair shops

~~C3.~~ Lumber and building material stores

~~D4.~~ Hardware stores

~~E5.~~ Service stations, provided that greasing and tire repairing are performed completely within an enclosed building. This includes all automotive and marine fuel stations.

~~F6.~~ Marinas, boat launching, moorage facilities, boat rental, and charter services.

B. Manufactured Home Parks are allowed subject to approval granted through the Subdivision or Planned Unit Development process of Chapter 155.

155.2.2 – Community Commercial (CC) Zone

C. Recreational Vehicle (RV) Parks are allowed subject to approval granted through the Recreational Vehicle (RV) Parks approval process at Section 155.4.10.120.

D. Temporary Seasonal and Special Events, Temporary Sales Offices or Model Homes and Temporary Buildings are allowed subject to approval granted through the Temporary Use Permit process of Section 155.4.9.100.

155.2.2.~~112~~130 ~~Unpermitted~~ Uses Not Allowed

All uses not listed under Sections 155.2.2.110 and 155.2.2.~~111~~120 are not ~~permitted~~allowed.

155.2.2.~~120~~140 **Building Setbacks and Lot Area Requirements**

See Sections 155.2.2.~~121~~150 – 155.2.2.~~123~~170.

155.2.2.~~121~~150 **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, comply with lot requirements and shall comply with lot requirements of this chapter. Where~~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 Division 155.6 – Appendix (Lot, Street, and Block Diagrams) 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 one hundred fifty (150) feet and shall ~~be not~~not be more than two and one-half (2 ½) times the average width between the lot lines. The two and one-half times requirement does not apply to lots greater than five (5) acres in size.
2. *Frontage.* Each lot shall have frontage of not less than sixty (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 thirty-five (35) feet upon a street, measured on the arc. Lots with water frontage shall have a minimum of fifty (50) feet frontage.

B. Lot sidelines. ~~As far as is practicable, lot~~Lot sidelines 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.~~

DC. 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,

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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 (6) months from the date of City Council approval of a subdivision preliminary plan.

ED. Lake access. Common access may be provided within a subdivision where maintenance is provided ~~for~~ in deed covenants (CCRs).

FE. 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, [Section 155.6](#), 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~~ [160](#) 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 DISTRICTZONE 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 impervious surfaces | 70% maximum |
| Structure Setbacks: | |
| 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-dependent excluded) |
| Significant Wetlands: | |
| Delineated Wetland | 0 feet |

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| | |
|--------------------------------------|---|
| Non-delineated Wetland | 50 feet |
| Significant Riparian Area | 50 feet (water-dependent excluded) |
| Structure Height: | |
| Height from average grade | Lesser of 32 feet or 2½ stories maximum |

155.2.2.123170 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 (5) feet and into the required interior yard setback no more than two (2) 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 (8) 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 [provisions of Chapter 155](#) ~~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~~ [Zone](#), fences or walls not to exceed eight (8) 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.

155.2.2.130180 Signs

A. Within the Community Commercial Zone, the erection of a new on-premises sign is ~~a permitted~~ allowed ~~use after an application is submitted and City approval is granted pursuant to the Type I process at~~ [Section 155.4.1.130](#). An application to erect a new sign must include a design drawing done to scale indicating the dimensions and height of the sign and be accompanied by the required fee.

B. Existing signs that are legal non-conforming uses or that have a valid sign permit may be repaired and repainted without obtaining a new permit, so long as there is no significant change in the general dimensions or height. Such a significant change would make it necessary to obtain a permit and comply with the requirements of this Section 155.2.2.130.

155.2.2 – Community Commercial (CC) Zone

C. Definitions. For the purpose of Section 155.2.2.130, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Premises. A single commercially-zoned lot or group of commercially-zoned 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 roof of a building or a painted sign attached to 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. The standards for new signs in the CC Zone are as follows:

~~except as specifically set forth below, and subject to the limitations set forth below.~~

~~A1. Prohibited signs. Pennants, moving signs, flashing signs, signs that would block other commercial signs, traffic control signs, or such are prohibited.~~ Signs equipped with moving, rotating or otherwise animated parts, signs with flashing or intermittent lights, or lamps, signs with oral or olfactory devices, signs that would block other allowed signs or traffic control signs, signs which would interfere with, mislead, or obstruct traffic control signs and thereby interfere with the motoring public, and any sign that is found to be a public nuisance pursuant to Chapter 91 (Nuisances) of Dunes City Code.

~~Signs which would interfere with, mislead, or obstruct traffic control signs and thereby interfere with the motoring public are prohibited.~~

~~B2. Height of sign. No commercial sign in the City shall exceed sixteen (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.~~

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~~**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.~~

~~E3.~~ Size of signs. ~~Commercial p~~Property facing Highway 101 shall be entitled to erect a sign whose face does not exceed one hundred twenty-five (125) square feet in a single direction. At other ~~commercial~~ locations, the face of a sign shall not exceed sixty four (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 two hundred fifty (250) square feet may obtain approval only by applying for and obtaining approval of ~~for~~ a conditional use permit, ~~and the permit will be~~ issued pursuant to the criteria for dealing with conditional use permits in Section 155.4.4. The City shall, by resolution, set a fee for obtaining the permit.

~~F4.~~ 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 and the owner of the underlying property must sign the application. ~~Off-premises signs shall not be computed in the total square footage of the business.~~

~~G5.~~ 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 one hundred fifty (150) feet apart. Additionally, two building-mounted signs are allowed per business enterprise.

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~~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 (Reserved)

~~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.~~

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- ~~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.~~

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- ~~b. Incidental signs for the information and convenience of tenants and the public relative to parking, traffic movement, the office, lavatories, and the like are allowed provided such signs do not exceed three square feet in size.~~
- ~~c. No nameplate or advertising signs of any other character shall be permitted.~~
- ~~14. *Non-residential uses.* No part of any manufactured home park shall be used for non-residential purposes except such uses that are required for the direct service for and well-being of park residents and for the management of the park.~~
- ~~15. *Additional development requirements.* Additional development requirements may be prescribed as conditions when such requirements are determined to be necessary to ensure the protection of the character of neighboring properties, the compatibility of land uses, and the health and safety of manufactured home park occupants.~~
- ~~C. Usage~~
 - ~~1. All travel trailers and recreational vehicles using a park shall be currently licensed for use on public streets and highways.~~

155.2.3 Open Space (OS) Overlay Zone

Sections:

| | |
|-----------------------------|---|
| 155.2.3.100 | Purpose |
| 155.2.3.200 | Lakes and Shorelands (R-1 Zone) |
| 155.2.3.250 | Lakes and Shorelands (CC Zone) |
| 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 Open Space (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 [155.2.3](#), 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 waterfront property within Dunes City that is zoned R-1. Those uses not ~~permitted~~ [allowed](#) outright ~~or~~ with a building permit may be allowed upon ~~issuance of a conditional use permit~~ [approval of a variance application](#).

155.2.3.~~200~~[110](#) Lakes [and Shorelands \(R-1 Zone\)](#)

[Dunes City has jurisdiction for all shoreland structures that are accessed from properties within Dunes City. Construction of any dock, boathouse or any water-dependent structure requires approval of all applicable local, State and federal agencies.](#)

A. ~~Permitted~~ [Allowed](#) Uses:

~~1. —Swimming, fishing, boating and water systems.~~

- ~~2~~[1](#). Shoreland structures that comply with the standards set forth in Subsection ~~paragraph C-B~~ of this Section [155.2.3.200](#) for placement, size, and construction, ~~and consisting of only one (1) dock and boathouse per lot,~~ are ~~permitted~~ [allowed](#) ~~upon issuance of~~ [provided that](#) a building permit [is obtained for each structure. The number of shoreland structures allowed for each lot shall be limited to:](#)

[a. One water access point \(stairs, landing or path\).](#)

b. One dock, and

c. One boat house or water-dependent recreational vehicle storage structure.

~~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.~~

~~CB.~~ Standards

1. Placement

- a. As measured from the ordinary high water line (OHW), a pier and ~~boarding floatgangway~~ shall extend into the water not more than one hundred fifty (150) feet ~~normal perpendicular~~ to the shoreline or to a bottom depth of five (5) feet at ordinary low water (OLW), 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 twenty-four (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 (10) 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 fifty (50) feet.
- d. Any structure approved for construction on the Siltcoos ~~Outlet~~River, starting at the Lake BlvdBoulevard bridge, shall have its long dimension parallel to the shoreline in order to minimize channel flow restriction.

2. Size

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- a. ~~Boarding floats~~Docks and boathouses shall have a combined area of no more than six hundred forty (640) square feet. ~~This area is exclusive of access structures. See Pier, 155.1.3—Definitions. The area of the gangway and pilings are not included in the area of use calculations.~~
- b. Piers, or ~~floating boarding float access structures shall be between three feet and six feet in width~~docks, shall not exceed two hundred (200) square feet in area. Gangways shall not exceed six (6) 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 (1) story in height, with a maximum of ~~16~~twelve (12) feet vertically from deck to ridgeline.
- d. Water access ~~structures~~points (stairs, landings or paths) in the Shorelands shall have a maximum width of eight (8) feet and shall extend through the Shoreland by as direct a route as practical.
- e. Water-dependent recreational equipment storage structures shall be no more than two hundred (200) square feet in area.

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.~~ The Oregon Structural Specialty Code (OSSC), which is based on the International Building Code (IBC), generally applies to landside structures such as stairs and landings. However, there may components of the on-water or in-water facility that are covered by the OSSC (e.g., pilings, docks). Upon signature of the Planning Official on an applicant's Waterway Structure Registration Application, the application will be subject to review and approval by the Oregon Department of State Lands (DSL) and other State and federal agencies.

~~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~~gangways shall provide for:

1. ~~***Live loads of at least 20 lb/sq. ft.~~

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~~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(1) Pile guide clearance to compensate for OHW or float level.

5(2) ~~Elevated p~~Piers more than thirty (30) inches above ground or water shall have handrails on at least one side ~~and be at least thirty-four (34) inches high. Handrails on both sides are highly recommended.~~ Piers constructed with more than a ten percent (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(1) Handrails on both sides of the gangway at the height of at least thirty-four (34) inches.

6(2) Rollers under gangway to allow for travel under varied water levels.

7(3) 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. Pilings ~~installation shall provide for:~~

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- ~~1.(1) Use of treated wood or steel. If steel, a round cross~~Use of only materials approved by the Oregon Department of State Lands.
~~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.(2) Piling tops to be no shorter than two (2) feet above ordinary high water on~~Woahink Lake and no shorter than four (4) feet above ordinary high water on Siltcoos Lake.
- ~~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.~~
- ~~ge.~~ Dredging and filling within the Shoreland area is not permitted without ~~Dunes City,~~ Oregon Department of State Lands and U.S. Army Corps of Engineers approvalauthorization.
- ~~hf.~~ 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.All materials used in the construction of Shoreland or water-related structures shall be approved by the Oregon Department of State Lands. Proof of such approvals shall accompany all shoreland structure building permit applications (DSL-approved lease or registration will be considered the minimum requirement).
- ~~ig.~~ 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.h. Structures extending into the water and fixed relative to the lake bottom and which may be submerged at ~~OH~~Ordinary high water or higher, shall have visible markers extending at least ~~two~~four (4) feet ~~above the 100-year flood level above OHW~~ at intervals of eight (8) feet or less along the length of the submerged structure.
- k.i. ~~High voltage~~ Exterior lighting shall be manually or motion controlled and used only when the illuminated area is occupied. ~~Low voltage~~ Exterior down-facing lighting on timers or light level control may be used to illuminate docks for safety. All exterior lighting fixtures shall be equipped with glare shields. ~~is not permitted. Exterior lighting should be used only when the illuminated area is occupied.~~
- l.j. ~~Electrical installations shall be in accordance with the Oregon State Electrical Specialty Code (OSESC).~~ Two adjacent property owners may agree to have shared docks and shared dock access to more than one parcel.

4. Access to Structures and Landings

- a. Access to water-dependent and water-related structures shall be by the shortest route considered safe due to grade or slope stability and be no more than eight (8) feet wide in straight sections. In the event of routes with sections greater than sixteen percent (16%) grade, any change in direction of forty-five degrees (45°) or higher in the high grade section may be accomplished by the use of landings at the direction change points.
- b. The landings shall be no more than eighty (80) square feet in area. Stairways, landings and wharfs on grades of sixteen percent (16%) or greater shall be engineered by an engineer licensed in the State of Oregon and approved by the City for safety and slope stability.
- c. Landings (viewing areas) not used for water access are limited to two hundred (200) square feet or less in area, and a maximum deck height of less than thirty (30) inches above grade.

45. 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~~ Section 155.2.3.200 or allowed under a conditional use permit, that is in excess of 75% of the current value of that structure, as determined by the ~~Dunes City Building Inspector~~ Official.
- b. A Dunes City building permit shall be required for any non-identical repair of a Shoreland or ~~water~~ water-related structure.
- c. An ~~conditional use permit~~ approved variance 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~~ Section 155.2.3.200, not already approved by an approved variance

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~~conditional~~ that is in excess of 50% of the current value of that structure, as determined by the ~~Dunes City Building Inspector~~Official.

- d. The ~~Dunes City Building Inspector~~Official shall verify the percentage value of any maintenance or repair prior to the issuance of a building permit or conditional use permit.

6. Other Requirements

- a. 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.
- b. Prior to an application for a building permit, Shoreland properties shall be surveyed to locate the line fifty (50) feet horizontally upland from the ordinary high water line. This survey shall meet the same standards as a lot line and permanent steel pins shall be every fifty (50) feet and fifty (50) feet past each end of the proposed building site, or a minimum of five (5) pins. Survey documents shall be provided with the application.
- c. A permit for a dock shall require one survey pin, with plastic pipe, fifty (50) feet upland from the ordinary high water line, at a center of eight-foot access to said dock. No documents or deed filing is required.
- d. A permit for Vegetation Removal shall require a survey to locate the line fifty (50) feet upland from the ordinary high water line. This survey shall meet the same standards as a lot line and permanent steel pins will be marked with two-foot plastic pipe. The spacing of the pins shall be every fifty (50) feet, one at the center of the area and one at each end, or a minimum of three (3) pins. Survey documents shall be provided with the application. Any permit for a new area of Vegetation Removal shall require a new survey.
- e. A Variance procedure may be used for surveys of less than full Shoreland boundary length.

~~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.~~

155.2.3.120 Lakes and Shorelands (CC Zone)

Dunes City has jurisdiction for all shoreland structures that are accessed from properties within Dunes City. Construction of any dock, boathouse or any water-dependent structure requires approval of all applicable local, State and federal agencies.

~~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 Silteos Lakes and Silteos 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 lakefront 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:~~

155.2.3 – Open Space Overlay Zone

- ~~(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, unconfined 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~~

155.2.3 – Open Space Overlay Zone

~~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 <u>110</u> | Excessive Slopes |
| 155.2.4. 300 <u>120</u> | Stabilized or Active Dunes |

155.2.4.100 Purpose

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 City's 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~~110 Excessive Slopes

A. Definition. For purposes of this ~~section~~Section 155.2.4.110, Excessive Slopes are those slopes twelve percent (12%) or steeper, as generally identified on the Dunes City Comprehensive Plan's geological constraints map.

B. Allowed uses. All uses allowed in the underlying zone are allowed in excessive slopes, except that:

1. Development on slopes twelve percent (12%) to sixteen percent (16%) shall be subject to site review and approval by the City Engineer and 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 sixteen percent (16%) will be allowed only after the applicant has supplied proof of safety of the proposed development. ~~For purposes of this section, a~~ A licensed Oregon Engineer's report shall satisfy proof of safety of the proposed development.

C. Conditional uses. All conditional uses allowed in the underlying zone are allowed. ~~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~~120 Stabilized or Active Dunes

A. Definition. For purposes of this ~~section~~Section 155.2.4.300120, Applicable Dunes are those lands where development will destroy sand-stabilizing surface vegetation or expose loose or

155.2.4 – Fragile Lands Overlay Zone

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~~ Allowed uses. All ~~permitted~~ uses allowed in the underlying zone are ~~permitted~~ allowed in applicable dunes, except that:

1. ~~All development proposals shall be subject to a site review by the City. The~~ 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. This shall be a condition of approval for all 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. All conditional uses allowed in the underlying zone are allowed.

~~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 Zone

Sections:

| | |
|------------------------------------|--|
| 155.2.5.100 | Purpose |
| 155.2.5. 200 <u>110</u> | Goal 5 Requirements |
| 155.2.5. 300 <u>120</u> | Definitions |
| 155.2.5. 400 <u>130</u> | Determination of Significant Wetlands |
| 155.2.5. 500 <u>140</u> | Protection of Wetland Areas |
| 155.2.5. 600 <u>150</u> | <u>Map Error Corrections and</u> 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~~120** below), ~~which occur within the boundaries of the City.~~

155.2.5.~~200~~110 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~~ its Local Wetlands Inventory (LWI) map, in order to alert property owners and others that ~~Division Oregon Department of~~ State Lands and US Army Corps of Engineers fill permits may still be required for actions that affect these wetlands.

155.2.5.~~300~~120 Definitions

Jurisdictional Delineation - A delineation of the wetland boundary that is approved by the Oregon Department 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-~~0~~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 reports adopted by Dunes City entitled Dunes City Local Wetlands Inventory and Riparian Inventory (DCLWIRI) and any subsequent revisions as approved by the Oregon Department 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.~~

155.2.5 – Wetland Overlay Zone

Oregon Freshwater Wetland Assessment Methodology (OFWAM) - A wetland function and quality assessment methodology developed by the Oregon Department 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~~ [Chapter 155](#) 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~~[130](#) Determination of Significant Wetlands

- A. The City determines which wetlands are locally significant in accordance with rules adopted by the [Oregon Department](#) ~~Division~~ of State Lands (~~OAR 141-086-0300~~). 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 twenty-five (25) feet. The City shall require that maps or data sets be provided for the LWI that determine wetland boundaries within twenty-five feet (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~~[140](#) 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 155.2.5.~~500~~[140](#) 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 fifty (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~~ [and](#) plans for proposed public facilities on parcels containing a wetland protection area or a portion thereof that are within fifty (50) feet of the wetland boundary, shall include the following:

155.2.5 – Wetland Overlay Zone

1. A delineation of the wetland boundary completed by a professional wetland scientist, or similar expert, qualified to delineate wetlands in accordance with Oregon Department 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 Oregon Department ~~Division~~ of State Lands.
- F. Protection During Construction. The requirements of Dunes City's erosion control regulations shall be followed during construction.

155.2.5.500.1150 Additional Standards for Review ~~Approval Criteria~~

In considering a proposal under Section 155.2.5.140(D) above, ~~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~~A. Except as otherwise allowed in 155.2.5.500.2160, the proposed project does not include ~~any 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~~B. Except as otherwise allowed in 155.2.5.500.2160, the proposed project will not include ~~any result in~~ development or filling of land within fifty (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 Jurisdictional Delineation.

155.2.5.500.2160 Allowed Activities within Wetland Protection Areas

A. Any use, sign, or structure, and the maintenance thereof, that was lawfully established but that no longer conforms to the provisions of Section 155.2.5.140 ~~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 ~~S~~subsection A 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 155;
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 155;
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.~~

155.2.5.500.3170 Prohibited Activities within Wetland Protection Areas

A. The following activities are prohibited within significant [wetland areas](#):

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, nonnative 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 [155.2.5.500.2160](#).

155.2.5.500.4180 Notification and Coordination with State Agencies

155.2.5 – Wetland Overlay Zone

- A. The City shall notify the Oregon ~~Division~~ Department 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~~ Department provides a Wetland Land Use Notification form for this purpose. ~~[See OAR 660-023-0100(7); ORS 227.350 for cities and ORS 215.418 for counties.]~~

155.2.5.~~600~~190 Map Error Corrections and Hardship Variances

- A. The City ~~Council~~ shall consider ~~be the approving authority for~~ applications for map error corrections and hardship 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. Using a Type I process, ~~The~~ City ~~may~~ will 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 Department of State Lands (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 DSL- approved delineations are provided.
- C. Hardship Variances. The Type III process and the procedures of Section 155.5.1 (Variances) shall be followed for consideration of a hardship variance except that the variance criteria of this Subsection 155.2.5.190.C shall apply in lieu of the variance criteria at 155.5.1. The City Council ~~may~~ will grant a variance to the provisions of this ~~ordinance~~ Section 155.2.5 only when the applicant has shown that all of the following conditions exist:
1. Through application of the Wetland Overlay Zone protections ~~is ordinance~~, the property has been rendered not buildable;
 2. The applicant has exhausted all other options available under this Chapter 155 to relieve the hardship;
 3. The proposed variance is the minimum variance 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 <u>110</u> | Goal 5 Requirements |
| 155.2.6. 300 <u>120</u> | Definitions |
| 155.2.6. 400 <u>130</u> | Determination of Local Significant Riparian Corridors |
| 155.2.6. 500 <u>140</u> | Protection of Riparian Corridors |
| 155.2.6. 600 <u>150</u> | Variances <u>Prohibited Activities within Riparian Corridors</u> |
| <u>155.2.6.160</u> | <u>Variances</u> |

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~~120 below) which occur within the boundaries of the City.

155.2.6.~~200~~110 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~~120 Definitions

Fish ~~habitat~~ 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~~ 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~~ the area adjacent to a river, lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem ~~{ORS 541.351(10)}. See also OAR 660-023-0090(1)(b).~~

Riparian ~~corridor~~ 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)(e).~~ Along all lakes, and fish-bearing streams with average annual stream flow less than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be fifty (50) feet from the top of each 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) and OAR 660-023-0090(5)]. See also Section 155.2.6. ~~500~~ 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 (1)(f)].

Top of ~~bank~~ Bank shall have the same meaning as “bank-full stage” defined in OAR 141-085-~~0010(2)~~ 0510(5) as “the two-year recurrence interval flood elevation.” “~~Top~~ Toe 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~~ Area is the area between the banks of a lake, pond, river, and perennial or fish-bearing intermittent stream, excluding man-made farm ponds. [OAR 660-023-0900(1)(h)]

155.2.6. ~~400~~ 130 **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~~ Dunes City Local Wetlands Inventory and Riparian Inventory, the adequacy shall be ~~addressed~~ determined by the Planning Commission and may be appealed to the City Council.
- 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 twenty-five (25) feet and shall be based upon the DCLWIRI.

155.2.6. ~~500~~ 140 **Protection of Riparian Corridors**

- A. Locally Significant Riparian Corridors, as listed in the DCLWIRI, shall determine its riparian corridor boundary at fifty (50) feet from the top of bank.

155.2.6 – Riparian Overlay Zone

- B. Where the riparian corridor includes all or portions of a ~~LSW~~ locally significant wetland, 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 (8) feet in width; and
 - 4. Replacement of less than seventy-five percent (75%) of an 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~~ Upon an approved variance application, the setback may be allowed to average fifty (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~~ Section 155.2.6, 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 (Soil Erosion and Vegetation Removal) of ~~this~~ Dunes City Code.
- H. Erosion control measures approved by appropriate regulatory agencies.

155.2.6.600150 Prohibited Activities within Riparian Corridors

- A. The following activities are prohibited within a riparian corridor, except as may be allowed by Section 155.2.6.500-140(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 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. Application of chemicals such as herbicides, pesticides, and fertilizers unless applied in accordance with State and federal regulations.

155.2.6.160 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 – Variances shall be followed for approval of a variance except that the variance criteria of this ~~section~~ Section 155.2.6.160 shall apply subject to the approval of ~~DSL~~ the Department of State Lands (DSL) and US Army Corp. of Engineers.
- B. Mapping Error Variances and Corrections. Using a Type I process, ~~The~~ the City ~~may~~ will 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. 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 DSL-approved delineations are provided.
- C. Hardship Variances. The Type III process and the procedures of Section 155.5.1 (Variances) shall be followed for consideration of a hardship variance except that the variance criteria of this Section 155.2.6.160 shall apply in lieu of the variance criteria at 155.5.1. The City Council ~~may~~ will grant a variance to the provisions of this ~~ordinance~~ Section 155.2.6 only when the applicant has shown that all of the following conditions exist:
 1. Through application of ~~this ordinance~~ any provision of Dunes City Title XV, the property has been rendered not buildable;
 2. The applicant has exhausted all other options available under this ~~chapter~~ Chapter 155 to relieve the hardship;
 3. The proposed variance is the minimum variance 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.

DIVISION 155.3 — DESIGN STANDARDS

Sections:

155.3.0 Design Standards Administration

155.3.0.100 Design Standards Administration

155.3.1 Access and Circulation

155.3.1.100 Purpose

155.3.1.110 Vehicular Access and Circulation

155.3.1.120 Pedestrian Access and Circulation (Reserved)

155.3.2 Landscaping, Street Trees, Fences, and Walls (Reserved)

155.3.3 Vehicle and Bicycle Parking

155.3.3.100 Purpose

155.3.3.110 (Reserved)

155.3.3.120 Vehicle Parking and Loading Standards

155.3.3.130 Bicycle Parking Standards

155.3.4 Public Facilities Standards

155.3.4.100 Purpose

155.3.4.110 Transportation Standards

155.3.4.120 Public Use Areas

155.3.4.130 Sanitary Sewer and Water Service Improvements

155.3.4.140 Storm Drainage Improvements

155.3.4.150 Utilities

155.3.4.160 Fire Hydrants (Reserved)

155.3.4.170 Public Utility Easements

155.3.4.180 Construction Plan Approval

155.3.4.190 Installation

155.3.5 Surface Water Management

155.3.6 Solar Access

155.3.6.100 Purpose

155.3.6.110 General

155.3.6.120 Definitions

155.3.6.130 Solar Energy Easement Appurtenant; Termination

155.3.6.140 Requirements for Easement Creation by Instrument; Recordation

155.3.0 Design Standards Administration

Sections:

- 155.3.0.100 Design Standards Administration
- ~~155.3.1 Access and Circulation~~
- ~~155.3.2 Landscaping, Street Trees, Fences and Walls (Reserved)~~
- ~~155.3.3 Vehicle and Bicycle Parking~~
- ~~155.3.4 Public Facilities Standards~~
- ~~155.3.5 Surface Water Management~~
- ~~155.3.6 All Uses~~
- ~~155.3.67 Solar Access~~
- ~~155.3.8 Traffic Impact Studies~~

155.3.0.100 Design Standards Administration

155.3.0.1 Applicability

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

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

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

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

155.3.0.2 Types of Design Standards

The City's development design standards are contained in both [SectionDivision 155.2 – Land Use Zones](#) and [SectionDivision 155.3 – Design Standards](#). ~~It is important to review both Sections, and all relevant code sections within the sections, to determine which standards apply. The City may prepare checklists to assist property owners and applicants in determining which sections apply. See SectionDivision 155.4 – Applications and Review Procedures for all processes used for land use decisions.~~

- A. ~~SectionDivision 155.3. The design standards contained within the following sub-Sections apply throughout the City, for all land use types:~~ [All developments within Dunes City must comply with the provisions set forth in Sections 155.3.1 through 155.3.6](#)

~~155.3.1 Access and Circulation~~

~~155.3.2 Landscaping, Street Trees, Fences and Walls~~ [\(Reserved\)](#)

~~155.3.3 Automobile and Bicycle Parking~~

~~155.3.4 Public Facilities Standards~~

~~155.3.5 Surface Water Management~~

~~155.3.6 Other Design Standards~~

~~155.3.6 All Uses~~

~~155.3.7 Solar Access~~

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

155.3.1 Access and Circulation

Sections:

| | |
|--------------|---|
| 155.3.1.100 | Purpose |
| 155.3.1.2110 | Vehicular Access and Circulation |
| 155.3.1.3120 | Pedestrian Access and Circulation <u>(Reserved)</u> |

155.3.1.100 Purpose

The purpose of this Section **155.3.1** is to ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles. ~~Sub-section 155.3.1.2 provides standards for vehicular access and circulation. Sub-section 155.3.1.3 provides standards for pedestrian access and circulation. Standards for transportation improvements are provided in Sub-section 155.3.4.1.~~

155.3.1.2110 Vehicular Access and Circulation

A. Intent and Purpose. The intent of this Section 155.3.1.110 is to manage vehicle access to development through a connected street system while preserving the flow of traffic in terms of safety, street capacity, and efficiency. Access shall be managed to maintain an adequate “level of service” and to maintain the “functional classification” of streets and will conform to the City Engineer’s specifications. ~~as required by the City’s Master Road Plan. Major streets including highways, arterials, and collectors serve as the primary system for moving people and goods. “Access management” is a primary concern on these streets. Local streets and alleys provide access to individual properties. If vehicular access and circulation are not properly designed, these streets will be unable to accommodate the needs of development and serve their transportation function. This Section attempts to balance the right of reasonable access to private property with the right of the citizens of the City and the State of Oregon to safe and efficient travel. It also requires all developments to construct planned streets (arterials and collectors) and to extend local streets.~~

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

Level of Service (LOS). A concept that is used to assess how well a roadway system serves its current or projected needs. It measures traffic flow quality as experienced by motor vehicle drivers and passengers.

Functional Classification. A street classification system that describes streets according to their purpose and capacity. The roadway classification system for Dunes City includes three levels of roads: major collector, minor collector and local roads.

- B. Applicability. This ~~section~~Section 155.3.1.110 ~~shall apply~~applies to all streets within the City and to all properties that abut these streets.
- C. Access Permit Required. Access to a public street requires an Access Permit in accordance with the following procedures:
1. Permits for access to City streets shall be subject to review and approval by the ~~Read Commission~~Planning Commission based on the standards contained in this Section 155.3.1, and the provisions of ~~Subsection~~Section 155.3.4.110 – Transportation Standards. ~~An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval. The Planning Official may request comments from the City's Public Works Maintenance Supervisor on an application for an Access Permit.~~
 2. ~~Permits for access~~Access to State highways shall be subject to review and approval by ~~the~~ Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the City or Lane County. In that case, the City or County shall determine whether access is granted based on its adopted standards.
 3. ~~Permits for access~~Access to County roads or highways shall be subject to review and approval by Lane County, except where the County has delegated this responsibility to the City, in which case the City shall determine whether access is granted based on adopted County standards.
- D. Traffic Study Requirements. ~~The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See Section 155.3.4.1 – Transportation Standards. The City, after review by the City Engineer, or other road authority with jurisdiction, may require a Traffic Impact Study (TIS) as part of an application for development, a change in use, or a change in access. A TIS shall be required when a land use application involves one or more of the following actions:~~
1. A change in zoning or a plan amendment designation;
 2. Any proposed development or land use action that a road authority states may have operational or safety concerns along its facility(ies);
 3. An increase in site traffic volume generation by three hundred (300) Average Daily Trips (ADT) or more; or
 4. An increase in peak hour volume of a particular movement to and from the State highway by twenty percent (20%) or more; or
 5. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by ten (10) vehicles or more per day; or

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

A Traffic Impact Study must be prepared by an engineer currently licensed by the State of Oregon, in consultation with the Oregon Department of Transportation's (ODOT) regional development review planner and OAR Chapter 734, Division 51 and applicable OARs.

- E. Conditions of Approval. The City ~~or other agency with access permit jurisdiction~~ may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, ~~and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. In the Community Commercial District, access to and from off-street parking areas shall discourage backing onto a public street.~~
- F. Access Options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (a minimum of ten (10) feet per lane is required). These methods are "options" to the developer/subdivider, unless one method is specifically required by ~~Section~~Division 155.2 – Land Use Zones. ~~(i.e., under "Special Standards for Certain Uses").~~
 1. Option 1. Access is from an existing or proposed alley ~~or mid-block lane~~. If a property has access to an alley ~~or lane~~, direct access to a public street is not permitted.
 2. Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). An access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.
 3. Option 3. Access is from a public street adjacent to the development parcel. ~~If practicable,~~ The owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in SubsSection G, below.
 4. Subdivisions Fronting Onto an Arterial Street. New residential land divisions fronting onto an arterial street shall be required to provide alleys, ~~or secondary (local or collector) streets for access to individual lots. When alleys or secondary streets cannot be constructed due to topographic or other physical constraints, access may be provided by consolidating driveways for clusters of two or more lots (e.g., includes flag lots and mid-block lanes).~~

5. Double-Frontage Lots. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. ~~For example, access shall be provided from a local street before a collector or arterial street. Except for corner lots, the creation of new double-frontage lots shall be prohibited in the Residential District, unless topographic or physical constraints require the formation of such lots. When double-frontage lots are permitted in the Residential District, a landscape buffer with trees and/or shrubs and ground cover not less than 10 feet wide shall be provided between the back yard fence/wall and the sidewalk or street; maintenance shall be assured by the owner (i.e., through homeowners association, etc.).~~

6. Flag Lots. In all land divisions flag lots are only allowed through a variance process. The Planning Commission and City Council may approve flag lots at their discretion.

Important cross-references to other code sections

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

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

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

- H. Number of Access Points. For single-family, two-family, and three-family housing types, ~~one~~ two street access points ~~are~~ is permitted per lot if they maintain 50-foot separation. ~~when alley access cannot otherwise be provided; except that two access points may be permitted for two-family and three-family housing on corner lots (i.e., no more than one access per street), subject to the access-spacing standards in Section 'G', above.~~ The number of street access

points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. ~~Shared access may be required, in conformance with Section I, below, in order to maintain the required access spacing, and minimize the number of access points.~~

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

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

- J. Street Access.

1. A lot capable of future division and greater than five (5) acres shall be created only if it fronts a street for at least sixty (60) feet.
2. A driveway shall serve a maximum of four (4) tax lots.
3. In the Community Commercial Zone, access to and from off-street parking areas shall be designed to prevent backing onto a public street.
4. Existing non-conforming accesses and parking lots shall be brought into conformance, when expanded or redeveloped more than seventy-five percent (75%).

- K. Driveway Standards and Fire Access. ~~Dunes City has many developable lots of large size and standards need to exist for potential multiple lot usage of driveways and for fire and rescue vehicle access and egress. The Oregon Uniform Fire Code (UFC) requires fire and emergency vehicle access to within 150 feet of any portion of any structure. To construct or modify a driveway on a lot where any portion of any existing or proposed structure is one hundred fifty (150) feet or more away from a public street, a fire-access street approval~~

issued by the Siuslaw Valley Fire Marshal is required prior to issuance of a building permit or at the time of an application for a tentative plan.

~~It is the intent of Dunes City that fire truck access requirements for driveways and streets coincide. Therefore, the driveway specifications for a lot on which any portion of any structure is beyond 150 feet from a City street should meet the minimum UFC requirements for a fire access street.~~ Grading or excavation needed for a driveway ~~may~~ requires a permit ~~as specified in section 151.042 pursuant to the provisions of Chapter 90 – Streets and Sidewalks of the Dunes City Code of Ordinances.~~

1. Standards. All driveways shall meet the following standards as a minimum:

- a. Single driveways shall have at least a 12-foot running surface width.
- b. A driveway on a two, three or four lot shared easement shall have at least a 30-foot width and be constructed with no less than a 12-foot asphalt or concrete running surface with ~~2.5~~four (4) feet of rocked shoulders. The easement shall be at least thirty (30) feet wide plus any additional width needed to support the driveway surface and any required fill.
- c. Each driveway accessing a street shall have at the intersection with the street running surface, an asphalt or concrete pad at least 8 feet in length and as wide as the running surface of the driveway plus an approach radius of ~~a~~ ten (10) feet on each side.
- d. To ensure proper stormwater management, any driveway with a slope in excess of ten percent (10%) shall be designed by an engineer licensed ~~in~~ by the State of Oregon.
- e. If any lot or parcel that shares a driveway meets the requirements for further division and exceeds five (5)-acres, the driveway easement shall be a minimum of fifty (50) feet in width.

~~Additional Requirements for Long Driveways:~~

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

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

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

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

M. Vision Clearance. A vision clearance area must be maintained on the corners of all property adjacent to the intersection of two streets, an alley and street or a driveway providing access to a street. The clear vision area is a triangle established across the corner of property adjacent to intersections of public or private streets or alleys and at intersections of driveways and streets. The two legs of the clear vision triangle are each measured from the point of intersection with the roadway. Measurements along a driveway are taken at the edge of the roadway. No signs, structures, ~~or~~ vegetation, ~~or other obstructions to vision~~ in excess of three and a ~~feet~~ half feet (3.5') in height ~~shall be placed~~ are allowed in the vision clearance area except street signs, posts or poles (e.g., power, signal or luminaire poles). Driveway approaches and driveways are not permitted within the clear vision area. as shown in Appendix 155.6 Vision Clearance Diagram. The minimum vision clearance area may be increased by the Planning Commission or Road Commission upon finding that more sight distance is required (i.e., due to traffic speeds, street alignment, etc.).

Figure 155.3.1.2110(M) – Minimum Vision Clearance Areas Setbacks (See also Section ~~Division~~ 155.6 – Appendix for vision clearance diagram.) The following measurements define the clear vision areas:

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

| <u>Intersection at a Street and the following:</u> | <u>Minimum Distance of Triangle Side</u> |
|--|--|
| <u>Street</u> | <u>25 feet</u> |
| <u>Alley</u> | <u>10 feet</u> |
| <u>Driveway</u> | <u>10 feet</u> |

155.3.1.3120 Pedestrian Access and Circulation [Reserved]

155.3.2 – Landscaping, Street Trees, Fences, and Walls

155.3.2 Landscaping, Street Trees, Fences, and Walls [\[Reserved\]](#)

Sections:

- ~~155.3.2.1 — Purpose~~
- ~~155.3.2.2 — Landscape Conservation~~
- ~~155.3.2.3 — New Landscaping~~
- ~~155.3.2.4 — Street Trees~~
- ~~155.3.2.5 — Fences and Walls~~

~~155.3.2.1 — Purpose.~~

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

~~**Section 155.3.2.2 — Landscape Conservation** Refer to Chapter 154~~

~~**Section 155.3.2.3 — New Landscaping** *[Reserved]*~~

~~**Section 155.3.2.4 — Street Trees** *[Reserved]*~~

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

155.3.3 – Vehicle and Bicycle Parking

155.3.3 Vehicle and Bicycle Parking

Sections:

| | |
|--------------|---------------------------------------|
| 155.3.3.100 | Purpose |
| 155.3.3.2110 | Applicability (Reserved) |
| 155.3.3.3120 | Vehicle Parking and Loading Standards |
| 155.3.3.4130 | Bicycle Parking Standards |

155.3.3.100 Purpose

The purpose of this Section [155.3.3](#) is to provide ~~basic and flexible~~ standards for development of vehicle and bicycle parking. ~~The design of parking areas is critically important to the viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Historically, some communities have required more parking than is necessary for some land uses, paving extensive areas of land that could be put to better use. Because vehicle parking facilities can occupy large amounts of land, they must be planned and designed carefully to use the land efficiently while maintaining the visual character of the community. This Section recognizes that each development has unique parking needs by providing a flexible approach for determining parking space requirements (i.e., “minimum” and “performance-based” standards). This Section also provides standards for bicycle parking because many people use bicycles for recreation, commuting, and general transportation. Children, as well as adults, need safe and adequate spaces to park their bicycles throughout the community.~~

155.3.3.2110 ~~Applicability~~ (Reserved)

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

155.3.3.3120 Vehicle Parking and Loading Standards

A. [Required Parking](#) ~~requirements~~ [Spaces](#).

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

~~1. Required parking spaces:~~

| USE | PARKING SPACES REQUIRED |
|---|--|
| Single or multi-family One or two family dwelling or manufactured home | Two off-street parking spaces per dwelling unit |
| Retail, commercial establishments | One for every 300 square feet of gross floor area plus one space per employee , or 5½ spaces per 1,000 square feet, whichever provides the greatest amount of parking |
| Business, professional and government offices | One for every 250 square feet of gross floor area plus one space per employee or 2½ spaces per 1,000 square feet of gross floor |

155.3.3 – Vehicle and Bicycle Parking

| | |
|--|--|
| | area, whichever provides the greatest amount of parking |
| Medical offices and clinics | 6½ spaces per practitioner, one for every <u>or</u> 150 square feet of gross floor area <u>plus one space per employee</u> , whichever provides the greatest amount of parking |
| <u>Bed and Breakfast</u> | <u>A maximum of five bedrooms for rent is allowed and one off-street parking space is required for each bedroom rented</u> |
| <u>Residential Care Homes and Facilities</u> | <u>A minimum of one off-street parking space for each employee and one for every two residents</u> |
| Motels | One space per lodging unit, plus one for every four restaurant seats <u>plus one space per employee</u> |
| Churches, clubs, lodges, etc. | One space for every four fixed seats, every eight feet of bench length, or every 28 square feet in the main auditorium or place of worship where no permanent seats or benches are maintained |
| Restaurants | One space per 200 square feet of floor area, plus one space per employee |

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

C. Common Facilities for Mixed Uses.

1. ~~Mixed uses~~ Common Facilities. In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses. ~~or 5.5 spaces per 1,000 feet of gross floor area, whichever provides the greatest amount of parking. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except as provided in 2.b. below.~~
2. Joint Use of Parking Facilities. The Planning Commission may authorize the joint use of parking facilities required by the mixed uses ~~and any other parking facility~~, provided that:

155.3.3 – Vehicle and Bicycle Parking

- a. The applicant shows that there is no substantial conflict in the principal operating hours of the building or use for which the joint use of parking facilities are proposed;
- b. The parking facility for which joint use is proposed is no further than four hundred (400) feet from the building or use required to have provided parking; and
- c. The parties concerned in the joint use of off-street parking facilities shall [show](#) evidence [of an](#) agreement for such joint use by a legal instrument approved by the City Attorney as to form and content. Such instrument, when approved as conforming to the provisions of this ~~section~~[Section 155.3.3.120](#), shall be recorded in the office of the City Recorder.

D. Parking Area Design and Improvement. [\[Reserved\]](#)

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

~~—1.—Service drives. Groups of five or more parking spaces, except those in conjunction with single-family dwellings on a single lot, shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a street, other than an alley, will be required. Service drives shall be designed and constructed to facilitate the flow of traffic and provide maximum safety in traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum, which will allow the property to accommodate and service, anticipated traffic.~~

~~2.—Markings. On parking lots having five or more parking spaces, such spaces shall be clearly marked in a permanent manner.~~

~~3.—Surface and grading. All new parking areas shall have a durable, dust-free surfacing of asphaltic concrete, Portland cement concrete, or other approved materials. All parking areas, except those in conjunction with a residential use, shall be graded so as not to drain storm water onto any abutting public or private property.~~

~~4.—Bumpers. All parking areas, except those required in conjunction with a residential use, shall provide a substantial bumper, which will prevent cars from encroachment on abutting private and public property.~~

~~5.—Fences, walls, and hedges. All parking areas (including service drives in the Community Commercial District), except those required in conjunction with a residential use, which abut a residential district, and which require an interior yard setback, shall be enclosed along and immediately adjacent to any interior property which abuts any residential district with an opaque, site-obscuring fence, wall, or hedge not less than three feet nor more than eight feet in height, but adhering to the visual clearance and front and interior yard requirements established for the Community Commercial District. If the fence, wall, or hedge is not located on the property line, the area between the fence, wall, or hedge and the property line shall be landscaped with lawn or low-growing evergreen ground cover, or vegetable or rock mulch. All plant vegetation in this area shall be adequately maintained, and the fence, wall, or hedge shall be maintained in good condition. Screening or planting shall be of such size as to provide the required degree of screening within 12 months after installation. Adequate provisions shall be maintained to protect walls, fences, or plant materials from being damaged by vehicles using the parking area.~~

155.3.3 – Vehicle and Bicycle Parking

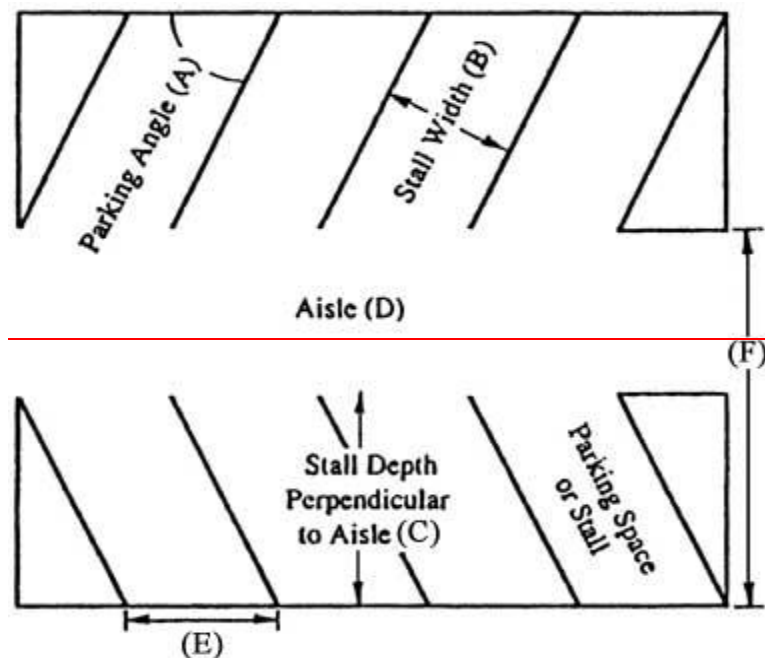
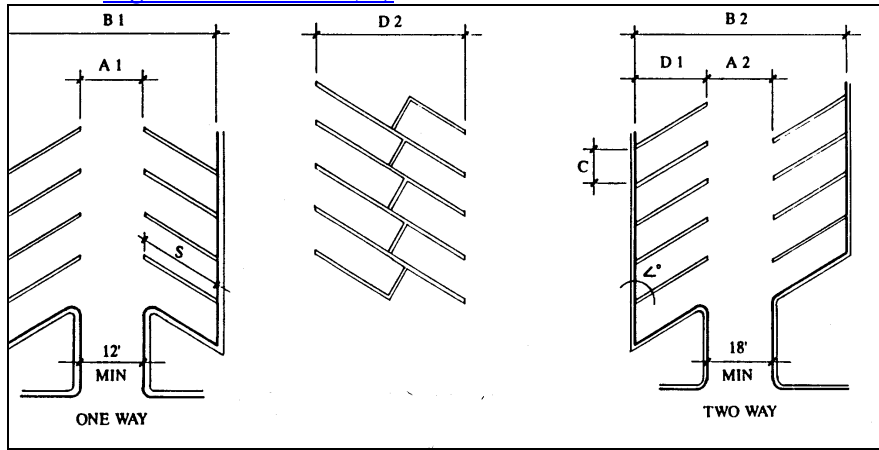
~~6. — Lights. Any lights provided to illuminate any public or private parking area shall be so arranged as to reflect the light away from any abutting or adjacent residential district.~~

E. Parking Tables and Diagrams.

The ~~following~~ [Parking Area Layout](#) table provides the minimum dimensions of public or private parking areas based on the following diagram:

Parking diagram:-

[Figure 155.3.3.120 \(E\)](#)



~~(2) — Parking table.~~

155.3.3 – Vehicle and Bicycle Parking

| <i>(A)</i> Parking Angle | <i>(B)</i> Stall Width | <i>(C)</i> Stall Depth (Minimum) (ft.) | <i>(D)</i> Clear Aisle Width (Minimum) (ft.) | <i>(E)</i> Staff Distance at Bay Side (ft.) (Curb Length) | <i>(F)</i> Clear Bay Width (Minimum) (ft.) | <i>(G)</i> Permitted Decrease (Minimum) in Clear Aisle Width for Private Parking Areas (ft.) |
|------------------------------------|----------------------------------|--|--|---|--|--|
| Parallel | 8'0" | | 12.0 | 22.0 | 20.0 | 2 |
| 20° | 8'0" | 13.6 | 11.0 | 23.4 | 24.6 | 4 |
| | 8'6" | 14.1 | 11.0 | 24.9 | 25.1 | |
| | 9'0" | 14.6 | 11.0 | 26.3 | 25.6 | |
| | 9'6" | 15.1 | 11.0 | 27.8 | 26.1 | |
| | 10'0" | 15.5 | 11.0 | 29.2 | 26.5 | |
| 30° | 8'0" | 16.0 | 11.0 | 16.0 | 27.0 | 4 |
| | 8'6" | 16.4 | 11.0 | 17.0 | 27.4 | |
| 30° (cont'd) | 9'0" | 16.8 | 11.0 | 18.0 | 27.8 | 4 |
| | 9'6" | 17.3 | 11.0 | 19.0 | 28.3 | |
| | 10'6" | 17.7 | 11.0 | 20.0 | 28.7 | |
| 45° | 8'0" | 18.4 | 14.0 | 11.3 | 32.4 | 3 |
| | 8'6" | 18.7 | 13.5 | 12.0 | 32.2 | |
| | 9'0" | 19.1 | 13.0 | 12.7 | 32.1 | |
| | 9'6" | 19.4 | 13.0 | 13.4 | 32.4 | |
| | 10'0" | 19.8 | 13.0 | 14.1 | 32.8 | |
| 60° | 8'0" | 19.7 | 19.0 | 9.2 | 38.7 | 3 |
| | 8'6" | 20.0 | 18.5 | 9.8 | 38.5 | |
| | 9'0" | 20.3 | 18.0 | 10.4 | 38.3 | |
| | 9'5" | 20.5 | 18.0 | 11.0 | 38.5 | |
| | 10'0" | 20.8 | 18.0 | 11.5 | 38.8 | |
| 70° | 8'0" | 19.8 | 20.0 | 8.5 | 39.8 | 3 |
| | 8'6" | 20.1 | 19.5 | 9.0 | 39.6 | |
| | 9'0" | 20.4 | 19.0 | 9.6 | 39.4 | |

155.3.3 – Vehicle and Bicycle Parking

| (A) <i>Parking Angle</i> | (B) <i>Stall Width</i> | (C) <i>Stall Depth (Minimum) (ft.)</i> | (D) <i>Clear Aisle Width (Minimum) (ft.)</i> | (E) <i>Staff Distance at Bay Side (ft.) (Curb Length)</i> | (F) <i>Clear Bay Width (Minimum) (ft.)</i> | (G) <i>Permitted Decrease (Minimum) in Clear Aisle Width for Private Parking Areas (ft.)</i> |
|-----------------------------|---------------------------|---|---|--|---|---|
| | 9'6" | 20.6 | 18.5 | 10.1 | 39.1 | |
| | 10'0" | 20.9 | 18.0 | 10.6 | 38.9 | |
| 80° | 8'0" | 19.2 | 25.0 | 8.1 | 44.2 | 3 |
| | 8'6" | 19.3 | 24.0 | 8.6 | 43.3 | |
| | 9'0" | 19.4 | 24.0 | 9.1 | 43.4 | |
| 80° (cont'd) | 9'6" | 19.5 | 24.0 | 9.6 | 43.5 | |
| | 10'0" | 19.6 | 24.0 | 10.2 | 43.6 | |
| 90° | 8'0" | 18.0 | 26.0 | 8.0 | 44.0 | 3 |
| | 8'6" | 18.0 | 25.0 | 8.5 | 43.0 | |
| | 9'0" | 18.0 | 24.0 | 9.0 | 42.0 | |
| | 9'6" | 18.0 | 24.0 | 9.5 | 42.0 | |
| | 10'0" | 18.0 | 24.0 | 10.0 | 42.0 | |

| Parking Area Layout Table | | | | | | | | | |
|--|----------------------|-------------|-------------|-----------|-------------|------------|------------|------------|---------------|
| Standard Space (See Figure 155.3.3.120(G) for ADA space requirements) | PARKING ANGLE ≤ ° | CURB LENGTH | STALL DEPTH | | AISLE WIDTH | | BAY WIDTH | | STRIPE LENGTH |
| | | | SINGLE D1 | DOUBLE D2 | ONE WAY A1 | TWO WAY A2 | ONE WAY B1 | TWO WAY B2 | |
| | 90° | 8'-6" | 18' | 36' | 23' | 23' | 59' | 59' | 18' |
| | 60° | 10' | 20' | 40' | 17' | 18' | 57' | 58' | 23' |
| | 45° | 12' | 18'-6" | 37' | 13' | 18' | 50' | 55' | 26'-6" |
| | 30° | 17' | 16'-6" | 33' | 12' | 18' | 45' | 51' | 32'-8" |
| | 0° | 22' | 8'-6" | 17' | 12' | 18' | 29' | 35' | 8'-6" |

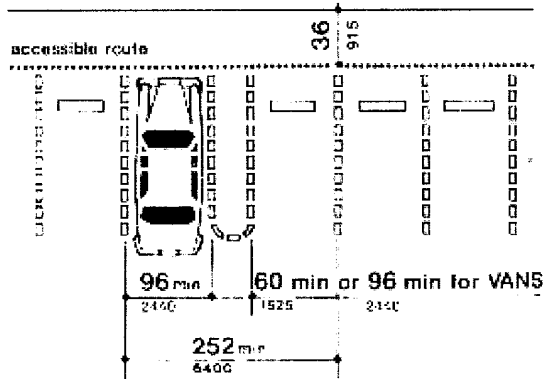
F. Off-Street Loading.

1. Purpose. The purpose of this Section 155.3.3.120(F) is to provide standards for a minimum number of off-street loading spaces that will ensure adequate loading areas for large uses and developments, and to ensure that the appearance of loading areas is consistent with that of parking areas.
2. Commercial or other non-residential buildings erected or established which abut upon an alley or street shall have one (1) permanently maintained loading space for commercial vehicles of not less than ten (10) feet in width and twenty-two (22) feet in length for each ~~1,000~~2,000 square feet of lot area or fraction thereof upon which the building is located, provided that not more than two (2) such loading spaces shall be required.
3. Placement, setbacks, and landscaping. Loading areas shall conform to the setback standards in Division 155.2 – Land Use Zones. Where parking areas are prohibited between a building and the street, loading areas are also prohibited. The Planning Commission may approve a loading area adjacent to or within the street right-of-way through Site Design Review or Conditional Use Permit review, as applicable, where it finds that loading and unloading operations are short in duration (*i.e.*, less than one hour), do not obstruct traffic during peak traffic hours or interfere with emergency response services.

- G. ~~Disabled Person Parking Spaces.~~ The following parking shall be provided for disabled persons, in conformance with the Americans with Disabilities Act. ~~Disabled parking is included in the minimum number of required parking spaces in Section A. See following table for disabled person parking requirements.~~ Americans with Disabilities Act (ADA). Parking shall be provided consistent with ADA requirements including, but not limited to, the minimum number of spaces for automobiles, van-accessible spaces, location of spaces relative to building entrances, accessible routes between parking areas and building entrances, identification signs, lighting, and other designed and construction requirements.

Disabled Person Parking Requirements:
Figure 155.3.3.120(G)

155.3.3 – Vehicle and Bicycle Parking



Minimum Number of Accessible Parking Spaces
ADA Standards for Accessible Design 4.1.2 (5)

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

* one out of every 8 accessible spaces

** 7 out of every 8 accessible parking spaces

155.3.3.4130

Bicycle Parking ~~Standards~~ *Reserved*

A. Standards. Bicycle parking spaces shall be provided with new development and, where a change of use occurs, at a minimum, shall follow the standards in Table 155.3.3.130(A). Where an application is subject to Conditional Use Permit approval or the applicant has requested a reduction to an automobile parking standard, the Planning Commission may require bicycle parking spaces in addition to those in Table 155.3.3.130(A).

155.3.3 – Vehicle and Bicycle Parking

TABLE 155.3.3.130(A)
MINIMUM REQUIRED BICYCLE PARKING SPACES

| <u>Use</u> | <u>Minimum Number of Spaces</u> |
|---|---|
| <u>Multifamily Residential (not required for parcels with fewer than four dwelling units)</u> | <u>Two bike spaces per four dwelling units</u> |
| <u>Commercial</u> | <u>Two bike spaces per primary use or one per five vehicle spaces, whichever is greater</u> |
| <u>Community Service</u> | <u>Two bike spaces</u> |
| <u>Other Uses</u> | <u>Two bike spaces per primary use or one per ten vehicle spaces, whichever is greater</u> |

B. Design. Bicycle parking shall consist of staple-design steel racks or other City-approved racks, lockers or storage lids providing a safe and secure means of storing a bicycle.

C. Exemptions. This section does not apply to single-family and duplex housing or home occupations. The Planning Commission may exempt other uses upon finding that, due to the nature of the use or its location, it is unlikely to have any patrons or employees arriving by bicycle.

D. Hazards. Bicycle parking shall not impede or create a hazard to pedestrians or vehicles, and shall be located so as to not conflict with the vision clearance standards of Section 155.3.1.110(M) – Vision Clearance Setbacks and 155.6 – Appendix (Vision Clearance).

155.3.4 Public Facilities Standards

Sections:

| | | |
|-------------|-----|--|
| 155.3.4.0 | 100 | Purpose and Applicability |
| 155.3.4.1 | 10 | Transportation Standards |
| 155.3.4.120 | | Public Use Areas |
| 155.3.4.130 | | Sanitary Sewer and Water Service Improvements |
| 155.3.4.140 | | Storm Drainage Improvements |
| 155.3.4.150 | | Utilities |
| 155.3.4.160 | | Fire Hydrants (<u>Reserved</u>) |
| 155.3.4.170 | | Public Utility Easements |
| 155.3.4.180 | | Construction Plan Approval and Assurances |
| 155.3.4.190 | | Installation |

155.3.4.0 100 Purpose ~~and Applicability~~

~~A. Purpose.~~ The purpose of this Section 155.3.4 is to provide planning and design standards for public and private transportation facilities and utilities. Streets are the most common public spaces, touching virtually every parcel of land. Therefore, one of the primary purposes of this Section 155.3.4 is to provide standards for attractive and safe streets that ~~can~~ accommodate vehicle traffic from planned growth, and provide a range of transportation options, including options for driving, walking and bicycling. ~~This Section is also intended to implement the City's Master Road Plan.~~

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

~~—B. When Standards Apply. Unless otherwise provided, the standard specifications for construction, reconstruction or repair of transportation facilities, utilities and other public improvements within the City shall occur in accordance with the standards of this Section. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Section.~~

~~—C. Standard Specifications. The City shall establish standard construction specifications consistent with the design standards of this Section and application of engineering principles. They are incorporated in this code by reference.~~

~~—D. Conditions of Development Approval. No development may occur unless required public facilities are in place or guaranteed, in conformance with the provisions of this Code. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development. Findings in the development approval shall indicate how the required improvements are roughly proportional to the impact.~~

155.3.4.110 Transportation Standards

A. Development Standards. No development shall occur unless the development has frontage or approved access to a public street, in conformance with the provisions of **Section 155.3.1 - Access and Circulation**, and the following standards are met:

1. Streets within or adjacent to a development shall be improved in accordance with the ~~Master Road Plan and the provisions of this Section~~ City Engineer's current standards. These standards may be amended by City Council Resolution;
2. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this Section 155.3.4.110, and public streets shall be dedicated to the ~~applicable City, County or State jurisdiction~~; and

~~3. New streets shall be paved; and~~

34. The City may accept a future improvement guarantee, performance bond or other agreement ~~[e.g., owner agrees not to remonstrate (object) against the formation of a local improvement district in the future]~~ in lieu of street improvements. ~~if one or more of the following conditions exist:~~

~~a. A partial improvement may create a potential safety hazard to motorists or pedestrians;~~

~~b. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;~~

~~c. The improvement would be in conflict with an adopted capital improvement plan; or~~

~~d. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets.~~

B. Variances. Variances to the transportation design standards in this Section 155.3.4 may be granted by means of a Variance, as governed by Section **155.5.1 — Variances**. ~~A variancee may be granted under this provision only if a required improvement is not feasible due to topographic constraints or constraints posed by fragile lands (Section 155.2.4).~~

C. Creation of Rights-of-Way for Streets and Related Purposes. Streets shall be created through the approval and recording of a final subdivision or partition plat. ~~except the~~ The City may approve the creation of a street by acceptance of a deed. ~~provided that the street is deemed essential by the City Council for the purpose of implementing the Master Road Plan, and the deeded right of way conforms to the standards of this Code. All deeds of dedication shall be in a form prescribed by the City and shall name "the public," as grantee. All other~~ dedications shall be accepted by City Council resolution Resolution and recorded before any improvements are performed by the City.

155.3.4 – Public Facilities Standards

- D. Creation of Access Easements. The City may approve an access easement established by deed when the easement is necessary to provide for access and circulation in conformance with Section **155.3.1 – Access and Circulation**.
- E. Street Location, Width and Grade. Except as noted below, the location, width and grade of all streets shall conform to the ~~Master Road Plan~~ **City Engineer's specifications**, ~~or subdivision plat. Street location, width and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets:~~
- ~~1. Street grades shall be approved by the Road Commission in accordance with the design standards in sub-section 'N', below; and~~
 - ~~2. Where the location of a street is not shown in an existing street plan (See sub-section 'H'), the location of streets in a development shall either:~~
 - ~~a. Provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this Section, or~~
 - ~~b. Conform to a street plan adopted by the City, if it is impractical to connect with existing street patterns because of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.~~
- F. Minimum Rights-of-Way and Street Sections. Street rights-of-way and improvements shall be the widths in Table 155.3.4.1 **10(F)**. A variance shall be required in conformance with Subsection 155.3.4.1 **10(B)** to vary the standards in Table 155.3.4.1 **10(F)**. ~~Where a range of width is indicated, the decision-making authority, based upon the following factors, shall determine the width:~~
- ~~1. Street classification in the Master Road Plan;~~
 - ~~2. Anticipated traffic generation;~~
 - ~~3. On-street parking needs;~~
 - ~~4. Sidewalk and bikeway requirements based on anticipated level of use;~~
 - ~~5. Requirements for placement of utilities;~~
 - ~~6. Street lighting;~~
 - ~~7. Minimize drainage, slope, and sensitive lands impacts, as identified by Section 155.3.4.4 – Storm Drainage, and the Comprehensive Plan;~~
 - ~~8. Street tree location, as provided for in Section 155.3.4;~~
 - ~~9. Safety and comfort for motorists, bicyclists, and pedestrians;~~
 - ~~10. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided;~~
 - ~~11. Access needs for emergency vehicles; and~~
 - ~~12. Transition between different street widths (i.e., existing streets and new streets), as applicable.~~

Table **155.3.4.1 10(F)**

STREET RIGHT-OF-WAY AND PAVING WIDTHS

| Type of Street | Right-of-Way | Paving Width |
|----------------|--------------|--------------|
|----------------|--------------|--------------|

155.3.4 – Public Facilities Standards

| | Width (ft.) | (ft.) |
|--|-------------|-------------|
| Arterials | 60–120 ** | 24–48 ** |
| Collector streets and all business streets other than arterials | 60–80 ** | 24–44 ** |
| Local streets in single-family density areas—streets which in the judgment of the Planning Commission will never be more than 2400' in length, and which will have a relatively even division of traffic to two or more exits | 50 | 22 |
| Cul-de-sacs | 92 *** | 70 *** |
| All streets not specifically provided for above | 60 ** | 40 ** |
| <u>Alleys, public or private</u> | <u>20**</u> | <u>12**</u> |
| <p>** The City may require a width within the limits shown based upon adjacent physical conditions, safety of the public, and the traffic needs of the community, and in accordance with specifications of this Section and the Master Road Plan <u>the City Engineer</u>.</p> <p>*** Measured by diameter of circle constituting circular end.</p> | | |

G. Traffic Signals and Traffic Calming Features. [Reserved]

H. Future Street Plan and Extension of Streets.

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

authorized by the City or other applicable agency with jurisdiction over the street.

~~The cost of the barricade shall be included in the street construction cost.~~

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

I. Street Alignment and Connections. Street alignment and connections shall be constructed to the specifications of the City Engineer.

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

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

K. Intersection Angles. Intersection angles shall be constructed to the specifications of the City Engineer. ~~Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle or where a reduced angle is~~

~~necessary to provide an open space, pocket park, common area or similar neighborhood amenity. In addition, the following standards shall apply:~~

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

~~2. Intersections which are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle; and~~

~~3. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than 20 feet.~~

L. Existing Rights-of-Way. Whenever existing rights-of-way adjacent to or within a tract are of less than standard width, additional rights-of-way shall be provided at the time of subdivision or development, ~~subject to the provision of Section 155.3.4.0.D.~~

M. Dead-End Streets. Dead-end streets shall be constructed to the specifications of the City Engineer. ~~A dead-end street shall provide access to no more than 30 dwelling units, and shall only be used when environmental or topographical constraints, existing development patterns, or compliance with other standards in this code preclude street extension and through circulation:~~

~~1. All dead-end streets shall terminate with a circular or hammerhead turnaround. Circular turnarounds shall have a radius of no less than 45 feet, except that turnarounds may be larger when they contain a landscaped island or parking bay in their center. When an island or parking bay is provided, there shall be a fire apparatus lane of 20 feet in width; and~~

~~2. The length of the dead-end street shall be measured along the centerline of the street from the near side of the intersecting street to the farthest point of the cul-de-sac.~~

N. Grades and Curves. Grades and curves shall be constructed to the specifications of the City Engineer. ~~Grades shall not exceed 10% on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet), and:~~

~~1. Centerline curve radii shall not be less than 500 feet on arterials, 300 feet on major collectors, 200 feet on minor collectors, or 100 feet on other streets; and~~

~~2. Streets intersecting with a minor collector or greater functional classification street, or streets intended to be posted with a stop sign or signalization, shall provide a landing averaging 5%~~

~~or less. Landings are the portions of the street within 20 feet of the edge of the intersecting street at full improvement.~~

O. Curbs, Curb Cuts, Ramps, and Driveway Approaches. Concrete curbs, curb cuts, wheelchair and bicycle ramps, and driveway approaches shall be constructed to the specifications of the City Engineer ~~in accordance with standards specified in Section 155.3.1 Access and Circulation.~~

P. Streets Adjacent to Railroad Right-of-Way. [Reserved]

- Q. Development Adjoining Arterial Streets. Development adjoining arterial streets shall be constructed to the specifications of the City Engineer. ~~Where a development adjoins or is crossed by an existing or proposed arterial street, the development design shall separate residential access and through traffic, and shall minimize traffic conflicts. The design shall include one or more of the following:~~
- ~~— 1. A parallel access street along the arterial with a landscape buffer separating the two streets;~~
 - ~~— 2. Deep lots abutting the arterial or major collector to provide adequate buffering with frontage along another street. Double frontage lots shall conform to the buffering standards in Section 155.3.1.2.F;~~
 - ~~— 3. Screen planting at the rear or side property line to be contained in a non-access reservation (e.g., public easement or tract) along the arterial; or~~
 - ~~— 4. Other treatment suitable to meet the objectives of this subsection;~~
 - ~~5. If a lot has access to two streets with different classifications, primary access shall be from the lower classification street, in conformance with Sub-Section 155.3.1.2.~~
- R. Alleys, Public or Private. Alleys, public or private, shall be constructed to the specifications of the City Engineer. ~~Alleys shall conform to the standards in Table 155.3.4.1. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have a radius at the edge of the pavements of not less than 12 feet.~~
- S. Street Names. No street name shall be used without prior approval by the County. ~~which will duplicate or be confused with the names of existing streets in Dunes City or the City of Florence, except for extensions of existing streets. Street names, signs and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers.~~
- T. Survey Monuments. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments have been reestablished and protected.
- U. Street Signs. The City, County or State with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. ~~Stop signs and other signs may be required.~~
- V. Mail Boxes. Plans for Placement of mailboxes ~~to be used~~ shall be approved by the United States Postal Service.
- W. Street Light Standards. ~~The developer may be required to install streetlights in a pattern fitting the subdivision and according to the specifications of the Central Lincoln People's Utility District.~~ Street lights shall be installed to the specifications of the City Engineer.

- X. ~~Street Cross Sections.~~ Standards for Asphalt or Concrete Pavement. ~~The final lift of asphalt or concrete pavement shall be placed on all newly constructed public streets prior to final City acceptance of the street and within one year of the conditional acceptance of the street unless otherwise approved by the City Engineer. The final lift shall also be placed no later than when 10 % of the structures in the new development are completed or 1 year from the commencement of initial construction of the development, whichever is less.~~ Standards for asphalt or concrete pavements shall be set by the City Engineer.

- ~~1. Sub base and leveling courses shall be of select blasted and crushed rock;~~
- ~~2. Surface material shall be of Class C or B asphalt concrete;~~
- ~~3. The final lift shall be Class C asphalt concrete as defined by American Public Works Association (A.P.W.A.) standard specifications; and,~~
- ~~4. No lift shall be less than 1 1/2 inches in thickness.~~

155.3.4.2 120 Public Use Areas

- A. ~~Dedication Requirements.~~ When consistent with Constitutional limitations, ~~1. Where a proposed~~ City parks, playgrounds or other public use areas shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require ~~the dedication or reservation~~ of this area on the final plat.
- ~~2. If determined by the Planning Commission to be in the public interest in accordance with adopted comprehensive plan policies, and where an adopted plan of the City does not indicate proposed public use areas, the City may require the dedication or reservation of areas within the subdivision of a character, extent and location suitable for the development of parks and other public uses.~~
- ~~3. All required dedications of public use areas shall conform to Section 155.3.4.0.D Conditions of Development Approval.~~
- B. ~~Acquisition by the City.~~ If the developer is required to reserve land area for a park, playground, or other public use, the land shall be acquired by the City within 6 months following final plat approval, at a price agreed upon prior to approval of the plat, or the reservation shall be released to the property owner.
- C. ~~System Development Charge Credit.~~ Dedication of land to the City for public use areas shall be eligible as a credit toward any required system development charge.

155.3.4.3 130 Sanitary Sewer and Water Service Improvements

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

155.3.4.4~~140~~

Storm Drainage Improvements

See Dunes City Code Title XIV (Water Quality Protection), Chapter 141 – Surface Water Management.

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

155.3.4.5~~150~~

Utilities

- A. Underground Utilities. All utility lines including, but not limited to, those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except for surface-mounted transformers, surface-mounted connection boxes and meter cabinets ~~which may be placed above ground~~, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above, which may be placed above ground. The following additional standards apply to all new partitions, subdivisions, ~~and~~ P.U.Ds, and commercial development in order to facilitate underground placement of utilities:
 - 1. The developer shall make all necessary arrangements with the serving utility to provide the underground services. ~~Care shall be taken to ensure that all~~ Above ground equipment ~~does shall~~ not obstruct vision clearance areas for vehicular traffic. (See Section 155.3.1.2~~110~~(M) –Vision Clearance.)
 - 2. The City reserves the right to approve the location of all surface-mounted facilities.
 - 3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets. ~~and~~
 - 4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

5. All electric meters and water meters serving one lot shall be located within the boundaries of the lot served. Exceptions to this rule will be processed according to the provisions of [Section 155.5.1 – Variances](#). All water meters shall be located in an easily accessible and visible location between the pump and the water treatment system on the outside of any structures pursuant to [Title V \(Public Works\), Chapter 51 – Shared Domestic Water Right, Section 51.60](#). Any electric meters or water meters that the developer may wish to locate and install in a City right of way, will be avoided or be subject to review and approval according to the provisions of [Section 155.5.1 – Variances](#).

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

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

155.3.4.6160 Fire Hydrants [Reserved]

155.3.4.7170 Public Utility Easements

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

155.3.4.8180 Construction Plan Approval ~~and Assurances~~

No public improvements, including, but not limited to, sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued. ~~The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by City Council. The City may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements.~~

155.3.4.9190 Installation

A. Conformance Required. Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this Section [155.3.4](#), ~~approved construction plans, and to improvement standards and specifications adopted by the City.~~

B. ~~Adopted~~ Installation Standards. ~~The Standard Specifications for American Public Works Construction, Oregon Section shall be a part of the City's adopted installation~~ Installation standard(s) may ~~also be required provided by upon recommendation of~~ the City Engineer during the pre-application conference.

155.3.4 – Public Facilities Standards

- C. Commencement. Work shall not begin until the City has issued the required permits. ~~been notified in advance.~~
- D. ~~Resumption. If work is discontinued for more than one month, it shall not be resumed until the City is notified.~~
- E. City Inspection. Improvements shall be inspected during construction ~~under the inspection~~ and to the satisfaction of the City. ~~The City may require minor changes in typical sections, and details, if unusual conditions arising during construction warrant such changes in the public interest.~~ Modifications requested by the developer shall be subject to land use review under Section 155.4.6 – Modifications to Approved Plans and Conditions of Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced by a surveyor licensed by the State of Oregon prior to final acceptance of the improvements.
- F. Engineer's Certification and As-Built Plans. An engineer registered in the state of Oregon, shall provide written certification in a form required by the City. All improvements, workmanship and materials shall ~~be in accord with current and standard engineering and construction practices and~~ conform to approved plans and conditions of approval. These conditions shall be met prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide 2-two sets of "as-built" plans. ~~in conformance with the City Engineer's specifications, for permanent filing with the City.~~

155.3.5 **Surface Water Management**

~~*[Reserved for Surface Water Management standards that may be adopted by City. Note: The Department of Land Conservation and the Development and the Department of Environmental Quality are planning to publish a model ordinance for Urban Surface Water Management/Water Quality that could be added to this document.]*~~ [See Dunes City Code Title XIV \(Water Quality Protection\), Chapter 141 – Surface Water Management.](#)

155.3.6 All Uses

~~See 155.6 for Lot, Block and Street Designs.~~

~~A. Flag lots are discouraged in all land divisions. The Planning Commission and City Council may approve flag lots at their discretion.~~

~~B. No plat shall be recorded until the County surveyor in the manner provided by ORS Chapter 92 approves it.~~

155.3.67 Solar Access

Sections:

| | | | |
|------------|-----|---|--------------|
| 155.3.67.1 | 100 | Purpose | Definitions |
| 155.3.67.2 | 110 | Solar Setback Requirements | General |
| 155.3.67.3 | 120 | Solar Collectors and Solar Access Permits | Definitions |
| 155.3.67.4 | 130 | Solar Energy Easement Appurtenant; Termination | Applications |
| 155.3.67.5 | 140 | Requirements for Easement Creation by Instrument; Recordation | Procedure |

~~155.3.7.6 Enforcement~~

~~155.3.7.7 Revocation~~

~~155.3.7.8 Fees~~

155.3.67.1 Definitions Purpose

The City of Dunes City encourages the implementation and use of solar power. The protection of land for solar access will be with a solar energy easement that runs with the property. No person conveying or contracting to convey fee title to real property shall include in an instrument for such purpose a provision prohibiting the use of solar energy systems by any person on that property.~~Shade—A lot or building is deemed shaded if a structure blocks the direct solar radiation that would otherwise reach its surface during the protected period, excluding such insubstantial shadows as those caused by utility poles, wires, flagpoles, and slender antennas.~~

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

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

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

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

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

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

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

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

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

155.3.~~67.2~~110 ~~Solar Setback Requirements.~~General

Within the jurisdiction of Dunes City, provision for solar access is made by solar energy easements. Such easements:

- A. Will protect the line of sight between a solar collector and sun from blockage or impairment during daylight hours at any time of year;
- B. Will specifically define the criteria for solar access for each easement; and
- C. Will be recorded with the County as an easement to the solar collector location relative to affected lots.
- D. For developed property, or lot line adjustments, this will be the sole responsibility of the land owners involved.
- E. For partitions or subdivisions, this will be the responsibility of the developer and will be defined by a Solar Access Plan provided to the City at the time of the application for the partition or subdivision. Such plan will at least show the easement or easements layout on the preliminary and final plat maps.
- F. The City will not grant any solar energy easement over public property.

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

~~—A. South wall protection standard. No new structure or addition shall cast a shadow upon adjacent lots that is longer than that cast by an eight foot high fence located on the north property line at solar noon on December 21. The solar setback shall not exceed one half the distance between the north and south property lines. If the solar setback is not feasible due to waiver provisions listed in C. below, then the structure shall meet the standard set in B. below.~~

~~—B. South roof protection standard. No new structure or addition shall cast a shadow upon adjacent lots that is longer than that cast by a 16 foot high solar fence located on the north property line at solar noon on December 21. The solar setback shall not exceed one half the distance between the north and south property lines. If the solar setback is not feasible due to the waiver provisions listed in C. below, then the structure shall be located as far south as is feasible.~~

- ~~C. Waiver of solar setback. The governing body or its designated agent may partially or completely waive the solar setback for any structure or addition whose shade will affect a protected area which is already substantially shaded by other sources, or whose lot contains substantial physical constraints, including but not limited to north-facing slopes greater than 15°, septic tanks, lot dimensions, waterways, and existing legal restrictions.~~

155.3.67.3120**Solar Collectors and Solar Access Permits: Definitions**

- A. “Instrument” means a deed, contract, covenant, condition, permit or order that creates an access right to sunlight.
- B. “Solar Energy Easement” means any easement, covenant or conditions designed to insure the passage of incident solar radiation, light, air or heat across the real property of another.
- C. “Solar Envelope” means a three-dimensional space over a lot representing height restrictions for structures and vegetation on the lot designed to protect access to sunlight for neighboring lots.
- D. “Sun Chart” means a representation showing the plotted position of the sun. The chart shall display the path of the sun during each hour of the day and each month of the year at the nearest degree of latitude to the property.
- E. “Solar Energy Systems” means any device, structure, mechanism, or series of mechanisms which uses solar radiation as a source for heating, cooling or electrical energy.

155.3.67.3.14130**Solar Energy Easement Appurtenant; Termination.**

- A. A solar energy easement shall be appurtenant to and run with the real property benefited and burdened by such an easement.
- B. A solar energy easement shall terminate:
1. Upon the conditions stated therein;
 - ~~2.~~ By judgment of a court based upon abandonment or changed conditions; or
 3. At any time by agreement of all owners of property benefited and burdened by the easement.

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

155.3.67.3.25140**Requirements for Easement Creation by Instrument; Recordation**

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

- A. ~~The solar collector shall have at least four hours per day of unobstructed solar access between 9:00 a.m. and 3:00 p.m. during the period for which solar access protection is being sought. However, the~~

~~hours and dates during which the solar collector access is protected shall not exceed that period when the sun is lower than its position at solar noon on January 21 or greater than 55° east or west of true south.~~ Any instrument creating a solar energy easement or any other access right to sunlight shall contain:

1. A legal description of the real property benefited and burdened by the easement; and

~~A.2.~~ A description of the solar energy easement sufficient to determine the space over the burdened property which must remain unobstructed by means that shall include, but not be limited to:

a. A sun chart showing the plotted skyline, including vegetation and structures from the perspective of the center of the lower edge of the collector surface, and a drawing showing the size and location of the collector surface being protected and its orientation with respect to the true south; or

b. A description of the solar envelope sufficient to determine the space over the burdened property that must remain unobstructed.

B. The instrument creating a solar energy easement or any other access right to sunlight shall be recordable under ORS 93.710. The instrument shall be recorded in the chains of title of the benefited and burdened properties as a transfer of the easement or access right from the owner of the burdened property to the owner of the benefited property. ~~—The solar collector shall not be shaded by an eight-foot fence located on the south lot line or an existing structure at solar noon on December 21.—~~

C. An instrument creating a solar energy easement shall be indexed when recorded by the name of the City and the names of all parties with any interest in the real property benefited or burdened by the easement. ~~—There is no reasonable alternative location for the solar collector that will result in fewer restrictions on neighboring lots.~~

~~D. Removing or trimming vegetation on the applicant's lot will not permit an alternative location that would result in fewer restrictions on neighboring lots.~~

~~E. The solar collector shall meet the following minimum performance standards according to the end use of energy to which it is applied: 20% of the structure's space heating energy needs, 40% of the structure's domestic water heating energy needs, and/or 40% of the structure's electricity needs for appliances and lighting, excluding domestic water heating.~~

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

~~A. A lot or portion thereof that is located more than 150 feet south of the proposed or existing solar collector.~~

~~B. A lot located on a slope of 15% or more and facing within 45° of true north.~~

~~C. An exempted tree.~~

~~D. Any structure or addition located on a neighboring lot.~~

~~E. A lot or portion thereof which lies within an Open Space Overlay Zone.~~

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

~~A. A description of how the application satisfies the solar access permit standards.~~

~~B. The hours and months for which solar access is sought.~~

~~C. A scaled drawing of the solar collector, its dimensions, its height above ground level, and its orientation.~~

~~D. A sunchart for the proposed location as seen from the center of the lower edge of the site of the solar collector. If the solar collector is more than 20 feet in length, a sunchart shall also be provided for the southeast and southwest corners of the lower edge of the solar collector.~~

~~E. A site plan showing lot lines and dimensions of the applicant's lot and neighboring lots which will be affected by the solar access collector, the location of structures and trees on the applicant's lot and affected neighboring lots, and the identification of exempt and non-exempt trees.~~

~~F. Evidence that the solar collector will not be shaded by an eight foot fence located on the applicant's south property line at solar noon on December 21.~~

~~G. Evidence that the solar collector is installed or a written commitment to install the proposed solar collector within one year of the effective date of the permit.~~

~~H. Evidence that there is no reasonable alternative location for the solar collector that would result in fewer restrictions on a neighboring lot including that provided by the trimming or removal of vegetation on the applicant's lot.~~

~~I. A solar envelope for each lot to be affected by the proposed solar access permit.~~

~~155.3.7.5. Procedure.~~

~~A. Review. The Building Official or an agent designated by the governing body shall review the application for completeness and accuracy. If the application is found to be incomplete or inaccurate, the Building Official or designated agent shall advise the applicant of its deficiencies.~~

~~B. Notice. After an application for a solar access permit has been accepted, the City Recorder shall send notice by certified mail to each property owner to be affected by the proposed solar access permit. The notice shall contain the following information:~~

- ~~_____ 1. A copy of the solar access permit which has been accepted by the Building Official or designated agent.~~
- ~~_____ 2. The standards for and limits on a solar access permit.~~
- ~~_____ 3. Procedures for objection by any affected property owner including comment deadline.~~

~~C. Objections. If no written objections are filed by affected parties within 30 days following the date that all certified letters are mailed, the City Recorder shall issue the solar access permit. If any affected property owner or representative files a written objection within the specified period, and if the~~

~~objection is not withdrawn after informal discussions among the objector, city staff, and the applicant, a hearing shall be held before the Planning Commission.~~

~~D. Permit hearing. The Planning Commission shall hold a hearing on a written objection to the granting of a solar access permit.~~

~~1. Notice. The City Recorder shall send notice of the hearing to the applicant, the property owner who objected to the permit, and other property owners who would be affected by the proposed permit.~~

~~2. Hearing. The objector shall bear the burden of proof that the application is not accurate, that it does not satisfy the solar access permit standards or limitations, or that the estimated loss of value or cost to preserve the solar right to affected owners of neighboring property is greater than the estimated value of solar access to the applicant. The Planning Commission shall review the application, compare the provided information with the permit standards and limitations, and consider evidence presented by the objector, city staff, and the applicant.~~

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

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

~~1. File with the County Clerk, in such form as required by state law, the permit, including any exemptions to or limits on the solar access protected, site plan, sunchart, and solar envelopes.~~

~~2. Send a certified letter to each property owner affected by the solar access permit that the permit has been granted and recorded, and a copy of a solar envelope for his or her lot.~~

~~3. Note the location of the solar collector and affected properties on the official Zoning Map.~~

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

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

~~1. A copy of the solar access permit.~~

~~2. Evidence that the solar collector is still functioning.~~

~~3. A new sunchart documenting that non-exempt or new trees are shading the solar collector during the protected period.~~

~~4. The legal description of the lot on which the non-exempt and new trees are located, the address of the property owner, and sealed plot plan showing the location of the non-exempt and new trees.~~

~~5. Evidence that no vegetation located on the permittee's lot is shading the solar collector during the protected period.~~

- ~~B. Notice. If the permittee's complaint is found to be complete and accurate, the City Recorder shall notify by registered mail the owner of the allegedly shading tree. The notice shall include information submitted by the complaining permittee to the city, a description of the rights and responsibilities of the affected property owner under the provisions of the solar access permit, a form to request a Planning Commission hearing, and a description of specific actions the alleged violator shall take to comply with the permit provisions.~~
- ~~C. Hearing. Within 14 days of the date the notice is mailed, the owner of the allegedly shading tree, or his or her representative, may request a hearing before the Planning Commission to review the alleged violation. The City Recorder shall send notice of the hearing to the permittee and the alleged permit violator and his or her representative. The hearing shall be held within 30 days after a request has been received. At the hearing, the Planning Commission shall determine whether the tree that is the subject of the permittee's complaint violates the solar access permit. Within seven days of the hearing, the City Recorder shall mail notice of the Planning Commission's decision to the affected parties. If the Planning Commission finds that a violation exists, the notice shall be sent by registered mail to the owner of the offending tree and shall describe the specific actions the violator is required to take.~~
- ~~D. Remedy. With 30 days after the City Recorder mails written notice of the violation or, if a hearing is held, within 30 days after the City Recorder mails notice of the Planning Commission's decision, the owner of the offending tree shall trim the tree and notify the City Recorder of his or her action. If the owner does not trim the tree at that time, than an injunction may be issued, upon complaint of the permittee, by a court of competent jurisdiction. The injunction may order the tree owner to trim that part of the tree that violates the provisions of the solar access permit, to pay court costs, and to pay the permittee reasonable attorney's fees. If personal jurisdiction cannot be obtained over the property owner whose tree violates the permit, then the city or a designated agent may enter upon the property and trim that part of the tree that violates the solar access permit.~~
- ~~E. Assignment of costs. All costs for trimming a non-exempt tree shall be borne by the permittee. All costs for trimming a new tree shall be borne by the tree owner.~~

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

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

155.3.8—Traffic Impact Studies

Sections:

~~155.3.8.1—Purpose~~

~~155.3.8.2—When A Traffic Impact Study is Required~~

~~155.3.8.3—Preparation~~

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

~~minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.~~

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

- ~~A. A change in zoning or a plan amendment designation;~~
- ~~B. Any proposed development or land use action that a road authority states may have operational or safety concerns along its facility(ies);~~
- ~~C. An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more; or~~
- ~~D. An increase in peak hour volume of a particular movement to and from the State highway by 20 percent or more; or~~
- ~~E. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or~~
- ~~F. The location of the access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or~~
- ~~G. A change in internal traffic patterns that may cause safety problems, such as back up onto a street or greater potential for traffic accidents.~~

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

DIVISION 155.4 – APPLICATIONS AND REVIEW PROCEDURES

DIVISION 155.4 — APPLICATIONS AND REVIEW PROCEDURES

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| 155.4.6.110 | Applicability |
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| 155.4.10.130 | Tentative Site Plan Submission Requirements |
| 155.4.10.140 | Tentative Site Plan Approval Criteria |
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| 155.4.10.170 | Public Improvements |
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155.4.0 – Administration of Land Use and Development Permits

~~155.4 – Applications and Review Procedures~~

155.4.0 Administration of Land Use and Development Permits

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155.4.0.100 Administration of Land Use and Development Permits

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~~155.4.2 Site Review~~

~~155.4.3 Land Divisions and Lot Line Adjustments~~

~~155.4.4 Conditional Use Permits~~

~~155.4.5 Planned Unit Development Procedures~~

~~155.4.6 Modifications to Approved Plans and Conditions of Approval~~

~~155.4.7 Land Use District Map Amendments~~

~~155.4.8 Code Interpretations~~

~~155.4.9 Miscellaneous Permits~~

155.4.0.100 Administration of Land Use and Development

~~Section Division~~ 155.4 provides ~~all of~~ the application requirements and procedures for obtaining permits required by ~~this Chapter 155 code section~~. Refer to **Table 155.4.1.2-110** ~~in Section 155.4.1~~ for a key to ~~determining~~ determine which ~~land use permits and~~ procedures apply to ~~are required,~~ and the decision-making body for a particular type of land use permit application.

155.4.1 – Types of Applications and Review Procedures

155.4.1 Types of Applications and Review Procedures

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| 155.4.1.8 | Expedited Land Use Decision |
| 155.4.1.9 | Limited Land Use Decision |

155.4.1.100 Purpose

The purpose of ~~this chapter~~ Section 155.4.1 is to establish standard decision-making procedures that ~~will~~ enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way.

155.4.1.2110 Description of Permit/Decision-Making Procedures

All land use and development permit applications, except permits required in Chapters ~~151~~92, 93, 153 and 154, ~~are shall be~~ decided by using the procedures contained in ~~this Chapter~~ Section 155.4.1. General ~~procedures provisions~~ for all permits are contained in Section 155.4.1.3120. Specific procedures for certain types of permits are contained in Sections 155.4.1.4130 through 155.4.1.8160. The procedure “Type” assigned to each permit governs the decision-making process for that permit. There are ~~six~~four types of permit/decision-making procedures: Type I, II, III ~~and IV, Expedited Land Use decisions and Limited Land Use Decisions~~. These procedures are described in subsections A through D below. Table 155.4.1.2110 lists ~~all~~most of the City’s land use and development applications and their required permit procedures.

- A. Type I Procedure (Ministerial). Type I decisions are made by the Planning Secretary Official, or his or her designee, or someone he or she officially designates, or by the Planning Commission if requested by the Planning Secretary or by the City Council, without public notice and without ~~the requirement for~~ a public hearing. The Type I decisions apply ~~Procedure is used when there are~~ clear and objective approval criteria to an application. Instead of Type I procedures, the Planning Official may refer any application for a Type I decision to the Planning Commission for review using the Type II process.
- B. Type II Procedure (Quasi-Judicial)(Administrative). Type II decisions are made by the Planning Commission ~~with~~after public notice and an opportunity to submit written testimony, without a public hearing. An appeal of a Type II decision is heard by the City Council with a public hearing. Type II decisions generally apply discretionary approval criteria to an application for development.

155.4.1 – Types of Applications and Review Procedures

- C. Type III Procedure (Quasi-Judicial). Type III ~~decisions matters~~ are considered initially for a recommendation by the Planning Commission ~~and Road Commission~~, with a final decisions made by the City Council. Both bodies provide public notice and a hearing. Type III decisions generally apply ~~use~~ discretionary approval criteria to an application for development.
- D. Type IV Procedure (Legislative). ~~Type IV Procedure applies to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and Comprehensive Plan amendments that apply to entire districts).~~ Type IV ~~decisions matters~~ are considered initially for a recommendation ~~initially~~ by the Planning Commission ~~and Road Commission~~, with final decisions made by the City Council. Both bodies provide public notice and a hearing. ~~These procedures are typified by the requirement of passage of an Ordinance.~~ Type IV decisions generally involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and Comprehensive Plan amendments that apply to a large number of properties or entire zones).
- E. ~~Expedited Land Use Decision. A land use decision-making process authorized by ORS 197.360, etc.~~
- F. ~~Limited Land Use Decision. Preliminary subdivision, partition and site review permit decisions are considered limited land use decisions subject to the provisions of ORS 197.015(13) and ORS 197.195.~~

155.4.1 – Types of Applications and Review Procedures

Table 155.4.1.2110

SUMMARY OF DEVELOPMENT / USE PERMITS BY TYPE OF REVIEW PROCEDURE*

| | | |
|---|--|--|
| Access Permit | Type II | Section 155.3.1.2110 |
| Code Amendments | Type III/IV | Section 155.4.1.28 |
| Code Interpretation | Type I/II | Section 155.4.8 |
| Concept Assistance | Type II | Section 155.4.9.3 |
| Conditional Use Permit | Type III | Section 155.4.4 |
| Conditional Use Permit: Review/Renewal | Type I/II/III | Section 155.4.4.130 |
| Expedited Land Divisions | Type II | Section 155.4.1.8 |
| Home Occupation Permit | Type I | Section 155.4.9.110 |
| Land Use District Zone Map Amendments | Type III/IV | Section 155.4.7 |
| Manufactured Home Park | Type III/IV | Section 155.4.9.4 |
| Modifications to Approved Plans and Conditions of Approval | Type III/III | Section 155.4.6 |
| Non-Conforming Uses and Development | Type I | Section 155.5.2 |
| Partition: Preliminary Tentative Plan | LLU Type II | Section 155.4.3.130 |
| Partition: Final Plat | Type II | Section 155.4.3.160 |
| PUD: Preliminary Tentative Plan | Type III | Section 155.4.5.115150 |
| PUD: Final Plat | Type II | Section 155.4.5.116180 |
| Sensitive Lands | Type I/II/III | Section 155.2.3 thru 6 |
| Sign Permit | Type I | Section 155.2.1.250 & 155.2.2.130180 |
| Site Review Permit | LLU | Section 155.4.2 |
| Subdivision: Preliminary Tentative Plan | LLU Type II | Section 155.4.3.130 |
| Subdivision: Final Plat | Type II | Section 155.4.3.160 |
| Temporary Use Permits | Type I/II | Section 155.4.9.100 |
| Travel Trailer and Recreational Vehicle (RV) Parks: Tentative Plan | Type III/IV | Section 155.4.9.510.130 |
| Recreational Vehicle (RV) Parks: Final Plan | Type II | Section 155.4.10.160 |
| Replatting and Vacation of Plats | Type II | Section 155.4.3.200 |
| Residential Care Facility: Plan Review | Type I | Section 155.2.1.120 |
| Variances | Type III | Section 155.5.1 |
| Determination of Zone Boundaries | Type II | Section 155.2.0.120 |

*Note: The Sections referenced above describe the types of land uses and development activity that require permits under Chapter 155. The applicant may be required to obtain building permits and other approvals or permits not regulated by Chapter 155. The City's failure to notify the applicant of any other requirements of other City Code or other agencies shall not invalidate a permit or decision made by the City under this Chapter 155.

155.4.1 – Types of Applications and Review Procedures

155.4.1.3120

General Provisions

A. 120-day Rule. The City shall take final action on Type II and Type III applications ~~that are subject to this Chapter~~ within 120 days from the date the application is deemed complete unless additional time is allowed consistent with state law. ~~Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions—plan and code amendments—under ORS 227.178.)~~

B. Time Computation. In computing any period of time prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Friday, Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Friday, Saturday or legal holiday.

C. Concept Assistance

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

~~D.~~ Pre-Application Conferences.

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

2. Information provided by the applicant. The applicant is required to submit ~~T~~the following information ~~will be submitted by the applicant~~ at least ten (10) days prior to the date of such meeting:

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

(1) The name and address of the applicant.

(2) A statement of the applicant's legal interest in the property (owner, contract purchaser, lessee, renter, and the like), a description of that interest, and, in case the applicant is not the owner, that the owner knows of the application.

(3) The ~~address and legal description~~ map and tax lot number(s) of the property.

(4) A statement explaining the intended request.

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

- (1) The general location of the proposed development.
- (2) ~~Major~~^eExisting physical and natural features, such as water courses, rock outcroppings, and marshes, ~~wooded areas, and the like.~~
- (3) The location of the ~~major~~^eexisting ~~drainageways~~ drainage ways and utilities.
- (4) The location and names of public streets, parks, and utility rights-of-way within or adjacent to the proposed development.
- (5) The general location and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, off-street parking, and loading areas.
- (6) The general location and approximate dimensions of proposed structures.
- (7) ~~Major~~^pProposed landscaping features.
- (8) Approximate contours.
- (9) Sketches showing the scale, character, and relationship of buildings, streets, and open space.
- (10) The approximate location and type of proposed drainage, water, and sewerage facilities.
- (11) Site evaluation for solar access potential.

3. Information provided by the City. At such a conference the City Planning Official or designee will:

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

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4. Disclaimer. Failure of the City Planning Official or his/her designee to provide any of the information required by ~~this sub~~Section 3 shall not constitute a waiver of any of the standards, criteria or requirements for the application.
5. Changes in the law. Due to possible changes in federal, State, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

ED. Applications.

1. Initiation of applications:

- a. Applications for approval under this Chapter 155 may be initiated by:

- (1) The City Council;

- (2) The Planning Commission;

- (3) The Planning ~~Secretary~~Official;

- (4) Except for Type IV application categories, A-a record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner. Such persons are encouraged to appear before the Planning Commission or the City Council to request initiation of Type IV applications.

- b. Any person authorized to submit an application for approval may ~~designate~~request a ~~representative~~n-agent, authorized in writing, to make the application on their behalf.

2. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

- a. When the City receives an application from a record owner of property or contract purchaser (as described above), the Planning ~~Secretary~~Official shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:

- (1) The required form;

- (2) The required fee;

- (3) The signature of a record owner of property or contract purchaser (as described above)~~the applicant~~ on the required form, including and signed written authorization designating a representative to make the application on the

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applicant's behalf.~~of the property owner of record if the applicant is not the owner.~~

b. Completeness.

- (1) After the application is accepted, the Planning ~~Secretary~~ Official shall review the application for completeness in accordance with the application submittal requirements of this Chapter 155.
- (2) If the Planning Official determines that the application contains sufficient information for review, the City shall advise the applicant in writing that the application is deemed complete and begin the application review process.
- (3) If the application is incomplete, the Planning ~~Secretary~~ Official shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application. ~~and allow the applicant 180 days to submit the missing information;~~ In this case, the City will begin review of the application:
 - (a) Upon receipt of all of the missing information requested by the City; or
 - (b) Upon receipt of some of the missing information and a written statement from the applicant indicating that none of the other missing information will be provided and requesting that the application be processed without it, forcing the application to be deemed complete; or
 - (c) Upon receipt of a written statement from the applicant indicating that none of the missing information will be provided and requesting that the application be processed without it, forcing the application to be deemed complete.
- (4) On the 181st day after being accepted by the City, the application will be void if the applicant has been notified of missing information and has not complied with 3.(a), (b), or (c) above.

~~2. — In accordance with the application submittal requirements of this Chapter, the application shall be deemed complete of all required information upon receipt by the Planning Secretary. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the Planning Secretary in 1., above. For the refusal to be valid, the refusal shall be made in writing and received by the Planning Secretary no later than 14 days after the date on the Planning Secretary's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on the 31st day after the Planning Secretary first accepted the application.~~

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~~3~~(5) Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.

~~3. Once an application is deemed complete:~~

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

~~FE. Planning Secretary's Duties.~~ The Planning Secretary Official shall:

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- ~~1. Prepare application forms based on the criteria and standards in applicable State law, the City's Comprehensive Plan, and implementing ordinance provisions;~~
- ~~2. Accept all development applications that comply with Section 155.4.1.3;~~
- ~~3. Prepare staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report should also provide a recommended decision of approval, denial, or approval with specific conditions that ensure conformance with the approval criteria;~~
- ~~4. Prepare a notice of the proposed decision:~~
 - ~~a. In the case of an application subject to a Type I or II Procedure, the Planning Secretary shall make the staff report and all case file materials available at the time that the notice of the decision is issued;~~
 - ~~b. In the case of an application subject to a hearing (Type III or IV Procedure), the Planning Secretary shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case file materials available when notice of the hearing is mailed, as provided by Sections 155.4.1.6.C (Type III), or 155.4.1.7.D (Type IV);~~
- ~~5. Assist the hearings process;~~
- ~~6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;~~
7. ~~Maintain~~ maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons ~~required to be~~ given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; ~~and~~ .
- ~~8. Assist the review process.~~

~~GF.~~ Amended~~Corrected~~ Decision ~~Process.~~

- ~~1. The purpose of an amended decision process is to allow the Planning Secretary to correct typographical errors, rectify inadvertent omissions and/or make other minor changes, which do not materially alter the decision.~~
2. The Planning ~~Secretary~~ Official may issue an ~~amended~~corrected decision after the notice of final decision has been issued but before the appeal period has expired to correct typographical errors or rectify inadvertent insertions or omissions as needed to ensure the decision rendered reflects the order of the final decision-maker. ~~If such a decision is amended, the decision shall be issued within ten business days after the original decision~~

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~~would have become final, but in no event beyond the 120-day period required by State law. A new ten-day appeal period shall begin on the day the amended decision is issued.~~

32. Notice of an corrected-~~amended~~ decision shall be given using the same mailing and distribution list as for the original decision notice.

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

- H.G. Re-submittal of Application Following Denial. An application which has been denied and is no longer subject to appeal, ~~or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts,~~ may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least twelve (12) months from the date the final City action is made denying the application.

- H. Americans with Disabilities Act. All public-meeting notices shall comply with the Americans with Disabilities Act.

155.4.1.4130 Type I Procedure (Ministerial)

A. Application Requirements.

1. Application Forms. Type I applications shall be made on forms provided by the Planning ~~Secretary~~Official.
2. Application Requirements. Type I applications shall:
 - a. Include the information requested on the application form, Subsection D of Section 155.4.3, and ~~by any provisions of Chapter 155 that pertain specifically to the type of application submitted~~ the Planning Secretary;
 - b. Address the criteria in sufficient detail for review and action; and ~~;~~
 - c. Be accompanied by the required fee.

- B. ~~Administrative~~ Ministerial Decision Requirements. The Planning ~~Secretary's Official's will issue a~~ decision ~~will~~ addressing all of the approval criteria. Based on the criteria and the facts contained within the record, the Planning ~~Secretary~~ Official shall approve, approve with conditions, or deny the requested permit or action. In the alternative, the Planning Official may refer the application to the Planning Commission for its review and action using Type II procedures. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

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- C. Final Decision. The Planning Official's decision shall become final fourteen (14) calendar days after the date it is mailed or otherwise provided to the applicant in writing, whichever occurs first. ~~If the decision is to be appealed, the appeal must be filed with the Planning Secretary before the final decision date. Appeal of the Planning Secretary's decision will be to the Planning Commission during the next scheduled Planning Commission meeting without the requirement of formal public notice and public hearing. An appealed decision will be final with the Planning Commission's decision.~~

155.4.1.5140 Type II Procedure (~~Administrative~~Quasi-judicial)

- A. ~~General.~~ ~~The Type II Procedure will generally be used for advisory functions (e.g. Concept Assistance and Code Interpretation) in the land use processes and will not be defined by criteria outside that stated in this chapter. The application will be heard in open public session of the Planning Commission or Road Commission with opinions and recommendations becoming part of the public record.~~ Pre-application conference. Required for all Type II applications.

B. Application requirements.

1. Application Forms. Type II applications shall be made on forms provided by the Planning ~~Secretary Official~~ or Road Secretary as appropriate;
2. Submittal Information. The application shall:
 - a. Include the information requested on the application form, Subsection D of Section 155.4.1.3, and any provisions of Chapter 155 that pertain specifically to the type of application submitted; ~~and~~
 - b. ~~Be accompanied by the required fee.~~ Be filed with a narrative statement that explains how the application satisfies each of the relevant criteria in sufficient detail for review and action;
 - c. Be accompanied by the required fee; and
 - d. Include an impact statement for achieving compliance with all City Code relating to transportation systems, wetlands, riparian areas and shorelands. (See Section 155.3.4.110 – Transportation Standards, Section 155.2.5 – Wetland Overlay Zone, Section 155.2.6 – Riparian Overlay Zone, and Section 155.2.3 – Open Space Overlay Zone.)

C. Notice of Application.

1. Before a Type II decision is made, the City shall mail notice to:
 - a. The applicant;

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- b. All owners of record of real property within three hundred (300) feet of the subject site; and
- c. Any government agency that has entered into an intergovernmental agreement with the City that includes provision for such notice, or that is otherwise entitled to such notice.

2. The notice of a pending Type II decision shall:

- a. Provide a fourteen (14) day period for submitting written comments before a decision is made on the application;
- b. List the relevant approval criteria by commonly used citation;
- c. State the place, date and time the comments are due;
- d. Include the name and telephone number of a City contact person regarding the decision;
- e. Identify the specific permits or approvals requested;
- f. Describe the street address or other geographic description of the property proposed for development;
- g. State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period and that issues must be raised with sufficient specificity to enable the Planning Commission to respond;
- h. Briefly summarize the decision-making process; and
- i. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost.
- j. Americans with Disabilities Act. All public meeting notices shall comply with the Americans with Disabilities Act.

D. Planning Commission Decision. The Planning Commission shall convene to consider the application and written testimony received during the 14-day period described in the mailed notice. The Planning Commission shall deliberate and issue a written decision addressing all of the relevant approval criteria. Based upon the criteria, and the facts contained within the record, the Planning Commission shall approve, approve with conditions, or deny the requested permit or action.

E. Notice of Planning Commission Decision.

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1. Within five (5) business days after the Planning Commission decision is signed, a notice of decision shall be sent by mail to:
 - a. All owners of record of real property within three hundred (300) feet of the subject property;
 - b. The applicant; and
 - c. Any person who submitted comments for the Planning Commission's consideration.
2. The Type II notice of decision shall contain:
 - a. A description of the applicant's proposal and the use or uses which could be authorized;
 - b. The street address or other geographic description of the property proposed for development;
 - c. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, the applicable criteria and the city's decision are available for inspection at no cost and copies will be provided at cost;
 - d. The date the decision shall become final, unless appealed;
 - e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision as provided in Section **155.4.1.140(G)** and may not appeal directly to the State Land Use Board of Appeals; and
 - f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, the name of a City representative to contact and telephone number and where further information can be obtained concerning the appeal process.
- F. Final Decision and Effective Date. The Planning Commission's decision is final for purposes of appeal when it is mailed by the City. It is effective on the day after the local appeal period expires with no valid appeal filed.
- G. Appeal of a Type II Planning Commission Decision. The Planning Commission's decision may be appealed to the City Council as follows:
 1. Who May Appeal. The following people have legal standing to appeal the Planning Commission's decision:
 - a. The applicant;
 - b. Any person who was mailed written notice of the Planning Commission's decision;

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- c. Any person who is adversely affected or aggrieved by the Planning Commission's decision; or
- d. Any other person who participated in the proceeding by submitting written comments.

2. Notice of Appeal.

- a. Time for Filing. A notice of appeal shall be filed with the City by 5 p.m. on the fourteenth (14th) day after the notice of decision was mailed;
- b. Content of Notice of Appeal. The notice of appeal shall contain:
 - (1) The appeal form provided by the city;
 - (2) An identification of the Planning Commission decision being appealed, including the date of the decision;
 - (3) A statement demonstrating the person filing the notice of appeal has standing to appeal; and
 - (4) The filing fee.

3. Notice of City Council Hearing.

- a. Notice. The City shall give notice of the City Council hearing in the following manner:
 - (1) At least twenty (20) days before the hearing date, notice shall be mailed to:
 - (a) The applicant and all owners of record of the property which is the subject of the application;
 - (b) All property owners of record within three hundred (300) feet of the site;
 - (c) The appellant and persons who provided testimony during the Planning Commission's proceedings; and
 - (d) For a zoning change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175(8).
 - (2) At least fourteen (14) days before the first hearing, notice of the City Council hearing shall be printed in a newspaper of general circulation in the City; and
 - (3) At least fourteen (14) days before the hearing, the applicant shall post notice of the hearing on the property.

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b. Content of Notice. Notice to be mailed per Subsection 3 above shall contain the following information:

- (1) The nature of the application and the proposed land use or uses which could be authorized for the property;
- (2) The criteria from the development code that apply to the application;
- (3) The street address or other easily understood geographical reference to the subject property;
- (4) The date, time, and location of the public hearing;
- (5) A statement that the failure to raise an issue in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
- (6) The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
- (7) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and that copies will be provided at reasonable cost;
- (8) A statement that a copy of the City's staff report will be available for review at no cost at least seven days before the hearing, and that a copy will be provided on request at reasonable cost; and
- (9) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
- (10) Americans with Disabilities Act. All public meeting notices shall comply with the Americans with Disabilities Act.

4. City Council Standard of Review and Conduct of the Public Hearing. The City Council shall determine whether the application is consistent with the applicable criteria or can be made consistent through the imposition of reasonable conditions. The City Council shall accept new evidence with respect to all applicable criteria. The City Council shall conduct its public hearing as the first evidentiary hearing, consistent with the provisions at **Section 155.4.1.150(D).**

5. City Council Decision. The City Council shall issue a final written decision containing findings and conclusions, which either approves, approves with specific conditions or denies the application.

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6. Notice of City Council Decision. Written notice of the City Council decision shall be mailed to the applicant and to all participants of record within five (5) business days after the City Council's decision. Failure of any person to receive mailed notice shall not invalidate the decision. The notice shall include an explanation of appeal procedures.
7. Final Decision and Effective Date. The decision of the City Council on any Type II application is effective and final for purposes of appeal on the date the notice of decision is mailed by the City.

155.4.1.6150

Type III Procedure (Quasi-Judicial)

- A. Pre-application conference. Required for all Type III applications ~~discretionary land use permits including preliminary P.U.D. plans and conditional use permits.~~
- B. Application requirements.
 1. Type III applications shall be made on forms provided by the Planning ~~Secretary~~ Official;
 2. Submittal Information. Type III applications shall:
 - a. Include the information requested on the application form, Subsection D of Section 155.4.1.120, ~~and any-and-by-the Planning Secretary provisions of Chapter 155 that pertain specifically to the type of application submitted;~~
 - b. Be filed with ~~copies of~~ a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
 - c. Be accompanied by the required fee; and
 - d. Include an impact ~~study statement~~ for achieving compliance with all City Code relating to Type III applications. The impact study will quantify/assess the effect of the development on the transportation systems, wetlands, riparian areas and Shorelands/shorelands. The study will propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant will either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development. (See Section 155.3.4.110 – Transportation Standards, Section 155.2.5 – Wetland Overlay Zone, Section 155.2.6 – Riparian Overlay Zone, and Section 155.2.3 – Open Space Overlay Zone.)

~~C. — Process in General~~

~~Per ORS 197.522 a land use application will be:~~

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~~1. Approved if the application meets all City Code requirements.~~

~~2. Approved if an application does not meet all City Code requirements, but can be changed to meet all requirements. The application approval decision will specify all reasonable conditions necessary to meet all City Code requirements.~~

~~3. Disapproved if any City Code requirement cannot be met with stipulated conditions, or the applicant declines acceptance of any stipulated condition.~~

C.D. Notice of Hearing.

1. A minimum of two hearings, one before the Planning Commission and one before the City Council, ~~are~~ is required for all Type III applications submitted to the City.

2. Mailed notice. The Planning ~~Secretary~~ Official shall give notice of a Type III application hearing in the following manner:

a. At least twenty (20) days before the hearing date, notice shall be mailed to:

(1) The applicant and all owners or contract purchasers of record of the property which is the subject of the application;

(2) All property owners of record within three hundred (300) feet of the property which is the subject of the application;

(3) Any governmental agency, which has entered into an intergovernmental agreement with the City that includes provision for such notice, or who is otherwise entitled to such notice;

(4) Any person who submits a written request to receive notice;

(5) For a zoning change affecting a mobile home or manufactured home park, all mailing addresses within the park.

~~(5) For appeals, the appellant and all persons who provided testimony.~~

~~b. The Planning Secretary will have an affidavit of notice prepared and made a part of the administrative record. The affidavit will state the date that the notice was posted on the property and mailed to the persons who must receive notice;~~

~~c. At least 14 business days before the hearing, notice of the hearing will be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice will be made part of the administrative record;~~

~~d. At least 14 business days before the hearing, the Planning Secretary will post notice of the hearing on the property per Subsection 3 below. The Planning Secretary will prepare and submit an affidavit of posting of the notice that will be made part~~

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~~of the administrative record.~~

3. Content of Notice. Notice of a Type III hearing to be mailed, ~~posted and published~~ per Subsection 2 above shall contain the following information:

- a. The nature of the application and the proposed land use or uses, which could be authorized for the property;
- b. The applicable criteria and standards from the development codes(s) that apply to the application;
- c. The street address or other easily understood geographical reference to the subject property;
- d. The date, time, and location of the public hearing;
- e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
- f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
- g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Dunes City's City Hall at no cost and that copies shall be provided at a reasonable cost;
- h. A statement that a copy of the City's staff report will be available for review at City Hall at no cost at least seven (7) days before the hearing, and that a copy will be provided on request at reasonable cost; and
- i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
- j. Americans with Disabilities Act. All public meeting notices shall comply with the Americans with Disabilities Act.

4. The failure of any person to receive notice shall not invalidate the action, ~~providing:~~

~~a. Personal notice is deemed given when the notice is deposited with the United States Postal Service;~~

~~b. Published notice is deemed given on the date it is published.~~

ED. Conduct of the Quasi-Judicial Public Hearing.

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1. Unless otherwise provided in the rules of procedure adopted by the City Council:
 - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 - (1) Regulate the course, sequence, and decorum of the hearing;
 - (2) Direct procedural requirements or similar matters; and
 - (3) Impose reasonable time limits for oral presentations.
 - b. No person shall address the Commission or the Council without:
 - (1) Receiving recognition from the presiding officer; and
 - (2) Stating their full name and [city of](#) residence [and providing a mailing](#) address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. At the commencement of the hearing, the presiding officer shall state:
 - a. The applicable approval criteria and standards that apply to the application; ~~or~~
 - b. That testimony and evidence ~~shall~~[must be directed toward](#)~~concern~~ the approval criteria described in the staff report, or other criteria in the Comprehensive Plan or land use regulations which the person testifying believes to apply to the decision;
 - c. That failure to raise an issue with sufficient detail to give the City Council or Planning Commission and the parties [involved](#) an opportunity to respond to the issue precludes appeals on that issue;
 - d. [If the hearing is the first evidentiary hearing.](#) ~~T~~that before the conclusion of the ~~initial~~ Public Hearing, any participant may ask the City Council or Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The City Council or Planning Commission shall grant the request by scheduling a date to finish the hearing (a “continuance”) per Subsection 3 below, or by leaving the record open for additional written evidence or testimony per Subsection 4 below.
3. If the City Council or Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven (7) days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the

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conclusion of the second hearing, that the record be left open for at least seven (7) days, so that they can submit additional written evidence or testimony in response to the new written evidence.

4. If the City Council or Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven (7) days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the City Council or Planning Commission shall reopen the record.
 - a. When the City Council or Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to **Section 155.4.1.6150(E)** is subject to the limitations of ORS 227.178 (120-day rule), unless the continuance or extension is requested or agreed to by the applicant;
 - c. If requested by the applicant, the City shall allow the applicant at least seven (7) days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence.
5. The record.
 - a. The record shall contain all testimony and evidence that is submitted to the City, the Planning Commission, and the City Council and not rejected;
 - b. The City Council or Planning Commission may take official notice of judicially cognizable facts under the applicable law. If the review authority takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts.
6. Participants in a Quasi-Judicial ~~Type III~~ hearing are entitled to an impartial review authority as free from potential or actual conflicts of interest and pre-hearing ex parte contacts (see Subsection 7 below) as reasonably possible. However, the public has a countervailing right of free access to public officials. ~~Therefore,~~ therefore:
 - a. A member of the Planning Commission or City Council shall not participate in any proceeding which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, or any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment.

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Any actual or potential conflict of interest shall be disclosed at the beginning of a public hearing where an action is being taken;

b. When met with a potential conflict of interest, the Planning Commission or City Council member shall announce publicly the nature of the potential conflict; or

c. When met with an actual conflict of interest, announce publicly the nature of the actual conflict and;

(1) Except as provided in subparagraph (2) of this paragraph, refrain from participating as a Planning Commissioner or City Councilor in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue;

(2) If any Planning Commissioner's or City Councilor's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a Planning Commissioner or City Councilor in any discussion or debate on the issue out of which the actual conflict arises.

ad. At the beginning of the public hearing, Planning Commission and City Council members shall disclose the substance of any pre-hearing ex parte contacts (defined in Subsection 7 below) concerning the ~~application or appeal~~ issue under consideration. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;

~~b. A member of the Planning Commission or City Council shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father in law, mother in law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;~~

ee. Disqualification of a member of the Planning Commission or City Council due to contacts or conflict may be ordered by a ~~majority of~~ motion by the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

~~d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified~~ requelified to make a decision;

ef. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the ~~City Council~~ Planning Commission or ~~Planning Commission~~ City Council shall reply in accordance with this Subsection 6.

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7. Ex parte communications.

a. Members of the City Council and Planning Commission shall not:

- (1) Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Subsection 6 above; or
- (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.

b. No decision or action of the City Council or Planning Commission shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

- (1) Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
- (2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

c. A communication between City staff and the City Council or Planning Commission is not considered an ex parte contact.

8. Presenting and receiving evidence.

a. The City Council and Planning Commission may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence.

b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in ~~this subsection~~ [Subsections 3 and 4 above](#).

c. Members of the City Council and Planning Commission may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the City Council or Planning Commission may visit the property to familiarize him or herself with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, he or she shall disclose the

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circumstances of the site visit and shall allow all participants to ask about the site visit.

~~F~~E. The Planning Commission Recommendation ~~Decision~~ Process.

1. Approval or denial of a Type III application shall be based on standards and criteria in the Development Code. ~~The standards and criteria will relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the development regulations, Comprehensive Plan for the City as a whole, and the Master Road Plan;~~
- ~~2. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;~~
2. After the Planning Commission's record has closed, the Planning Commission shall convene to consider the application and written testimony received. The Planning Commission shall deliberate and issue a written recommendation addressing all of the relevant approval criteria. Based upon the criteria, and the facts contained within the record, the Planning Commission shall recommend approval, approval with conditions, or denial of the requested permit or action.

F. The City Council Decision Process.

- ~~3~~1. At least ten (10) days prior to t~~The City Council will~~hearing on the application, the Planning Official shall mail notice of the City Council hearing as described in Subsections C.2 and 3, above.
2. The City Council shall hold a public hearing as described in Subsection D above.
3. After the City Council's record has closed, the City Council shall convene to consider the application, the written testimony received and the Planning Commission's recommendation. The City Council shall issue a final written order containing the findings and conclusions ~~stated in Subsection 2 above,~~ which approves, ~~denies, or~~ approves with specific conditions, or -denies the requested permit or action.
4. Written notice of a Type III decision shall be mailed to the applicant and to all participants of record within ten (10) business days after the City Council decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice. The notice of decision shall include an explanation of appeal rights and briefly summarize the decision-making process for the decision being made.

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

155.4.1.7160 **Type IV Procedure (Legislative)**

A. Application requirements.

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

B. Notice of Hearing.

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

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- (5) ~~For a rezone affecting a manufactured home or recreational vehicle park, all mailing addresses within the park.~~ If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park, all mailing address within the mobile home or manufactured dwelling park.
 - b. At least fourteen (14) days before the scheduled Planning Commission public hearing date, and fourteen (14) days before the City Council hearing date, notice shall be published in a newspaper of general circulation in the City.
 - c. The Planning ~~Secretary~~ Official shall:
 - (1) For each mailing of notice provided in Subsection B(2) above, file an affidavit of mailing in the record; and
 - (2) For each published notice provided in Subsection B(2) above, file an affidavit of publication in the record;
 - d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan and Development Code Amendments at least ~~45~~ thirty five (35) days before the first public hearing at which public testimony or new evidence will be received.
3. The mailed and published notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of the Planning ~~Secretary's~~ Official's office where additional information about the application can be obtained;
 - b. The identification of the Tax Map and Lot and the street address if applicable and available on the proposal;
 - c. A description of the proposal in enough detail for people to determine the nature of the ~~at a~~ change ~~is~~ proposed;
 - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; a statement that the hearing will be held under this ~~title~~ Chapter 155 and rules of procedure adopted by the Council and available at City Hall (See Subsection C below); and written testimony shall be submitted to the City at least fourteen (14) days prior to the hearing.
 - e. Each mailed notice required by Subsection B(2) above shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The Dunes City Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

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f. Americans with Disabilities Act. All public meeting notices shall comply with the Americans with Disabilities Act.

4. The failure of any person to receive notice shall not invalidate the action, providing:
 - a. Personal notice is deemed given when the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.

C. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
 - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 - (1) Regulate the course, sequence, and decorum of the hearing;
 - (2) Direct procedural requirements or similar matters; and
 - (3) Impose reasonable time limits for oral presentations.
 - b. No person shall address the Planning Commission or the City Council without:
 - (1) Receiving recognition from the presiding officer; and
 - (2) Stating their full name and city of residence and providing their mailing address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Planning Commission and of the City Council, shall conduct the hearing as follows:
 - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the City Council;
 - b. The Planning ~~Secretary's~~ Official's report and other applicable staff reports shall be presented;
 - c. The public shall be invited to testify;

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- d. The public hearing may be continued to allow additional testimony or it may be closed; and
 - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.
- D. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- E. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
- 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for Comprehensive Plan amendments only);
 - 2. Comments from any applicable federal or State agencies regarding applicable statutes or regulations;
 - 3. Any applicable intergovernmental agreements; and
 - 4. Any applicable Comprehensive Plan policies and provisions of this Code that implement the Comprehensive Plan.
 - 5. Compliance with Section 155.4.7 – [Land Use Map Amendments](#) shall be required for Comprehensive Plan amendment, and Master ~~Read~~ [Transportation](#) Plan amendment.
- F. Approval Process and Authority.
- 1. The Planning Commission shall, after notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.
 - 2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the Planning ~~Secretary~~ [Official](#) within [fourteen \(14\)](#) days of the decision. The Planning ~~Secretary~~ [Official](#) shall provide a copy to each City Council member and place a copy in the record.
 - 3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within [thirty \(30\)](#) days of its first public hearing on the proposed change, the Planning ~~Secretary~~ [Official](#) shall:
 - a. Report the failure together with the proposed change to the City Council; and

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- b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the City Council. The Planning Commission shall take no further action.

4. The City Council shall:

a. After the City Council's record has closed, the City Council shall convene to consider the application, the written testimony received and the Planning Commission's recommendation.

ab. If the City Council takes action on the application, it shall issue a final written decision containing the findings and conclusions to ~~Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and~~ reconsideration on all or part of the application.

bc. The City Council will ~~C~~consider the recommendations of the Planning Commission ~~and Road Commission~~; however, it is not bound by the ~~Commissions'~~ Commission's recommendation; ~~and.~~

ed. Act by ordinance, which shall be signed by the Mayor after the City Council's adoption of the ordinance.

G. Vote Required for a Legislative Change.

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

H. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five (5) business days after the City Council decision. The City shall also provide notice to all persons as required by other applicable laws.

I. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the City Council's final action ~~enacting ordinance~~, or if not specified ~~approved~~, upon mailing of the notice of decision to the applicant.

J. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by electronic means. It is not necessary to transcribe the electronic record. The minutes and other evidence presented, as a part of the hearing shall be part of the record;

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2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered by the Planning Commission;
 - b. All materials submitted by the Planning ~~Secretary~~ Official to the Planning Commission regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means, the minutes of the hearing, and other documents considered;
 - d. The final ordinance;
 - e. All correspondence; and
 - f. A copy of the notices, which were given as required by this Section 155.4.1.7160.

K. City Initiated Changes.

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

~~155.4.1.8 Expedited Land Division~~

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

~~A. — An applicant who wishes to use an ELD procedure for a partition instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;~~

~~— B. — An ELD will be reviewed in accordance with the procedures in ORS 197.365;~~

~~C. — An appeal of an ELD will be in accordance with the procedures in ORS 197.375;~~

~~D. — The ELD process will be a Type II Planning Commission decision conducted without a public hearing during a regular Planning Commission meeting.~~

~~155.4.1.9 Limited Land Use Decision~~

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

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~~A. — Pre-application conference. Required for partitions, subdivisions and site review permit applications~~

~~B. — Application requirements:~~

~~1. — An application for a limited land use will be made on forms provided by the Planning Secretary;~~

~~2. — An application for a limited land use will:~~

~~a. — Include the information requested on the application form and by the Planning Secretary;~~

~~b. — Be filed with copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;~~

~~c. — Be accompanied by the required fee; and~~

~~d. — Include an impact study. The impact study will quantify/assess the effect of the development on the transportation system, wetlands, riparian areas and Shorelands. The study will propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant will either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.~~

~~C. — Process in General~~

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

~~1. — Approved if the application meets all City Code requirements.~~

~~2. — Approved if an application does not meet all City Code requirements, but can be changed to meet all requirements. The application approval decision will specify all reasonable conditions necessary to meet all City Code requirements.~~

~~3. — Disapproved if any City Code requirement cannot be met with stipulated conditions, or the applicant declines acceptance of any stipulated condition.~~

~~D. — Notice of Hearing.~~

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- ~~1. A minimum of one hearing before the Planning Commission is required for all applications for a limited land use decision (partition, subdivision, or site review) submitted to the City.~~
- ~~2. Mailed notice. The Planning Secretary will give notice of a limited land use application hearing in the following manner:~~
 - ~~a. At least 14 days before the hearing date, notice will be mailed to:~~
 - ~~(1) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;~~
 - ~~(2) All property owners of record within 300 feet of the property that is the~~
~~subject of the application;~~
 - ~~(3) Any governmental agency, that has entered into an~~
~~intergovernmental~~
~~agreement with the City that includes provision for such notice,~~
~~or that is~~
~~otherwise entitled to such notice;~~
 - ~~(4) Any person who submits a written request to receive notice;~~
 - ~~(5) For appeals, the appellant and all persons who provided testimony.~~
 - ~~b. The Planning Secretary will have an affidavit of notice prepared and made a part of the administrative record. The affidavit will state the date that the notice was mailed to the persons who must receive notice;~~
 - ~~c. At least 14 business days before the hearing, notice of the hearing will be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice will be made part of the administrative record;~~
 - ~~d. At least 14 business days before the hearing, the Planning Secretary will post notice of the hearing on the property per Subsection 3 below. The Planning Secretary will prepare and submit an affidavit of posting of the notice that will be made part of the administrative record.~~
- ~~3. Content of Notice. Notice of a limited land use hearing to be mailed, posted and published per Subsection 2. Above, will contain the following information:~~
 - ~~a. State that issues which may provide the basis for an appeal to the Land Use Board of Appeals will be raised in writing prior to the expiration of the comment period. Issues will be raised with sufficient specificity to enable the decision maker to respond to the issue;~~

155.4.1 – Types of Applications and Review Procedures

- ~~b. List, by commonly used citation, the applicable criteria for the decision;~~
 - ~~c. Set forth the street address or other easily understood geographical reference to the subject property;~~
 - ~~d. State the date, time, and location of the public hearing;~~
 - ~~e. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;~~
 - ~~f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;~~
 - ~~g. Briefly summarize the local decision making process for the limited land use decision being made.~~
- ~~4. The failure of any person to receive notice will not invalidate the action, providing:~~
- ~~a. Personal notice is deemed given when the notice is deposited with the United States Postal Service;~~
 - ~~b. Published notice is deemed given on the date it is published.~~
- ~~E. Conduct of the Public Hearing.~~
- ~~The conduct of a hearing on an application for a limited land use will be the same as a Type III proceeding, as provided by Section 155.4.1.6.E.~~
- ~~F. The Decision Process.~~
- ~~1. Approval or denial of a application for a limited land use will be based on standards and criteria in the development code. The standards and criteria will relate approval or denial of a limited land use application to the appropriate development regulations;~~
 - ~~2. Approval or denial will be based upon the criteria and standards considered relevant to the decision. The written decision will explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;~~
 - ~~3. The Planning Commission will issue a final written order based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the~~

155.4.1 – Types of Applications and Review Procedures

~~decision and explains the justification for the decision based on the criteria, standards and facts set forth.~~

- ~~4. Written notice of a limited land use decision will be mailed to the applicant and to all participants of record within ten business days after the Planning Commission decision. Failure of any person to receive mailed notice will not invalidate the decision, provided that a good faith attempt was made to mail the notice. The notice of decision will include an explanation of appeal rights and briefly summarize the decision making process for the decision being made.~~

~~G. The Appeal Process:~~

- ~~1. A decision of the Planning Commission on a limited land use decision may be appealed to the City council on a form provided by the Planning Secretary. Persons who have appeared before the Planning Commission orally or in writing may appeal a limited land use decision issued by the Planning Commission. Any member of the City Council may for any reason bring a limited land use decision issued by the Planning Commission before the City Council if they file an appeal with the Planning Secretary consistent with Section 155.4.1.9.G.2.~~
- ~~2. An appeal must be filed with the Planning Secretary within 15 days of the mailing of the notice of Planning Commission decision.~~
- ~~3. The City Council will hear the appeal at a public hearing. The hearing may be limited to the record developed pursuant to the Planning Commission's decision-making process. A hearing on appeal that allows the introduction of additional testimony will comply with the requirements of a Type III hearing process and ORS 197.763.~~
- ~~4. The decision of the City Council on any appeal of a limited land use application is final for purposes of appeal on the date it is mailed by the City.~~
- ~~5. Written notice of the decision rendered on appeal will be given to all parties who appeared, either orally or in writing, before the hearing. The notice of decision will include an explanation of the rights of each party to appeal the decision.~~

155.4.2

[Reserved] ~~Site Review Permit~~

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

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

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

- ~~3. The approximate location, heights, materials and finishes of existing and proposed enclosures, walls, and fences.~~
 - ~~4. The approximate location, dimensions, uses, and screening provisions for storage, refuse, and service areas.~~
 - ~~5. The approximate location, arrangement, and dimensions of streets, driveways, access points, trails, bikeways, off-street parking, and loading areas.~~
 - ~~6. Proposed drainage, water, and sanitary systems and facilities.~~
 - ~~7. The approximate location, character, and type of signs and lighting facilities.~~
 - ~~8. A general landscaping plan depicting existing and proposed tree plantings, ground cover, screen planting, and the like.~~
 - ~~9. Architectural sketches or drawings, if required, to clearly establish the scale, character, and relationship of buildings, streets, ways, parking spaces, garages, and open spaces.~~
 - ~~10. Other data, such as information on soils, geology, and hydrology, purpose and provisions of the site review.~~
- ~~(2) Application may be made concurrent with a zone change, when applicable, or at a later date prior to the approval of a building permit for construction on the development site.~~
- ~~(F) Application, hearing, notice, and appeal. Procedures for application, hearing, notice, and appeal will be as provided in this section for site review permits.~~
- ~~(G) Modifications of approved site review permits. Minor changes requested by the applicant in an approved site review permit may be approved by the Planning Commission if such changes are consistent with the purposes and general character of the original application. All other modifications will be processed in the same manner as the original application, and will be subject to the same procedural requirements. All requests for changes or modifications, and their approval, will be in writing.~~
- ~~(H) Compliance with conditions of approval. Compliance with conditions imposed in the site review permit, and adherence to the plans submitted upon which approval of the site review permit was granted or modified, as the case may be, are required, and any departure from such conditions of approval and plans constitutes a violation of this part.~~

- ~~(I) Revocation. Site review permits will automatically be revoked if any development for which a site review permit has been granted is not established within one year from the date of final approval.~~

155.4.3 – Land Divisions and Property Line Adjustments

155.4.3 Land Divisions and Property Line Adjustments

Sections:

| | |
|-------------|---|
| 155.4.3.100 | Purpose |
| 155.4.3.110 | General Requirements |
| 155.4.3.120 | Approval Process |
| 155.4.3.130 | Preliminary Plat <u>Tentative Plan</u> Submission Requirements |
| 155.4.3.140 | Approval Criteria: Preliminary Plat <u>Tentative Plan</u> |
| 155.4.3.150 | Variances Authorized |
| 155.4.3.160 | Final Plat Submission Requirements and Approval Criteria |
| 155.4.3.170 | Public Improvements |
| 155.4.3.180 | Performance Guarantee |
| 155.4.3.190 | Filing and Recording |
| 155.4.3.200 | Replanning and Vacation of Plats |
| 155.4.3.210 | Transfer of Property <u>Property Line Adjustments</u> |

155.4.3.100 Purpose

The purpose of Section 155.4.3 ~~this section~~ is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and property (or lot) line adjustments.
 1. Subdivisions ~~involve~~ are the creation of four or more lots from one parent lot, parcel or tract within one calendar year.
 2. Partitions ~~involve~~ are the creation of three or fewer lots from one parent lot, parcel or tract within one calendar year.
 3. Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots, including consolidation of lots.
- B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan;
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
- F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage, fire protection, pollution (land, water,

155.4.3 – Land Divisions and Property Line Adjustments

sky) control, surface water management, and protection against natural hazards; and drainage; and

G. Encourage the conservation of energy resources.

155.4.3.110

General Requirements

A. Subdivision and Partition Approval through Two-Step Process. Applications for subdivision or partition approval shall be processed through a two-step process: the ~~preliminary~~ plattentative plan evaluation and ~~the a~~ final plat evaluation.

1. The ~~preliminary plat~~tentative plan shall be approved before the final plat can be submitted for approval consideration; and
2. The final plat shall comply with all conditions of approval of the ~~preliminary plat~~tentative plan.

B. Compliance with ORS Chapter 92. All subdivision and partition proposals shall be in conformance to State regulations set forth in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.

~~C. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two times the minimum lot size allowed by the underlying land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted which identifies:~~

- ~~1. Potential future lot division(s) in conformance with the housing and density standards of Section 155.2;~~
- ~~2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way; and~~
- ~~3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.~~

~~D. Temporary Sales Office. A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 155.4.9.1 – Temporary Use Permits.~~

~~E. Minimize flood damage. All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within~~

155.4.3 – Land Divisions and Property Line Adjustments

~~the floodway. Development in a 100-year flood plain shall comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before City approval of the final plat.~~

~~F. Determination of Base Flood Elevation. Where a development site consists of two or more lots, or is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the City.~~

~~G. Need for Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as electrical and telephone systems located and constructed to prevent or minimize flood damage to the extent practicable.~~

~~H. Need for Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required.~~

155.4.3.120

Approval Process

A. Review of Preliminary Plat Tentative Plan. Review of a preliminary plat tentative plan for a subdivision or partition shall be processed ~~with using the a~~ Type ~~III~~ II Procedure ~~at Section (155.4.1.140) under 155.4.1.6.~~ All preliminary plat tentative plans shall be reviewed using approval criteria contained in Section 155.4.3.140.

B. Review of Final Plat. Review of a final plat for a subdivision or partition shall be processed by means of a Type ~~I~~ II Procedure under Section ~~155.4.1.4~~ 155.4.1.140, using the approval criteria in Section 155.4.3.160.

C. Preliminary Plat Tentative Plan Approval Period. Preliminary plat tentative plan approval shall be effective for a period of one (1) year from the date of approval. The preliminary plat tentative plan shall lapse if a final plat has not been submitted within a one-year period.

D. Modifications and Extensions. The applicant may request changes to the approved preliminary plat tentative plan or conditions of approval following the procedures and criteria provided in Section 155.4.6 – Modifications. The Planning ~~Secretary~~ Official shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one (1) year, provided that:

1. Any changes to the preliminary plat tentative plan follow the procedures in Section 155.4.6 – Modifications;
2. The applicant has submitted written intent to file a final plat within the one (1) year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;

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4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new ~~preliminary plat~~tentative plan application shall be required; and
5. The extension request is made before expiration of the original approved ~~plan~~tentative plan.

~~E. Phased Development:~~

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

155.4.3.130

~~Preliminary Plat~~Tentative Plan Submission Requirements

- A. General Submission Requirements. For subdivisions and partitions, the application shall contain the information and material required by Section 155.4.1.120(D). ~~all of the information required for a Limited Land Use Procedure under Section 155.4.1.6, except as required for P.U.D.s:~~
- B. ~~Preliminary Plat~~Tentative Plan Information. In addition to the general information described in Subsection A above, the ~~preliminary plat~~tentative plan application shall include ~~consist of~~ two (2) copies of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:

155.4.3 – Land Divisions and Property Line Adjustments

1. General information:

- a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in the county in which it is located (Please check with County surveyor.);
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the City, boundaries and a legal description of the site;
- d. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor, if any, and the date of the survey; and
- e. Identification of the drawing as a “~~preliminary plat~~tentative plan” with "revision letter" and "date."

2. Site analysis.

- a. Streets: Location, name, and present width of all streets, alleys and rights-of-way on and abutting the site;
- b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c. Utilities: Location and identity of all utilities on and abutting the site;
- d. Ground elevations shown by contour lines with two-foot (2') contour intervals for ground slopes up to twelve percent (12%) and five-foot (5') contour intervals for ground slopes exceeding twelve percent (12%). Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor.
- e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having high erosion potential;
- g. Sensitive lands; including wetland, shoreland and riparian areas, streams, lakes ~~wildlife habitat, and~~ overlay zone boundaries, ~~and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also, relevant portions of the Comprehensive Plan.)~~
- h. Site features, including existing structures, pavement and drainage ways, and ditches;

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i. Name and address of owner;

h. Name and address of project designer, if applicable.

~~k. The percentage of the proposed development that falls within the sensitive area of the watershed serving Dunes City, as defined in the Dunes City Drinking Water Source Assessment (Lane Council of Governments 2002), including but not limited to that area within 1000 feet of the shores of Lakes Woahink, Little Woahink or Siltecos, including major inlets and outlets;~~

~~l. A tree coverage map. For properties containing less than 16 conifers per acre the map shall include the location of every conifer with a diameter greater than 8 inches at 4 ½ feet above average grade. For properties containing 16 or more conifers 8 inches or greater in diameter at 4 ½ above average grade per acre the map shall include the outline of those areas with stands of conifers or an aerial photograph with enough detail to show conifer stands, and~~

~~m. Other information, as deemed appropriate by the Planning Secretary.~~ The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed improvements.

a. Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts, which are being held for private use, and all reservations and restrictions relating to such private tracts, shall be identified;

b. Easements: location, width and purpose of all easements;

c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all lots and tracts;

d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation or other use;

e. Proposed improvements, as required by **Section 155.3.0 – Design Standards Administration**, and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);

f. The proposed source of domestic water;

g. The proposed method of sewage disposal, and method of surface water drainage and treatment ~~if required~~;

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- h. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
- i. Changes to ~~navigable streams, shorelines or other~~ watercourses. ~~Provision or closure of public access to these areas will be shown on the preliminary plat, as applicable;~~
- j. Identification of the base flood elevation for development greater than three (3) lots or five (5) acres, whichever is less. Evidence of contact with the Federal Emergency Management Agency to initiate a flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain; and
- ~~h~~k. Evidence of contact with Oregon Department of Transportation (ODOT) or Lane County for any development requiring access to a highway under the State's or Lane County's jurisdiction; ~~and~~.

~~———— k. Evidence of contact with the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Section 155.2.~~

4. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two (2) times the minimum lot size allowed by the underlying land use zone), the application must include a re-division plan which identifies:

- a. Potential future lot division(s) in conformance with the housing and density standards of Division 155.2;
- b. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way; and
- c. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.

155.4.3.140

Approval Criteria: ~~Preliminary Plat~~Tentative Plan

- A. General Approval Criteria. The City may approve, approve with conditions or deny a ~~preliminary plat~~tentative plan based on the following approval criteria:
 - 1. The proposed ~~preliminary plat~~tentative plan complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Section 155.4.3.140, and the applicable sections of Section 155.2.0 – Land Use ~~District~~Zone Administration and Section 155.3.0 – Design Standards Administration shall apply. Where a variance is necessary to receive

155.4.3 – Land Divisions and Property Line Adjustments

- ~~preliminary plat~~tentative plan approval, the application shall also comply with the relevant sections of ~~Section~~Division 155.5 – Exceptions to Code Standards;
2. The proposed plat name is not already recorded for another subdivision and satisfies the provisions of ORS Chapter 92;
 3. The proposed streets, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the ~~preliminary plat~~tentative plan; ~~and~~
 4. All proposed private common areas and improvements (e.g., home owner association property) are identified on the ~~preliminary plat~~tentative plan; ~~and~~
 5. An engineer licensed ~~in by the State of Oregon~~ has ~~shall~~ documented the safety of all development proposed on slopes in excess of ~~16 sixteen~~ percent (16%).
- ~~6. The development of the proposed partition or subdivision will maximize the preservation of existing conifers with a diameter of 8 inches or greater at 4 1/2 feet above average grade, considering topography, soil conditions, solar orientation and other factors affecting the siting of dwellings on the parcels or lots to be created.~~
- B. Housing Density. The subdivision or partition meets the City's housing standards of ~~Section~~Division 155.2 – Land Use Zones.
- C. Block and Lot Standards. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements of ~~Sections~~Division 155.2; and Section 155.3.1 – Access and Circulation ~~and 155.3.2~~.
- D. Future Re-division Plan. If the proposal is to subdivide or partition into tracts greater than two (2) times the minimum lot size allowed by the underlying land use zone, the applicant has submitted a future re-division plan demonstrating that the lots will be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use zone and this Code, the re-division plan must identify:
1. Potential future lot division(s) in conformance with the housing and density standards of Division 155.2 – Land Use Zones;
 2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way; and
 3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.

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- E. Development in a 100-year flood plain. Development in a 100-year flood plain shall comply with Federal Emergency Management Agency (FEMA) requirements, including filling to elevate structures above the base flood elevation. To demonstrate consistency with this criterion, the applicant shall be responsible for obtaining such approvals from the appropriate agency before City approval of the tentative plan.
- F. Determination of Base Flood Elevation. Where a development site consists of two (2) or more lots, or is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by an engineer registered in the State of Oregon.
- G. Utilities. All lots created through land division shall have public utilities and facilities such as electrical, telephone and water systems located and constructed to prevent flooding.
- H. Drainage. All subdivision and partition proposals shall have surface water drainage provisions which meet the requirements set forth in Dunes City Code Chapter 141 – Surface Water Management.
- I. Phased Development for Subdivision Application.
 - 1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any subdivision phase be greater than two (2) years without reapplying for a tentative plan;
 - 2. The criteria for approving a phased land division proposal are:
 - a. Public facilities shall be constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall be proposed and approved as part of the tentative plan. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 155.4.3.180 – Performance Guarantee. A temporary public facility is any facility not constructed to the applicable City or zone standard;
 - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
 - d. The application for phased development approval shall be reviewed concurrently with the tentative plan application and the decision may be appealed in the same manner as the tentative plan.

~~D~~J. Partition Approval Criteria.

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

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

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

155.4.3.150 Variances Authorized

A ~~variance~~ ~~adjustments~~ to the ~~criteria standards~~ of this Section 155.4.3 ~~will~~ may be permitted as part of the Type II land division process by applying ~~be processed in accordance with the variance criteria of~~ Section 155.5.1 – Variances. Applications for variances shall be submitted at the same time an application for land division is submitted.

155.4.3.160 Final Plat Submission Requirements and Approval Criteria

- A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with Lane County. The applicant shall submit the final plat within one (1) year of the approval of the ~~preliminary plat~~ tentative plan as provided by Section 155.4.3.120 – Approval Process. ~~Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Planning Secretary.~~
- B. Approval Criteria. By means of a Type II Procedure, the ~~City~~ Planning Commission shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:
1. The final plat complies with the approved ~~preliminary plat~~ tentative plan, and all conditions of approval have been satisfied;
 2. All public improvements required by the ~~preliminary plat~~ tentative plan have been installed and approved by the City. Alternatively, the developer has provided a performance guarantee in accordance with Section 155.4.3.180 – Performance Guarantee.
 3. The streets for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street and easements for public utilities;
 4. The streets held for private use ~~have been approved by the City as~~ conforming to the ~~preliminary plat~~ tentative plan;
 5. The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, and storm drainage;

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6. The applicant has provided copies of all recorded homeowners association ~~Codes,~~ Covenants, Conditions and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
- ~~7. The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);~~
- ~~87.~~ Certification by the State of Oregon and Lane County, as applicable, that water and sanitary sewer service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the ~~subdivider~~ developer to the City that such services will be installed in accordance with Section 155.3.4 – Public Facilities Standards, and the bond requirements of Section 155.4.3.180 – Performance Guarantee. ~~A registered professional engineer, subject to review and approval by the City; will determine the amount of the bond, contract or other assurance by the subdivider;~~
- ~~98.~~ The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

155.4.3.170

Public Improvements

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

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

155.4.3.180

Performance Guarantee

- A. Performance Guarantee Required. When a performance guarantee is required under Section 155.4.3.170 – Public Improvements, the ~~subdivider~~ developer shall file an assurance of performance with the City supported by one of the following:
 1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the State of Oregon;

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2. A surety bond executed by a surety company authorized to transact business in the State of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
 3. Cash in an escrow account or payment to the City.
- B. Itemized Improvement Estimate. The developer will furnish to the City an itemized improvement estimate, certified by a civil engineer licensed by the State of Oregon, to assist the City in calculating the amount of the performance guarantee.
- C. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- ~~C. Itemized Improvement Estimate. The developer will furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.~~
- D. Agreement. An agreement between the City and developer shall be recorded with the final plat that stipulates all of the following:
1. Specifies the period within which all required improvements and repairs ~~should~~will be completed;
 2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
 3. Stipulates the improvement fees and deposits that are required.
 4. As an option, provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the ~~contract~~agreement. ~~The~~ This agreement may be prepared by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by the applicant, approved by the City Council, and signed by the Mayor.
- E. When ~~Subdivider~~Developer Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has ~~un-reimbursed~~unreimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

155.4.3.190 Filing and Recording

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- A. Filing Plat with County. Within sixty (60) days of the signature of the Mayor on the final plat, the applicant shall submit the final plat to Lane County for signatures of County ~~officials~~ Officials as required by ORS Chapter 92.
- B. Proof of Recording. ~~Upon~~ Within fifteen (15) days of final recording with the County, the applicant shall submit to the City a paper copy of the recorded final plat. This ~~shall~~ must occur prior to the issuance of building permits for the newly created lots.
- C. Prerequisites to Recording the Plat.
 - 1. No plat ~~shall~~ may be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
 - 2. No plat ~~shall~~ may be recorded until the County ~~surveyor~~ Surveyor, approves it in the manner provided by ORS Chapter 92, ~~approves it.~~

155.4.3.200 Replatting and Vacation of Plats

- A. Replatting and Vacations. Any plat or portion thereof may be replatted or vacated upon receiving an application signed by all of the owners ~~as~~ appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (tentative plat followed by final plat) shall be used to replat or vacate a plat.
- B. Procedure. All applications for a replat or vacation shall be processed in accordance with the Type II procedures described in Section 155.4.1.5 and the standards for a subdivision or partition (i.e., the standards that would currently apply to the creation of a subdivision or partition ~~same process used to create the plat~~ shall be used to replat or vacate the plat). ~~The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Section 155.4.1 – Types of Applications and Review Procedures.)~~
- ~~C. Basis for denial. A replat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, or streets; or if it cannot be made to meet applicable criteria.~~
- ~~D~~C. Recording of vacations. All approved replats and vacations shall be recorded in accordance with Section 155.4.3.190 – Filing and Recording and the following procedures:
 - 1. Once recorded, a replat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
 - 2. Vacations shall also divest all public rights in the streets and public grounds, and all dedications identified on the plat.

155.4.3 – Land Divisions and Property Line Adjustments

~~E~~D. After Sale of Lots. When one or more lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.

~~F~~E. Vacation of Streets. All street vacations shall comply with the procedures and standards set forth in ORS ~~Section~~Chapter 271 – Use of Public Lands; Easements.

155.4.3.210 ~~Transfer of Property~~Property Line Adjustments

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

~~B. Lots, which are conforming prior to donations of a portion of the lot to an adjoining lot, will remain conforming, so long as the transfers are made to conform to A. above.~~

Lot line, or property line, adjustments include the relocation or elimination of a common property line between abutting properties. No lot or combination of contiguous lots, either vacant or containing a single-family or multifamily dwelling, shall be replatted so that an undersized lot is created, nor shall a lot be replatted if setbacks or dimensions less than the minimum would result. The application submission and approvals process is as follows:

A. Application Requirements. All applications for property line adjustments shall be made on forms provided by the Planning Official and shall include information required for a Type I application, as governed by Section 155.4.1.4 – Type I Procedure. The application shall include two (2) copies of drawings illustrating:

1. A preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions;
2. Footprints and dimensions of existing structures (including accessory structures);
3. Location and dimensions of driveways and public and private streets within or abutting the subject lots;
4. Existing fences and walls;
5. A surveyed legal description of the lot or lots to be adjusted; and
6. Any other information deemed necessary by the Planning Official for ensuring compliance with City Codes.

155.4.3 – Land Divisions and Property Line Adjustments

- B. Approval Procedures. Property line adjustments shall be processed using the Type I procedure, as provided by [Section 155.4.1.4 – Type I Procedure](#), using approval criteria contained in Subsection C, below.
- C. Approval Criteria. The Planning Official shall approve or deny a request for a property line adjustment in writing based on findings that all of the following criteria are satisfied:
1. No additional parcel or lot is created by the property line adjustment, however the number of lots or parcels may be reduced;
 2. All lots and parcels comply with the applicable lot standards of the underlying zoning district;
 3. All lots and parcels comply with the standards or requirements of [Section 155.3.1.2 – Vehicular Access and Circulation](#);
 4. The resulting lots, parcels, tracts, and building locations comply with the setback standards of the zoning district; and
 5. Nonconforming lots, lots less than one (1) acre in size, shall not be made less conforming by the property line adjustment and shall maintain an area large enough to be a buildable parcel.
- D. Filing and Recording.
1. Expiration of approval. The property line adjustment approval shall be effective for a period of sixty (60) days from the date the approval is signed by the Planning Official. The lot line adjustment approval shall lapse if:
 - a. The property line adjustment is not recorded within the time limit set out above;
 - b. The property line adjustment has been improperly recorded with Lane County without the satisfactory completion of all conditions attached to the approval; or
 - c. The final recording is a departure from the approved property line adjustment.
 2. Filing with County. Within sixty (60) days of the City's approval, the applicant must submit the final property line adjustment survey with legal description to Lane County for recording.
 3. Proof of Recording. Within fifteen (15) days of final recording with the County, the applicant shall submit to the City a paper copy of the recorded final property line adjustment. This must occur prior to the issuance of any building permits on the reconfigured lots.

155.4.3 – Land Divisions and Property Line Adjustments

- E. Extension. The City shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one (1) year provided that:
1. No changes are made on the original property line adjustment as approved by the City;
 2. The applicant has submitted a written intent of recording the approved property line adjustment within the one (1) year extension period;
 3. There have been no changes in the applicable Code provisions on which the approval was based. If such changes have occurred, a new property line adjustment application shall be required; and
 4. The extension request is made before expiration of the original approved property line adjustment.

155.4.4 Conditional Use Permits

Sections:

| | |
|------------------------------|--|
| 155.4.4.100 | Purpose |
| 155.4.4.2110 | Approval Process |
| 155.4.4.3120 | Application Submission Requirements |
| 155.4.4.4130 | Criteria, Standards and Conditions of Approval |
| 155.4.4.5140 | Revocation |
| 155.4.4.5150 | Additional Development Standards for Conditional Use Types |

[155.4.4.100](#) Purpose

There are certain uses that, due to the nature of their impact on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses/[Uses Subject to Review](#)” in [Section Division 155.2 – Land Use DistrictZone](#) Administration. The purpose of [this](#) Section 155.4.4 is to provide standards and procedures ~~under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met~~ [for permitting conditional uses.](#)

[155.4.4.2110](#) Approval Process

- A. Initial Application. An application for a new conditional use shall be processed as a Type III Procedure [described under Section 155.4.1.6150](#). The application shall meet [the](#) submission requirements in [Section 155.4.4.120 – Application Submission Requirements.](#), ~~and the~~ [The](#) approval criteria [is](#) contained in Section [155.4.4.130 – Criteria, Standards and Conditions of Approval.](#)
- B. Modification of Approved or Existing Conditional Use. Modifications to approved or existing conditional uses shall be processed in accordance with [Section 155.4.6 – Modifications.](#)

[155.4.4.3120](#) Application Submission Requirements

In addition to the submission requirements ~~required~~ in [Subsection D of Section 155.4.1.3120 – General Provisions](#), an application for [a](#) conditional use ~~approval~~ must include the following information ~~(A through H)~~, as applicable:

- A. [A detailed, written narrative that clearly explains how the conditional use affects compliance with the approval criteria and applicable standards of the original development application and the reasons for the conditional use application;](#) ~~Existing site conditions;~~
- B. [A Site ~~plan~~Plan depicting all existing and proposed improvements \(drawn to scale\);](#)
- C. Preliminary grading plan;

~~D.~~ ~~A landscape plan including a tree coverage map. For properties containing less than 16 conifers per acre the map will include the location of every conifer with a diameter greater than 8 inches at 4 ½ feet above average grade. For properties containing 16 or more conifers 8 inches or greater in diameter at 4 ½ above average grade per acre the map will include the outline of those areas with stands of conifers or an aerial photograph with enough detail to show conifer stands;~~

~~ED.~~ Architectural drawings of all proposed structures;

~~FE.~~ Drawings of all proposed signs;

~~GF.~~ A copy of all existing and proposed homeowners association Covenants, Conditions and Restrictions (CC&Rs) ~~restrictions or covenants~~; and

~~HG.~~ ~~A Narrative narrative~~ report or letter documenting compliance with all applicable approval criteria in Section 155.4.4.4130 – Criteria, Standards and Conditions of Approval.

H. In addition to the application submission requirements of Subsections A through G above, if a conditional use permit application is for multifamily housing, the application must include a detailed, written maintenance plan that clearly describes how any common or open space areas (e.g., landscaping, private tracts, common driveways, private alleys, building exteriors, and/or similar common areas) shall be maintained. The maintenance plan must describe regular and uniform upkeep of landscaping as well as routine inspection, repair and replacement as necessary of all common lighting fixtures, fire suppression systems, safety controls, and other community systems that serve residents. The maintenance plan must also describe when maintenance activities will be implemented and how they will be funded on an ongoing basis. The purpose of this requirement is to provide for additional review to encourage development that is healthy, safe and compatible with the surrounding neighborhood.

155.4.4.4130 **Criteria, Standards and Conditions of Approval**

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

A. General Use Criteria. General Use Criteria apply to all uses, including multifamily housing.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed ~~building mass~~ lot coverage, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, slopes, odor, dust, visibility; safety, and aesthetic considerations;

a. Site improvements which could cause off-site impacts are oriented away from nearby residential use and/or adequately mitigated through other design techniques such as screening or increased setbacks, and

- b. The project is designed, sited and/or adequately buffered to minimize off-site impacts which could adversely affect future residents of the subject property.
 2. The negative impacts of the proposed use, if any, on ~~adjacent properties and on~~ the public can be mitigated through application of ~~other Code standards~~, the conditions outlined at 155.4.4.4130(C) and/or other reasonable conditions of approval; ~~and~~
 3. All required public facilities have adequate capacity to serve the proposal, consistent with Dunes City Code;
 4. The proposal is consistent with applicable policies of the Comprehensive Plan for Dunes City;
 5. The location, size, design, and operating characteristics of the proposed use:
 - ~~1a. Will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity, and~~ Will not create any significant risk to public health and safety, including but not limited to, soil erosion and flood hazard or an impediment to emergency response;
 - ~~2b. Will not be adversely affected by the development of abutting properties and the surrounding vicinity; (Consideration may be given to harmony in bulk coverage and density, to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character, to the generation of traffic and the capacity of surrounding streets and roads; and to any other relevant impact of the use.~~
 - ~~6.c.~~ Will not be adversely affected by known natural hazards, such as floods, landslides, or erosion;
 - d. Will minimize impacts to the natural environment; and
 - e. Will demonstrate adequate and safe circulation for vehicles and pedestrians.
 - ~~7. Will not create a hazardous natural condition such as erosion, landslide, flooding.~~
- B. Multifamily Housing. In addition to the General Use Criteria described in Subsection A above and the conditions of approval in Subsection C below, the following conditions, which are intended to control development scale, avoid or minimize impacts associated with traffic, parking and design compatibility, and ensure management and maintenance of common areas, apply to any conditional use permit proposal which involves multifamily housing:
 1. Duplex. The following standards apply where a duplex is proposed adjacent to a single-family dwelling where the duplex lot and single-family lot share a common property line:
 - a. The duplex shall not exceed the height of the adjacent single-family dwelling by more than twenty percent (20%);

- b. The duplex, if located on a corner lot and having two garages, shall have each garage entrance oriented to a different street or alley;
 - c. The duplex shall have no blank wall oriented to a street. This standard is met if any elevation facing a street is composed of not less than thirty percent (30%) windows and door surface area; and
 - d. The roof form on the duplex (e.g., gable, flat or hipped) shall be similar to the roof form of adjacent single-family dwellings on the same block face.
- 2. Townhomes/Attached Single-Family Dwellings. Where attached single-family dwellings are proposed, the structure(s) shall meet all of the following standards:
 - a. Each building shall contain not more than four (4) consecutively attached dwelling units and not exceed an overall length or width of one hundred twenty (120) feet;
 - b. The primary entrance of each dwelling unit shall be oriented to a street or an interior courtyard that is not less than twenty-four (24) feet in width;
 - c. Where the proposed site is served by an existing or planned alley, vehicle access shall be from the alley and all garage entrances shall be oriented to the alley; and
 - d. Design and development standards described in Division 155.2 – Land Use Zones and the design standards of Division 155.3 – Design Standards shall be met.
- 3. Multifamily Dwellings (to a maximum of four-plexes).
 - a. Common Open Space and Land Coverage. A minimum of twenty percent (20%) of the site area in the Residential zone and ten percent (10%) of the site area in the Commercial zone shall be designated and permanently reserved as common area or open space, in accordance with all of the following criteria:
 - (1) “Site area” for the purposes of this **Section 155.4.4.130** is defined as the proposed lot or lots after subtracting any required dedication of street rights-of-way.
 - (2) The common area or open space shall contain one or more of the following: outdoor recreation area, tree grove (e.g., existing mature trees), turf play fields or playgrounds, sports courts, swimming pool, walking fitness course, natural area with picnic benches, or similar open space amenities as appropriate for the intended residents.
 - (3) In order to be counted as eligible toward the minimum open space area, such areas shall have dimensions of not less than twenty (20) feet.

- (4) Open space and common areas not otherwise developed with recreational facilities shall be landscaped; alternatively, the Planning Commission may approve a tree preservation plan (retain mature tree groves) in lieu of landscaping.
- b. *Common Areas.* Any common areas (e.g., landscaping, private tracts, common driveways, private alleys, building exteriors, and/or similar common areas) shall be owned and maintained by a homeowners association or other legal entity. A copy of any applicable Covenants, Conditions and Restrictions (CC&Rs) shall be recorded and a copy provided to the City prior to issuance of a building permit. All common areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage in accordance with the approved maintenance plan.
- c. *Private Open Space.* Private open space areas shall be required for dwelling units based on the following criteria:
- (1) A minimum of fifty percent (50%) of all ground-floor dwelling units shall have front or rear patios or decks containing at least forty-eight (48) square feet of usable area. Ground floor housing means the housing unit entrance (front or rear) is within five (5) feet of the finished ground elevation (i.e., after grading and landscaping).
- (2) A minimum of fifty percent (50%) of all upper-floor housing units shall have balconies or porches containing at least forty-eight (48) square feet of usable area. Upper-floor housing means housing units that are more than five (5) feet above the finished grade.
- d. *Access, Circulation, Landscaping, Parking, Public Facilities.* The standards of Division 155.3 – Design Standards shall be met.
- e. *Trash Storage.* Garbage collection facilities, recycling, and storage facilities shall be oriented away from building entrances, setback at least ten (10) feet from any public right-of-way and adjacent residences, shall have a concrete floor surface, shall be fully enclosed with a solid fence or wall of not less than six (6) feet in height with a solid gate accessible by the City's garbage collection provider(s) and located pursuant to the providers specifications. All household garbage shall be stored in receptacles which are free from holes and covered with tight-fitting lids. All recyclable material must be cleaned of food and beverage remnants and stored in receptacles specified by the City's garbage collection provider(s).
- f. *Postal Service, Delivery.* Postal delivery facilities shall be located in a convenient location for residents and mail delivery personnel and in accordance with US Postal Service requirements.
- g. *Garages/Carports.* If garages or carports are provided, the form, materials, color, and construction shall be similar to the complex they serve.

h. Exterior Lighting. (Reserved)

i. Electrical and Mechanical Equipment. On and above ground electrical and mechanical equipment such as transformers, heat pumps and central air conditioner units shall be completely screened with sight-obscuring fences, walls or landscaping.

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

1. Limiting the hours, days, place, and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor, and/or dust;
3. Requiring larger setback areas, lot area and/or lot depth or width;
4. Limiting the building height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location, and/or design of vehicle access points or parking areas;
6. Requiring street rights-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height, and/or lighting of signs;
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location, and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands; and
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction will conform to the provisions of **Section 155.3.4.2-120 – Public Use Areas.**

14. The Planning Commission may require review and renewal of conditional use permits annually or in accordance with another timetable as approved pursuant to this Chapter 155. Where applicable, the timetable shall provide for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval. Such periodic review may occur through a Type III review process, except where the Planning Commission delegates authority to the City Planning Official to issue renewals, who shall do so through a Type I or Type II procedure, as applicable.

155.4.4.140 Revocation

~~C. Revocation. The City Council may revoke a~~ conditional use permit ~~is automatically revoked without special action if:~~

1. ~~The permit has not been exercised within two years of the date of approval. No action has been taken to utilize the conditional use permit within two (2) years of the date of approval.~~
2. The use approved by the conditional use permit is discontinued for any reason for one (1) continuous year or more.
3. ~~The City Council may revoke any conditional use permit for failure to comply with any prescribed condition of the conditional use approval.~~
 - a. ~~A hearing for revocation of a conditional use permit shall be held when the City Council is of the opinion any or all of the bases for revocation as stated in this section exist.~~
 - b. ~~The public hearing, notification, and appeal procedures for revocation hearings by the City Council shall be the same as those for original conditional use application hearings and appeals provided in this section.~~

155.4.4.5150 Additional Development Standards for Conditional Use Types

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

155.4.5 – Planned Unit Development (PUD) Procedures

155.4.5 Planned Unit Development (PUD) Procedures

Sections:

| | |
|-----------------------------------|---|
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~~155.4.5.101~~ 100 Purpose

The purpose of this Section 155.4.5 is to set forth the objectives, principles, standards, and procedures to be used in developing a Planned Unit Development (PUD). This section is designed to permit the flexibility needed to encourage the appropriate development of tracts of land that are large enough to allow the use of individualized comprehensive planning. It is intended to provide the option of flexibility in the application of certain regulations in a manner consistent with the general intent and provisions of the Comprehensive Plan and Zoning and Development Ordinance, thereby promoting a harmonious variety of uses, the economy of shared services and facilities, compatibility of surrounding areas, and the creation of attractive, healthful, efficient, and stable environments for living, shopping, recreation, or working. These provisions are offered as an alternative to clear and objective approval procedures elsewhere in this Code.

~~155.4.5.102~~ 110 Description

A PUD is an optional approach to community development that allows modification of the more or less rigid setback, lot size specification, and land use provisions of the building code, and this Chapter 155. A PUD establishes broad standards and goals to be followed, thus enabling and encouraging flexibility of design and development in order to cluster housing and protect areas

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with open space and natural values. Based on the concept of cluster housing, it allows single-family and attached multifamily dwellings of varying sizes and other uses to be built in the same development, thus inviting considerable variety in both tract and building design and uses, the possible retention of natural settings or community recreational areas, and reduced street and utility installation cost. Although the density of the total area remains consistent with that of normal development, emphasis is placed on the relationship between buildings, uses and open space, and the most efficient use of both natural and development resources, rather than planning on a lot-by-lot or building-by-building basis.

155.4.5.103120 **Objectives**

The general objectives of the PUD are:

- A. To encourage innovations and variety in the development or reuse of property.
- B. To maximize choice in the type of environment available in the City.
- C. To encourage a more efficient use of land and of public services and facilities.
- D. To take advantage of and promote functional land use design.
- E. To provide for the enhancement and preservation of property with unique features (such as, historical, topographical and natural landscape).
- F. To simplify processing of development proposals for developers and the Planning Commission by providing for concurrent review of land use, subdivision, public improvements, and siting.
- G. To enable special problem areas or sites in the City to be developed or improved, in particular where these areas or sites are characterized by special features of geography, topography, size, or shape.
- H. To provide an environment of stable character in harmony with surrounding development or use, or proposed development or use.
- I. To permit flexibility of design that will create desirable public and private common open spaces and a variety in type, design and layout of buildings, and utilize to the best possible extent the potentials of each individual site.
- J. To assist in reducing the public service cost of development.
- K. To provide for enhancement and preservation of desirable vegetation and trees within the PUD.

155.4.5.104130 ~~Permitted~~Allowed Uses

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The following buildings and uses may be ~~permitted~~allowed either singly or in combination in a PUD. Except as specifically provided or referred to in ~~this~~ Section 155.4.5, the building and uses ~~permitted~~allowed in a PUD shall be governed by the basic uses of the parent ~~district~~zone.

- A. Single-family dwellings.
- B. Multifamily dwellings.
- C. Manufactured homes, modular homes.
- D. All other uses ~~permitted~~allowed in the parent ~~district~~zone.
- E. Conditional uses ~~permitted~~allowed in the parent ~~district~~zone.
- F. Open space.
- G. Public and private nonprofit parks and playgrounds, community centers, and recreational facilities.
- H. Hiking and riding trails.
- I. Neighborhood shopping centers and convenience shops where they are deemed appropriate to a larger neighborhood of which the PUD is an integral part and are designed to primarily serve the residents of the PUD with goods and services.
- J. Accessory structures and uses to the extent necessary and normal to the uses ~~permitted~~allowed in this Section 155.4.5.130.

~~155.4.5.105~~ ~~Size and Facility Standards~~

~~A P.U.D. shall be of sufficient size to allow the objectives and standards of this section to be met and shall, as a minimum, comply with the following:~~

- ~~A. The minimum size for a tract of land to be developed as a P.U.D. shall be not less than five contiguous acres and of such configuration as to be conducive to a P.U.D.~~
- ~~B. Notwithstanding the provisions of Section A. above, a P.U.D. application may be filed on a tract of land less than five contiguous acres, but no approval shall be given to such application unless the Planning Commission determines, upon a showing by the applicant, that the minimum size required in A. above should be waived because a P.U.D. is in the public interest and that one or more of the following conditions exist:~~
 - ~~1. Because of unusual physical features of the property or of the neighborhood in which it is located, a substantial deviation from the regulations otherwise applicable is necessary or appropriate in order to conserve a physical or topographical feature of importance to the City.~~

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- ~~2. The property or its neighborhood has historical character of economic importance to the City that will be protected by use of a P.U.D.~~
- ~~3. The property is adjacent to property which has been officially approved, developed, or redeveloped as a P.U.D., and that a P.U.D. on the subject property can be effectively integrated with the existing P.U.D.~~
- ~~4. The property is determined to be an isolated problem area that has been bypassed in the course of development and for which a P.U.D. is determined to be the most feasible method of developing the area.~~

~~C. A community sewage system and a community water system may be required for PUDs with five or more lots.~~

~~155.4.5.106 Land Coverage~~

~~A. In residential developments, at least 40% of the gross area will be devoted to common open space. Streets, rights-of-way and setbacks on individually owned lots will not be considered open space.~~

~~155.4.5.107 Residential Density~~

- ~~A. The residential density shall be equivalent to not more than one family unit per acre.~~
- ~~B. The overall density of a P.U.D. shall be calculated by dividing the total net development area by the number of family units. The net development area shall be determined by subtracting from the gross development area lands intended or used for public or semi-public uses not intended to primarily serve the residents of the P.U.D.~~

~~155.4.5.108 Lot Area and Dimension Standards~~

~~The minimum lot area, width, depth, height, and setback requirements of this chapter applicable to the zoning district in which the P.U.D. lies shall not dictate the strict guidelines for development within the P.U.D., but shall serve as a guideline to ensure that the development will be in harmony with the character of the surrounding area. Individual buildings, accessory buildings, off-street common parking, loading facilities, open space, landscaping, and screening may be located without reference to lot lines, except the boundary lines of the P.U.D.~~

~~155.4.5.109 Perimeter Standards and Visual Screening~~

~~When the Planning Commission determines that topographical or other existing barriers, or the design of the P.U.D., do not provide adequate screening or privacy necessary for properties adjacent to the P.U.D., or, in the alternative, the Planning Commission will require that:~~

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- ~~A. Structures located near the perimeter of a P.U.D. are designed and located so as to protect the privacy and amenity of adjacent existing uses; and.~~
- ~~B. A permanent visual screening will be established, either by appropriate structures or vegetation or both, along those portions of the site boundaries requiring such screening to assure compatibility with adjacent existing or prospective land uses.~~

~~155.4.5.110 ——— Open Space Standards~~

~~The location, shape, size, and character of the open space shall be provided in a manner to meet the specific needs of the P.U.D. and consistent with the standards set forth below, and shall be used only for those uses so specified:~~

- ~~A. Open space may be used for scenic, landscaping, or outdoor recreational purposes. The uses designated for the open space shall be appropriate to the scale and character of the P.U.D., considering its size, density, expected population, topography, and the number and type of dwellings to be provided.~~
- ~~B. Open space shall be developed and improved to the extent that it will serve the purpose for which it is designated. Outdoor areas containing natural features and natural vegetation may be left unimproved. Evergreen trees will be preserved whenever possible.~~
- ~~C. Any building, structure, and improvements within the open space shall be appropriate to the uses which are authorized for the open space and shall conserve and enhance the amenities of the open space having regard to its topography and unimproved condition.~~
- ~~D. The development schedule, which is part of the development plan, must coordinate the improvement of the open space and the construction of residential dwellings and other buildings in the P.U.D.~~
- ~~E. All structures, grading, landscaping, and improvements indicated on the plan, as being in the open space or common ground shall be completed before any portion of the P.U.D. is sold.~~

~~155.4.5.111 ——— Maintenance of Common Land and Facilities, Owners or Tenants Associations~~

~~Whenever any lands or facilities, including streets or ways, are shown on the final development plan as being held in common, the Planning Commission shall require that an association of owners or tenants will be created into a nonprofit corporation under the laws of the state and that such corporation shall adopt articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on such common areas and facilities to the satisfaction of the Planning Commission. The association shall be formed and continued for the purpose of maintaining such common open space and facilities. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessment levies to maintain the areas and facilities for the purposes intended. The period of existence of such~~

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~~association shall not be not less than 20 years, and it shall continue thereafter until a majority vote of the members shall terminate it.~~

~~155.4.5.112~~ — ~~Dedications, Easements, and Similar Requirements~~

~~The Planning Commission may, as a condition of approval for any development, require that portions of the P.U.D. be set aside, improved, conveyed, or dedicated consistent with constitutional limitations for the following uses:~~

- ~~A. Easements necessary to the orderly extension of public utilities.~~
- ~~B. Streets and pedestrian ways necessary to the proper development of the P.U.D. and/or adjacent properties.~~
- ~~C. Recreational areas or open spaces suitable for the owner, residents, employees, or patrons of the P.U.D. and the general public.~~

~~155.4.5.113~~ — ~~Construction Standards~~

~~Except as expressly provided herein, the provisions of the building code, this chapter, and all other City ordinances and codes shall apply to and control all design and construction of improvements within a P.U.D.~~

155.4.5.114 40 **Approval Process**

- ~~A. Review of Preliminary Tentative Development Plan and Plat. Review of a preliminary tentative development plan ~~and plat~~ for a PUD shall be processed with a Type III Procedure described under Section 155.4.1.6150. ~~All preliminary plans and plats will be reviewed using approval criteria contained in Section 155.4.5.107.~~~~
- ~~B. Review of Final Plan and Plat ~~Review of a final development plan and plat~~ for a PUD shall be processed with a Type II Procedure described under Section 155.4.1.5140. ~~All final plans and plats will be reviewed using approval criteria contained in Section 155.4.5.107.~~~~
- ~~C. Preliminary Tentative Plan Approval Period. Preliminary Tentative plan approval shall be effective for a period of one (1) year from the date of approval. The preliminary tentative plan shall lapse if a final plat has not been submitted within ~~a~~ one (1) year.~~
- ~~D. Modifications and Extensions. ~~The applicant may request changes to the approved preliminary plan and plat or conditions of approval following the procedures and criteria provided in Section 155.4.6 – Modifications.~~ The Planning Secretary Official shall, upon written request by the applicant and payment of the required fee, grant one (1) extension of the tentative plan approval period not to exceed one (1) year; provided that:~~
 - ~~1. Any changes to the preliminary tentative plan follow the procedures in Section 155.4.6 – Modifications;~~

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

~~6. The applicant may request minor changes to the approved final plan and plat:~~

~~The City Council may approve minor changes in an approved Final P.U.D. application requested by the applicant if such changes are consistent with the purposes and general character of the application. All other modifications, including extension or revisions of the stage development schedule, will be processed in the same manner as the original application or final approval and will be subject to the same procedural requirements. All requests for changes or modifications and their approval will be in writing.~~

~~E. Phased Development.~~

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

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~~F. Ownership~~

~~The tract or tracts of lands included in a proposed P.U.D. application must be in one ownership or control, or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase shall be deemed the owner of such land for the purposes of this section.~~

155.4.5.150

Procedure for Preliminary Tentative PUD Plan Approval Submission Requirements

Applications for preliminary approval shall be made by the owner(s) of all property included in the PUD or his or her authorized agent and shall be filed on a form prescribed by the City Council and filed with the City Recorder. In addition to the information and material required by Section 155.4.1.120(D) – General Provisions, ~~the~~ application shall ~~also~~ indicate all owners of record, contract purchasers, holders of options, and proposed developers. Preliminary PUD applications shall be accompanied by the filing fee to defray the cost of processing the application, and shall include the following:

A. One copy of a written statement made up of the following information:

1. An explanation of the character of the PUD and the form of organization proposed to own and maintain the common areas and facilities, and the type of ownership of individual units or spaces.
2. Drafts of proposed covenants, deed restrictions, and other documents relating to the dedication, improvement and maintenance of common and private areas or facilities.
3. A development schedule indicating:
 - a. The approximate date when construction of the project can be expected to begin.
 - b. The proposed stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
 - c. The approximate dates when the development will be completed.
 - d. The area, uses and location of common open space that will be provided at each stage.
 - e. A tabulation of land area to be devoted to various uses and a calculation of the average residential density per net acre.
 - f. The ~~identify~~ identity of the Applicant's Design Team. See ~~Section 155.4.5.201 C below.~~ **Section**
 - ~~g. The percentage of the proposed development that falls within the sensitive area of the watershed serving Dunes City, as defined in the Dunes City Drinking Water Source Assessment (Lane Council of Governments 2002), including but not limited to that~~

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- ~~area within 1000 feet of the shores of Lakes Woahink, Little Woahink or Siltecos, including major inlets and outlets.~~
- B. Eight copies of a detailed preliminary tentative development plan(s) and plat of the entire development (drawn to scale), which shall include, at a minimum, the following:
1. Topography of the proposed development with two-foot (2') contour intervals for ground slopes up to twelve percent (12%) and five-foot (5') contour intervals for ground slopes exceeding twelve percent (12%).
 2. The ~~approximate~~ proposed locations, arrangement, and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, bikeways, off-street parking, and loading areas.
 3. The ~~approximate~~ proposed location and dimensions of all buildings and structures and their use, open space and dedicated or reserved properties.
 4. Proposed locations of ~~drainage~~, water, ~~and~~ sanitary systems, drainage ~~and~~ facilities, and utility easements ~~as required~~.
 5. The proposed locations, character, and type of signs and lighting facilities.
 6. A detailed, written narrative that clearly explains all departures from the provisions of Division 155.2 – Land Use Zones and Division 155.3 – Design Standards.
 7. Detailed exterior building plans and elevations.
 8. Detailed grading or earth moving plans.
 9. Detailed landscaping plans.
- C. Applicant's Design Team.
1. Qualified professionals, including but not limited to, qualified architects, landscape architects, engineers and land surveyors licensed by the State of Oregon, shall work as a team as required for the planning, development and construction of a PUD.
 2. The applicant shall designate one of the qualified professionals to be responsible for conferring with the City with respect to the concept and details of the development plan, and shall act as the liaison between City and the design team. The selection of this coordinator shall not limit the applicant or any member of the team from consulting with or presenting material to the Planning Commission and City Council.

155.4.5.160 ~~Preliminary~~ **Tentative PUD Plan Approval Criteria**

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The City may approve, approve with conditions or deny a tentative PUD plan based on the following approval criteria:

A. Size and Facility Standards.

1. The minimum size for a tract of land to be developed as a PUD shall be not less than five (5) contiguous acres.
2. Notwithstanding the provisions of Subsection 1 above, a PUD application may be filed on a tract of land less than five (5) contiguous acres, but no approval shall be given to such application unless the applicant demonstrates that the minimum size required in Subsection 1 above should be waived and that one or more of the following conditions exist:
 - a. Because of unusual physical features of the property or of the neighborhood in which it is located, a substantial deviation from the regulations otherwise applicable is necessary or appropriate in order to conserve a physical or topographical feature.
 - b. The property or its neighborhood has historical character of economic importance to the City that will be protected by use of a PUD.
 - c. The property is adjacent to property which has been officially approved, developed or redeveloped as a PUD, and that a PUD on the subject property can be effectively integrated with the existing PUD.
 - d. The property is determined to be an isolated problem area that has been bypassed in the course of development and for which a PUD is determined to be the most feasible method of developing the area.

B. Residential Density. Residential density shall be equivalent to not more than one (1) family unit per acre.

C. Lot Area and Dimension Standards. The minimum lot area, width, depth, height, and setback requirements of this Chapter applicable to the zone in which the PUD lies shall not dictate the strict guidelines for development within the PUD, but shall serve as a guideline to ensure that the development shall be in harmony with the character of the surrounding area. ~~Individual buildings, accessory buildings, off-street common parking, loading facilities, open space, landscaping, and screening may be located without reference to lot lines, except the boundary lines of the P.U.D.~~

D. Perimeter Standards and Visual Screening. The applicant shall demonstrate that topographical or other existing barriers, or the design of the PUD, provide adequate screening or privacy necessary for properties adjacent to the PUD or, in the alternative, that:

1. Structures located near the perimeter of a PUD are designed and located so as to protect the privacy and amenity of adjacent existing uses; and

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2. A permanent visual screening will be established, either by appropriate structures or vegetation or both, along those portions of the site boundaries requiring such screening to assure compatibility with adjacent existing or prospective land uses.

E. Open Space Standards. The applicant shall demonstrate that the location, shape, size, and character of the open space shall be provided in a manner to meet the specific needs of the PUD consistent with the standards set forth below, and shall be used only for those uses so specified:

1. Open space may be used for scenic, landscaping or outdoor recreational purposes. The uses designated for the open space shall be appropriate to the scale and character of the PUD, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.
2. Open space shall be developed and improved to the extent that it will serve the purpose for which it is designated. Outdoor areas containing natural features and natural vegetation may be left unimproved. Conifers will be preserved whenever possible.
3. Any building, structure and improvements within the open space shall be appropriate to the uses which are authorized for the open space and shall conserve and enhance the amenities of the open space having regard to its topography and unimproved condition.
4. The development schedule, which is part of the development plan, must coordinate the improvement of the open space and the construction of residential dwellings and other buildings in the PUD.
5. All structures, grading, landscaping, and improvements indicated on the plan as being in the open space or common ground shall be completed before any portion of the PUD is sold.

F. Maintenance of Common Land and Facilities, Owners or Tenants Associations. The applicant shall demonstrate that for any lands or facilities, including streets or ways, shown on the final development plan as being held in common, an association of owners or tenants shall be created into a nonprofit corporation under the laws of the state and that such corporation shall adopt articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on such common areas and facilities. The association shall be formed and continued for the purpose of maintaining such common open space and facilities. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessment levies to maintain the areas and facilities for the purposes intended. The period of existence of such association shall continue in perpetuity unless and until a majority vote of the members shall terminate it.

G. Dedications, Easements, and Similar Requirements. The City may, as a condition of approval, require that portions of the PUD be set aside, improved, conveyed, or dedicated consistent with constitutional limitations for the following uses:

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1. Easements necessary to the orderly extension of public utilities.
 2. Streets and pedestrian ways necessary to the proper development of the PUD and adjacent properties.
 3. Recreational areas or open spaces suitable for the owner, residents, employees, or patrons of the PUD and the general public.
- H. Construction Standards. Except as expressly provided herein, the provisions of the building code, this Chapter, and all other City Ordinances and Codes shall apply to and control all design and construction of improvements within a PUD.
- I. The location, design, and size must be such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding land uses, that the location and design will adequately reduce the impact of the development.
- J. The location, design, size, and land use must be such that traffic generated by the development can be accommodated safely and without congestion on existing or planned streets and will avoid as much as possible traversing local streets.
- K. The location, design, size, and land uses must be such that the residents or establishments to be accommodated will be adequately served by existing facilities and services or by facilities and services which are planned for construction within a time period that is deemed reasonable.
- L. When requested by the applicant as part of the application for approval of the final PUD plan, the City may approve minor deviations from the tentative PUD plan as part of the approval of a final PUD application. All other changes, including extension or revisions of the stage development schedule, shall be processed in accordance with Section 155.4.6 – Modifications.
- M. Phased Development.
1. As part of its approval of the tentative PUD plan, the City may approve a time schedule for developing a PUD in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any phase be greater than two (2) years without reapplying for a tentative plan.
 2. The criteria for approving a phased PUD proposal are:
 - a. Public facilities shall be constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall be proposed and approved as part of the tentative plan. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 155.4.3.180 – Performance Guarantee. A temporary public facility is any facility not constructed to the applicable City or zone standard;

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c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and

d. The application for phased development approval shall be reviewed concurrently with the tentative plan and plat application and the decision may be appealed in the same manner as the tentative plan and plat.

N. Ownership. The tract or tracts of lands included in a proposed PUD application must be in one ownership or control, or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase shall be deemed the owner of such land for the purposes of this section.

155.4.5.11670

Procedure for Final PUD Plan Submission Requirements and Procedure for Plat Approval

A. Application.

1. Within one (1) year after the granting of ~~Preliminary-Tentative~~ PUD Approval, the applicant shall file with the Planning Secretary-Official a “Final PUD Application” for the entire development or, when submission in stages has been authorized, for the first stage of development. The Final PUD Application shall conform in all major respects with the Preliminary PUD application. In addition to the information and material required by Section 155.4.1.120(D) the application shall also indicate all owners of record, contract purchasers, holders of options, and proposed developers. Final PUD applications shall be accompanied by the filing fee to defray the cost of processing the application, and shall include the following information:

a. One copy of the final plat ~~for showing~~ each tax lot created and a reproducible transparency of the final plan(s) ~~will be submitted.~~;

~~This plan will be sufficiently detailed to indicate fully the ultimate operations and appearance of the development and will include, at a minimum, the following:~~

~~1. Detailed locations of water, sewage, drainage facilities and utility easements.~~

~~2. A detailed plan showing the location of all buildings and structures.~~

~~3. Detailed exterior building plans and elevations.~~

~~4. Detailed plans showing the character and locations of signs and lighting facilities.~~

~~5. Detailed plans for streets, pedestrian ways, and parking improvements.~~

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- ~~6. Detailed grading or earth moving plans.~~
 - ~~7. Detailed landscaping plans.~~
 - ~~8. A tree coverage map. For properties containing less than 16 conifers per acre the map will include the location of every conifer with a diameter greater than 8 inches at 4 ½ feet above average grade. For properties containing 16 or more conifers 8 inches or greater in diameter at 4 ½ above average grade per acre the map will include the outline of those areas with stands of conifers or an aerial photograph with enough detail to show conifer stands;~~
- b. A final subdivision plat;
- c. All documents relating to dedication, improvements, maintenance agreements, covenants, deed restrictions, and bylaws of neighborhood associations, cooperatives, and improvements ~~of the district~~ shall be submitted. ~~The documents so submitted shall be approved by an attorney and will be further approved as to form by the City Attorney.~~
- ~~2. Within five days after a complete application for final approval is duly submitted to the Planning Secretary, the Planning Secretary shall distribute copies thereof to the City Council and to such other agencies or individuals as deemed appropriate.~~
- B. ~~Review by City Council. Within 45 days after receipt of the application for final approval,~~ The Planning Commission shall consider the Final PUD Application ~~application~~ along with any referrals received concerning the application using the Type II process. ~~If it appears from the evidence presented that the Final Application substantially conforms to the Preliminary P.U.D. Application, the conditions, stipulations, and limitations or changes required by the Order of Preliminary P.U.D. Approval, and all applicable laws and ordinances, the Planning Commission shall approve the application. If the Planning Commission determines that the application does not comply with such provisions, it shall either:~~
- ~~1. Require such changes in the Final P.U.D. Application as are in its judgment necessary to ensure conformity to the Preliminary P.U.D. Application, the conditions, stipulations, and limitations or changes required by the Preliminary P.U.D. Approval, and all applicable laws and ordinances, and in so doing the applicant may revise the Final Application and resubmit the application to the City Council within 45 days. The Revised Final P.U.D. Application shall be heard at the next regular City Council meeting.~~
 - ~~2. Disapprove the Final P.U.D. Application, and the action of the City Council shall become final in ten days unless within the ten day period.~~

155.4.5.14780

Final PUD Plan Approval Criteria

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- A. Approval criteria. Approval of the Final PUD plan shall be based on consistency with the following criteria:~~In addition to the following development and maintenance standards and principles, the City Council will expressly find that the following criteria are met before it approves a P.U.D.:~~
1. The Final Application shall substantially conform to the Preliminary PUD application, the conditions, stipulations, and limitations or changes required by the Order of Preliminary PUD Approval, and all applicable laws and ordinances.
 2. If the application does not comply with the criterion above, the City may either:
 - a. Require changes in the Final PUD to ensure conformity to the Preliminary PUD Application, the conditions, stipulations, and limitations or changes required by the Preliminary PUD Approval, and all applicable laws and ordinances. In so doing the applicant may provide any necessary waivers of time and resubmit the revised Final Application to the City within forty-five (45) days for reconsideration.
 - b. Disapprove the Final PUD Application.~~1. The location, size, design, and uses must be consistent with the Comprehensive Plan.~~
 - ~~2. The location, design, and size must be such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding land uses, that the location and design will adequately reduce the impact of the development.~~
 - ~~3. The location, design, size, and land use must be such that traffic generated by the development can be accommodated safely and without congestion on existing or planned streets and will avoid as much as possible traversing local streets.~~
 - ~~4. The location, design, size, and land uses must be such that the residents or establishments to be accommodated will be adequately served by existing facilities and services or by facilities and services, which are planned for construction within a time period that is deemed reasonable.~~
 - ~~5. The location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working.~~
 - ~~6. The plan will preserve the maximum number of evergreen trees and desirable natural plants (as defined in the Erosion Control Ordinance), given the limits of the area to be developed.~~
- B. Limitation of approval. No excavation, grading, construction improvements, or building permits shall be authorized or issued within ~~the an~~ adoptedapproved PUD pending compliance with the following:
1. Full compliance with all provisions of this part, including the execution and filing of all documents required therein.

155.4.5 – Planned Unit Development (PUD) Procedures

2. Compliance with the requirements of the building code and ~~sections~~ Divisions 155.2 – Land Use Zones, 155.3 – Design Standards and 155.4 – Applications and Review Procedures of this ~~chapter~~ Chapter 155, and all other applicable laws and regulations.
3. Full compliance with the approved Final PUD application. The application shall control the issuance of all building permits and shall restrict the nature, location and design of all uses.

155.4.5.118~~90~~200 Procedure to Change Approved Final Plan

Changes to the approved plans shall be in accord with **Section 155.4.6 – Modifications.**

155.4.5.119~~200~~200 Revocation of Planned Unit Development.

In the event of a failure to comply with the approved PUD application or any prescribed condition of approval, including failure to comply with the stage development schedule, City Council may initiate a review of the PUD at a public hearing to determine whether or not its continuation in whole or in part is in the public interest, and if found not to be shall revoke approval of the PUD. See Section 155.1.4 – Enforcement. The Code Enforcement Officer will take action necessary and authorized under enforcement provisions.

~~155.4.5.120~~ Applicant's Design Team.

- ~~A. The talents of qualified professionals, working as a team, are required for the planning, development, and construction of a P.U.D. to ensure that the objectives of this subsection may be most fully realized and appreciated by the community and that the project enables the most expeditious processing of P.U.D.s by facilitating coordination and communication between the developer, the various professionals, the public agencies, the City Council and the Planning Commission. The composition of the applicant's design team shall include, but not be limited to, a qualified architect, a landscape architect, and an engineer or land surveyor, licensed by the State.~~
- ~~B. One of the required professionals shall be designated by the applicant to be responsible for conferring with the City Council and Planning Commission with respect to the concept and details of the development plan, and shall act as the liaison between City and the design team. The selection of this coordinator shall not limit the applicant or any member of the team from consulting with or presenting material to the Planning Commission and City Council.~~
- ~~C. The composition of the design team may be modified by the City or the applicant in accordance with the following provisions:~~
 - ~~1. The City Council or the Planning Commission may require that, in addition to the design team, the expertise of other professionals be utilized in the formation, planning, and development of a P.U.D. if the City Council or Planning Commission makes a determination that the site merits special consideration due to its unusual and adverse physical features or conditions.~~

155.4.5 – Planned Unit Development (PUD) Procedures

- ~~2. The applicant may limit, except as provided in division (1) above, the composition of the design team to an architect, or a landscape architect and an engineer or a land surveyor, if the proposed P.U.D. is intended for single family dwellings.~~

155.4.6 Modifications ~~to Approved Plans and Conditions of Approval~~Sections:

| | |
|----------------------------------|--|
| 155.4.6. 1 <u>100</u> | Purpose |
| 155.4.6. 2 <u>110</u> | Applicability |
| 155.4.6. 3 <u>120</u> | Major Modifications <u>Process and Criteria</u> |
| 155.4.6.4 | Minor Modifications |

155.4.6.~~1~~100 Purpose

The purpose of this Section 155.4.6 is to provide an ~~efficient~~ appropriate process that allows for modifying approved applications, land use decisions and ~~approved~~ development plans, ~~in recognition of the cost and complexity of land development and the need to conserve City resources~~ after their effective date of approval without initiating repetition of the original application.

155.4.6.~~2~~110 Applicability

A. ~~This Section applies to all~~ The following development applications approved through the provisions of ~~Division~~ Section 155.4 ~~–Applications and Review Procedures may be modified as provided in the provisions of this Section 155.4.6, including:~~

~~1. Site Review;~~

12. Subdivisions, Partitions, and ~~Lot~~ Property Line Adjustments;

23. Conditional Use Permits;

34. Planned Unit Developments (Preliminary and Final);

4. Recreational Vehicle (RV) Parks; and

5. Conditions of approval on any of the above application types.

B. ~~This~~ Section 155.4.6 does not apply to land use ~~district~~ zone changes, text amendments, temporary use permits, or other permits.

155.4.6.~~3~~120 ~~Major~~ Modification Process and Criteria

A. ~~Major Modification Defined.~~ An applicant may seek approval of not more than one (1) modification to an approved application for: The Planning Secretary will determine that a major modification(s) is required if one or more of the changes listed below are proposed:

~~1. A change in land use. See Section 155.2 Change use category on any portion of the site;~~

~~2. An increase in the number of dwelling units~~ Increase residential density;

3. Increase proposed building height within one hundred (100) feet of single-family residential zones;
- ~~3.4. — A change in the type and/or location of access ways, drives or parking areas that affect off-site traffic~~Change access or parking locations affecting exterior driveway or intersection locations or off-site traffic circulation;
5. Changes in traffic volume which affect the need for on-site and/or off-site traffic safety or capacity improvements;
- ~~4.6. — An increase in the floor area proposed for non-residential use by more than 10 percent where previously specified~~Increase square footage of a proposed non-residential use by more than ten percent (10%) of approved plans;
- ~~5.7. — A reduction of more than 10 percent of the area reserved for common open space and/or usable open space~~Reduce usable common or open space;
- ~~6.8. — A reduction to specified setback requirements to a degree that the minimum setback standards of the land use district cannot be met~~Change perimeter setbacks or lot coverage to the extent that minimum standards of the underlying land use zone cannot be met; or
9. Changes to approved development on slopes greater than twelve (12) to sixteen (16) percent and/or within wetlands, riparian areas, and shorelands areas or relating to transportation systems;
10. Increase or reduction in pedestrian or bicycle amenities, recreational facilities, screening, and/or landscaping provisions;
11. Change building heights or locations, proposed interior streets, parking or utility easement configurations, landscaping or other interior site improvements; or
- ~~7.12. — Changes similar to those listed in 1 through 6, which are likely to have an adverse impact on adjoining properties~~Change a condition of approval similar to Subsections 1 through 11 above which the Planning Commission has determined to have detrimental impacts on adjoining properties.

B. ~~Major Modification Request. An applicant may request a major modification as follows:~~

- ~~1. Upon the Planning Secretary determining that the proposed modification is a major modification, the applicant shall submit an application for the major modification~~A pre-application conference is required for all Type II and Type III applications. The Planning Official shall determine whether the modification application shall be processed as a Type II or Type III Procedure.

2. The modification ~~request~~ application shall be subject to the same review procedure that applies to the underlying application under this Code, regardless of the process used to originally approve the underlying application (Type I, II, or III). ~~and a~~ Approval shall be based on the criteria used for the initial project approval, however, the review shall be limited in scope to the modification request. Notice shall be provided in accordance with the applicable review procedure.

C. Application Submittal Requirements.

1. The applicant shall submit an application for modification on forms provided by the Planning Official.
2. Submittal Information. The application shall:
 - a. Include the information requested on the application form, Subsection D of **Section 155.4.1.120** and any provisions of Chapter 155 that pertain specifically to the type of modification application submitted;
 - b. Be filed with a written narrative statement that clearly explains how the modification affects compliance with the approval criteria and applicable standards of the original development application and the reasons for the modification;
 - c. Be accompanied by the required fee;
 - d. Include an impact statement for achieving compliance with all Dunes City Code relating to transportation systems (**Section 155.3.4.110 – Transportation Standards**), wetlands (**Section 155.2.5 – Wetland Overlay Zone**), riparian areas (**Section 155.2.6 – Riparian Overlay Zone**), and shorelands (**Section 155.2.3 – Open Space Overlay Zone**); and
 - e. Include appropriate and necessary plans illustrating modifications to approved plans, including but not limited to: existing conditions plan; preliminary partition or subdivision plat if land division is included in the development proposal; concept plans; preliminary phasing plan including infrastructure phasing if project phasing is proposed; site development plan; grading and erosion plan; landscape plan; exterior lighting plan; architectural designs; and floor plans.

D. Notices, Hearings, Decisions, and Appeals of Decisions. All applicable notices, hearings, decisions, and appeals of decisions shall comply with the provisions of Type II Procedures described in **Section 155.4.1.140** or Type III Procedures as described in **Section 155.4.1.150**.

E. Approval Criteria. To approve a modification application, the Planning Commission or the Planning Commission and the City Council, depending upon whether the application is processed as a Type II or Type III Procedure, shall make findings of fact, based on the evidence provided, that the following criteria are satisfied:

1. The location, size and functional characteristics of the modified development can be made reasonably compatible with, and would have a minimal impact on properties surrounding the subject site;
2. New elements are provided that functionally compensate for any negative effects caused by the requested modification. New elements used to compensate for a negative effect shall be of at least equal value to the elements proposed to be changed; and
3. The entire development with the proposed modification shall demonstrate compliance with the approval criteria of the original application.

F. Conditions of Approval. The Planning Commission and/or the City Council may impose conditions on the approval of a modification application to ensure compliance with the original approval criteria.

~~155.4.6.4 — Minor Modifications.~~

- ~~A. **Minor Modification Defined.** Any modification to a land use decision or approved development plan, which is not within the description of a major modification, as provided in Section 155.4.6.3, above, will be considered a minor modification.~~
- ~~B. **Minor Modification Request.** An application for approval of a minor modification is reviewed using Type I Procedure. A minor modification will be approved, approved with conditions, or denied by the Planning Secretary based on written findings on the following criteria:~~
- ~~1. The proposed development is in compliance with all applicable requirements of the Development Code; and~~
 - ~~2. The modification is not a major modification as defined in Section 155.4.6.3, above.~~

155.4.7 Land Use ~~District~~Zone Map Amendments

Sections:

| | |
|--------------------|--|
| <u>155.4.7.100</u> | <u>Purpose</u> |
| <u>155.4.7.110</u> | <u>Approval Process</u> |
| <u>155.4.7.120</u> | <u>Approval Criteria</u> |
| <u>155.4.7.130</u> | <u>Record of Amendment</u> |
| <u>155.4.7.140</u> | <u>Transportation Planning Rule Compliance</u> |

155.4.7.100 Purpose

The purpose of this Section 155.4.7 is to provide standards and procedures for legislative and quasi-judicial amendments to the Land Use Zone Map. Amendments may be necessary from time to time to reflect changing community conditions, to correct mistakes, or to address changes in the law. A proposed zone change that is quasi-judicial in nature will be processed using the Type III procedures. A proposed zone change that is legislative in nature will be processed using the Type IV procedures.

155.4.7.110 Procedure

All zoning changes shall ~~be noted on the Comprehensive Plan land use district map, and will be accomplished by a Type IV Procedure with a resulting-~~ require an ordinance passed-adopted by the City Council to make such change. All zone changes shall be recorded on the Comprehensive Plan Land Use Zone Map.

- A. Amendments to the Land Use Zone Map that affect more than one parcel, or more than one-half (1/2) an acre, whichever is greater, are Legislative (Type IV) actions processed pursuant to Section 155.4.1.160.
- B. Amendments to the Land Use Zone Map that require an amendment to the Comprehensive Plan are Legislative (Type IV) actions processed pursuant to Section 155.4.1.160.
- C. Amendments that do not meet the criteria under (A) or (B) above may be processed as Quasi-Judicial amendments (Type III) pursuant to Section 155.4.150.

155.4.7.120 Approval Criteria

Planning Commission review and recommendation, and City Council approval, of an ordinance amending the Land Use Zone Map shall be based on all of the following criteria:

- A. If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;
- B. The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning);

155.4.7 – Land Use Zone Map Amendments

- C. The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the Comprehensive Plan; and
- D. The amendment must conform to **Section 155.4.7.140-Transportation Planning Rule Compliance**.

155.4.7.130 Record of Amendment

The Planning Official shall maintain a record of amendments to the Land Use Zone Map in a format convenient for public use. The amended map shall be made part of the adopting ordinance.

155.4.7.140 Transportation Planning Rule Compliance

Proposals to amend the Land Use Zone Map shall be reviewed to determine whether they significantly affect a transportation facility pursuant to OAR 660-012-0060 (Transportation Planning Rule – TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility, the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

155.4.8 Code Interpretations.

Sections:

~~155.4.8.1 Purpose~~

~~155.4.8.2 Code Interpretation Procedure~~

155.4.8.1 Purpose.

~~Some terms or phrases within the Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.~~

155.4.8.2 Code Interpretation Procedure.

- ~~A. Request. A request for a code interpretation shall be made in writing to the Planning Secretary. The Planning Secretary may develop written guidelines for the application process.~~
- ~~B. Decision to Issue Interpretation. The Planning Commission shall have the authority to review a request for an interpretation. The Planning Secretary shall advise the requester in writing within 45 days after the request is made, on whether or not the City will issue the requested interpretation.~~
- ~~C. Declining Requests for Interpretations. The Planning Commission is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject Code section affords only one reasonable interpretation and the interpretation does not support the request. The Planning Commission decision to issue or decline to issue an interpretation is final when the decision is mailed to the party requesting the interpretation.~~
- ~~D. Written Interpretation. If the Planning Commission decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within 14 days after the regular Planning Commission meeting where interpretation is issued. The decision shall become effective 14 days later, unless an appeal is filed in accordance with E through G below.~~
- ~~E. Appeals. The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the City Council within 14 days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the City.~~
- ~~F. Appeal Procedure. City Council shall hear all appeals of a Planning Commission interpretation as a Type II Procedure pursuant to Section 155.4.1.5, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.~~

~~G. Final Decision/Effective Date. The decision of the City Council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the City Council's decision is filed, the decision remains effective unless or until the Land Use Board of Appeals or a court of competent jurisdiction modifies it.~~

~~H. Interpretations On File. The Planning shall keep on file a record of all code interpretations.~~

155.4.8 **Code Amendments**

Sections:

155.4.8.100 General Requirements

155.4.8.110 Code Amendment Approval Criteria

155.4.8.100 **General Requirements**

A proposed amendment to this Code which is quasi-judicial in nature shall be processed as a Type III decision pursuant to Section 155.4.1.150. A proposed amendment to this Code which is legislative in nature shall be processed as a Type IV decision pursuant to Section 155.4.1.160.

155.4.8.110 **Code Amendment Approval Criteria**

Amendments to this Code shall be consistent with the applicable provisions of the City's adopted Comprehensive Plan.

155.4.9 – Miscellaneous Permits/Applications

155.4.9 Miscellaneous Permits/Applications

Sections:

- 155.4.9.~~1~~100 Temporary Use Permits
- 155.4.9.~~2~~110 Home Occupation Permit
- 155.4.9.~~3~~120 ~~Concept Assistance~~ Temporary Occupancy of Recreational Vehicles and Travel Trailers
- 155.4.9.~~4~~130 ~~Manufactured Home Parks~~ [Reserved]
- ~~155.4.9.5~~ ~~Travel Trailer and Recreational Vehicle Parks~~

155.4.9.~~1~~100 Temporary Use Permits

A. ~~Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Three types of temporary uses require permit approval (See A, B and C) Permit approval may be granted for structures or uses which are temporary or seasonal in nature, such as temporary construction trailers and leasing offices, and seasonal sales such as Christmas tree sales and vegetable stands. Such activities may have adverse impacts on surrounding property, therefore some restrictions are necessary. These activities are intended to be in use for a limited duration not to exceed twelve (12) months and shall not become a permanent part of the site. The applicant for a temporary use permit (TUP) shall submit an application on forms provided by the City. The application shall:~~

1. Include the information requested on the application form;
2. Be filed with a detailed written narrative that clearly explains how the use conforms to the standards and limitations of the underlying zone in which the use is intended to be located, meets all applicable City and County health and sanitation requirements, and meets all applicable Building Code requirements;
3. Include a site plan drawn to scale showing the location of the temporary use, the entrance(s) and exit(s) from the site, areas to be designated for parking, and any requested signs; and
4. Be accompanied by the required fee.

B. The three types of temporary uses that require permit approval are:

- A1. Seasonal and Special Events. These types of uses ~~occur only once in a calendar year~~ require a permit per event and ~~no event may be permitted for no longer~~ a period longer than thirty (30) days. Using the Type II Procedure described under Section 155.4.1.5 ~~140~~, the City shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:

155.4.9 – Miscellaneous Permits/Applications

- ~~1a.~~ The use ~~is permitted in the underlying land use district and~~ does not violate any conditions of approval for the property (e.g., prior development permit approval);
- ~~2b.~~ The applicant, ~~if not the owner of the property on which the activity will take place,~~ has proof of the property owner's permission for the event;
- ~~3c.~~ ~~No parking will be utilized by customers and employees of the temporary use, which is needed by the property owner to meet their minimum parking requirement under Section 155.3.3 – Vehicle and Bicycle Parking~~ There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to Section 155.3.3 – Vehicle and Bicycle Parking without impeding the flow of traffic on any public or private roadway;
- ~~4d.~~ The use provides adequate vision clearance, as required by ~~Section Table 155.3.1.2 110.M~~, and will not obstruct pedestrian access on public streets;
- ~~5e.~~ Ingress and egress are ~~safe and~~ adequate and do not raise safety concerns when the proposed use is combined with the other uses of the property, as required by Section 155.3.1.2 110 – Vehicular Access and Circulation;
- ~~6f.~~ The use ~~does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and~~ shall comply with applicable noise, odor and nuisance provisions of Dunes City Code and any applicable local fire code;
- ~~7g.~~ The use is adequately served by ~~sewer or~~ septic system and water., ~~if applicable. (The applicant shall be responsible for obtaining any related permits.)~~ If the attendance is larger than twenty (20) people the adequate portable sanitation units shall be provided (e.g., one [1] for every twenty [20] people in attendance), but limited to four (4) calendar days or less; and

h. The applicant has obtained any other permits required by Dunes City Code or any other required County or State permits, such as a City Business License, sanitation facility permits, electrical permits, or temporary road closure permits.
- ~~B2.~~ Temporary Sales Office or Model Home. Using a Type II Procedure under Section 155.4.1.4 140, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office, ~~offices or model home~~ for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, ~~but for no other purpose,~~ based on the following criteria and provided that the applicant, if different from the property owner, has proof of the owner's permission to place the temporary sales office or model home on the property:

155.4.9 – Miscellaneous Permits/Applications

~~4~~a. Temporary sales office on the site of an active construction site or major development project:

~~a~~(1) The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; ~~and~~

(2) A temporary use permit for a temporary sales office may be issued for the length of the project but for no longer than twelve (12) months. The TUP may be renewed annually so long as the project remains in active status;

~~b~~(3) The property to be used for a temporary sales office shall not be permanently improved for that purpose~~;~~ and

(4) Public health, safety and welfare shall be protected through conditions imposed by the City regarding temporary utility connections and sanitation facilities.

~~2~~b. Model home:

~~a~~(1) The model home shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and

~~b~~(2) The model home shall be designed as a permanent structure that meets all relevant requirements of this Code and other applicable codes and permit requirements.

~~€~~3. Temporary Building. Using a Type II Procedure, ~~as governed by~~ pursuant to Section 155.4.1.5 140, the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real ~~commercial or industrial~~ property within the City as a temporary ~~commercial or industrial~~ office or space associated with the primary use on the property, but for no other purpose, based on following criteria and provided that the applicant, if different than the property owner, has proof of the owner's permission to place the temporary building on the property:

~~4~~a. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;

~~2~~b. The primary use on the property to be used for a temporary ~~trailer~~ building is already developed;

~~3~~c. Ingress and egress are ~~safe and~~ adequate and do not raise safety concerns when the proposed use is combined with the other uses of the property~~;~~ as required by Section 155.3.1.2 110 - Vehicular Access and Circulation;

~~4~~d. ~~There is adequate parking for the customers or users of the temporary use as required by~~ There is sufficient parking to accommodate the temporary use of the building and

155.4.9 – Miscellaneous Permits/Applications

- other uses existing on the site, pursuant to Section 155.3.3 – Vehicle and Bicycle Parking without impeding the flow of traffic on any public or private roadway;
- ~~5. The use will not result in vehicular congestion on streets;~~
- ~~6e.~~ The use of the building will pose no hazard to pedestrians in the area of the use;
- ~~7f.~~ The use ~~does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use~~ of the building shall comply with applicable noise, odor and nuisance provisions of Dunes City Code and any applicable local fire code; and
- ~~8g.~~ The building complies with applicable building codes and the applicant has obtained any permits required by Dunes City Code or any other required County or State permits, such as a City Business License, sanitation facility permits, or electrical permits; and
- ~~9h.~~ The ~~use can be~~ building is adequately served ~~by sewer or a~~ septic system and water, ~~if as applicable. (The applicant shall be responsible for obtaining any related permits); and~~
- ~~10i.~~ ~~The length of time that the temporary building will be used does not exceed twelve months.~~ When a temporary building ~~exceeds this time frame~~ permit expires, the applicant shall be required to remove the building, or ~~renew the~~ obtain a new temporary use permit.

155.4.9.2110 Home Occupation Permit

The purpose of ~~this~~ Section 155.4.9.2110 is to encourage those who are engaged in small commercial ventures which are not subject to acquisition of a Conditional Use Permit and which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. They are ~~permitted~~ allowed by right in all residential units (dwellings), subject to review under the Type I process described in 155.4.1.130 applying the following standards:

A. Appearance of Residence.

1. The home occupation shall be restricted to lawfully built enclosed structures ~~and be conducted in such a manner as not to give an outward appearance of a business.~~
2. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.

155.4.9 – Miscellaneous Permits/Applications

3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
4. No products ~~and/or equipment~~ produced or sold ~~or used~~ by the home occupation may be displayed ~~to be~~ or visible from outside any structure.

B. Storage.

1. Outside storage of inventory or materials related to the home occupation cannot be visible from the public right-of-way or adjacent properties, ~~is prohibited~~.
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible, corrosive, or flammable) beyond those normally incidental to residential use is prohibited.
3. Storage of inventory or products and all other equipment, fixtures and activities associated with the home occupation shall be allowed in any structure.

C. Employees.

1. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one (1) full-time equivalent employee at the home occupation site at any given time. As used in ~~this~~ Section 155.4.9.2110, the term “home occupation site” means the lot on which the home occupation is conducted.
2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
3. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. Advertising and Signs. Signs shall comply with Section 155.2.1.260250.

E. Vehicles, Parking and Traffic.

1. One (1) commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
2. There shall be no more than ~~three~~ four (4) commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 7:00 p.m. to 9:00 a.m.
3. There shall be no more than one (1) client or customer vehicle at any one time and no more than eight (8) per day at the home occupation site. There shall be no client or customer vehicles parked in Dunes City's right-of-way.

155.4.9 – Miscellaneous Permits/Applications

F. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from ~~9-7:00~~ a.m. to ~~5-7:00~~ p.m. only, subject to Subsections A and E, above.

G. Prohibited Home Occupation Uses.

1. Any activity that produces radio, ~~or~~ TV or other electronic interference, noise, glare, vibration, smoke, ~~dust and~~ or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited. Any activity that produces hazardous waste is prohibited.
2. Any activity involving on-site retail sales, including garage sales exceeding the thresholds of a temporary use, is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed ~~subject to A-F, above.~~
3. The following uses, and uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration are prohibited:
 - a. Ambulance service,
 - b. Animal hospital, veterinary services, kennels, or animal boarding.
 - c. Auto and other vehicle repair, including vehicle body work and painting, and
 - d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment.

H. Enforcement. Consistent with State law, ~~The Planning Code Enforcement Officer Secretary~~ or designee may visit and inspect the site of home occupations ~~in accordance with this section periodically when the City has received a complaint~~ to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations will be processed in accordance with **Section 155.1.4 – Enforcement.**

155.4.9.120 **Temporary Occupancy of Recreational Vehicles and Travel Trailers**

Using a Type I procedure pursuant to **Section 155.4.1.130,** the Planning Official, or his/her designee, may approve, approve with conditions or deny an application for the temporary occupancy of a recreational vehicle or travel trailer in the residential zone. Short-term stays, defined as twenty-eight (28) or fewer consecutive days, are exempt. Manufactured home (mobile homes) are not eligible for temporary occupancy permits. The following procedures and conditions shall be complied with in the temporary occupancy of recreational vehicles and travel trailers.

155.4.9 – Miscellaneous Permits/Applications

A. Recreational vehicles and travel trailers, regardless of location in the residential zone or other standards imposed by this Chapter 155 may be allowed temporary occupancy on an R-1 lot with permission of the owner of the lot for some period of time, but not more than one (1) year, to provide shelter while a primary residential structure is under construction, for temporary housing subsequent to a disaster, for short-term occupancy where a more permanent facility would be inappropriate, or for other good cause as determined by the Planning Official.

1. An approved method of wastewater disposal, such as a self-contained unit, chemical toilet or portable toilet, is required if the recreational vehicle or travel trailer is not served by an approved septic system.
2. This provision does not waive any other permit requirements of the City, the County, the State, or federal agencies.
3. The recreational vehicle or travel trailer shall not be parked in, or in any way obstruct, any public right-of-way, and the recreational vehicle or travel trailer must be sited to conform to all Dunes City residential zone setback requirements and shall maintain a minimum of ten (10) feet between it and any structure.
4. The Planning Official may impose specific siting requirements if the proposed siting would violate Dunes City Code.
5. The Planning Official may grant permit extensions in monthly increments up to one (1) year for temporary occupancy of a recreational vehicle or travel trailer provided there have been no unresolved violations of any Dunes City Code.
6. Planning Official decisions may be appealed to the Planning Commission.

B. A recreational vehicle or travel trailer in the residential zone may be allowed a temporary occupancy permit for the undefined term of a hardship suffered by an existing resident. As used in this Section 155.4.9.120, “hardship” may include medical care of an aged or infirm person or persons. The applicant shall provide written verification of the hardship (statement from doctor, therapist, or other healthcare professional regarding the need for assistance) annually. Within thirty (30) days after the hardship ceases to exist, the temporary occupancy shall cease.

C. Residing in a recreational vehicle or travel trailer for an unlimited period of time is allowed if the unit is located in a mobile home or recreational vehicle park and lawfully connected to water, septic and electrical systems.

155.4.9.4130 **~~Manufactured Home Parks~~(Reserved)**

~~Manufactured Home Parks are permitted uses, and require a Type III Procedure. For this use, all the requirements, standards and processes for subdivisions or P.U.D.s of Chapter 155 will apply.~~

155.4.10 – Recreational Vehicle (RV) Parks

155.4.9.510 ~~Travel Trailer and~~ Recreational Vehicle (RV) Parks

Sections:

| | |
|-----------------|--|
| 155.4.9.510.100 | Purpose |
| 155.4.9.510.110 | General Requirements and Definitions |
| 155.4.9.510.120 | Approval Process |
| 155.4.9.510.130 | Preliminary Tentative Site Plan Submission Requirements |
| 155.4.9.510.140 | Approval Criteria: Preliminary Site Plan |
| 155.4.9.510.150 | Variances Authorized |
| 155.4.9.510.160 | Final Site Plan Submission Requirements and Approval Criteria |
| 155.4.9.510.170 | Public Improvements |
| 155.4.9.510.180 | Performance Guarantee |

155.4.9.510.100 Purpose

The purpose of this ~~subsection~~ Section 155.4.10 is to:

- A. Provide rules, regulations and standards governing the approval of ~~travel trailer and~~ recreational vehicle parks;
- B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan;
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution, and other dangers;
- F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provisions for transportation, water supply, sewage, and drainage; and
- G. Encourage the conservation of energy resources.

155.4.9.510.110 General Requirements ~~and Definitions~~

~~A. Definitions:~~

~~For the purposes of this subsection:~~

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

155.4.10 – Recreational Vehicle (RV) Parks

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

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

~~Site—Any portion of a travel trailer or recreational vehicle park designated or used for the occupancy of one travel trailer or recreational vehicle.~~

~~B.~~

~~A. Travel trailer and recreational vehicle~~RV ~~parks involve the creation of two or more sites on one parent lot, parcel or tract~~may be established in the Community Commercial (C-1) zone on lots/parcels of five (5) acres or more through the approval process described in Section 155.4.10.120.

~~C.B.~~ Applications for travel trailer and recreational vehicleRV parks approval shall be processed through a two-step process: The Preliminary Tentative Site Plan (considered using the Type III process) and the Final Site Plan (considered using the Type II process).

~~D.C.~~ The Preliminary Tentative Site Plan ~~shall~~must be approved before the Final Site Plan can be submitted for approval consideration; and

~~E.D.~~ The Final Site Plan shall address~~include~~ all conditions of approval of the Preliminary Site Plan.

~~F. Travel trailer and recreational vehicle parks are a conditional use in Community Commercial zones.~~

~~G. All travel trailer and recreational vehicle parks will be designed based on the need to minimize the risk of flood damage. No new site will be created entirely within a floodway. All new sites will be usable without requiring development within the floodway. Development in a 100-year flood plain will comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant will be responsible for obtaining such approvals from the appropriate agency before City approval of the final site plan.~~

~~H. Where a travel trailer and recreational vehicle park is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it will be prepared by a qualified professional, as determined by the City.~~

~~I. All sites will have adequate utilities and facilities constructed to prevent or minimize flood damage to electrical and telephone systems, etc.~~

155.4.10 – Recreational Vehicle (RV) Parks

- ~~J. All travel trailer and recreational vehicle park proposals will have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required.~~
- ~~K. If a rezone is proposed, a Type IV Procedure will be used for change of district maps and the Comprehensive Plan. This rezone application will be processed separate from and concurrent with the park application.~~
- ~~L. If the parcel of land used for the park is to be subdivided along with the establishment of the park, the Type III Procedure for subdivisions will be used. The subdivision will be processed separate from and concurrent with the park application.~~

155.4.9.510.120 Approval Process

- A. Review of Preliminary Tentative Site Plan. Review of a Preliminary Site Plan for ~~a travel trailer and recreational vehicle~~ RV park shall be processed with a Type III Procedure under Section 155.4.1.150. All ~~preliminary tentative~~ site plans shall be reviewed using approval criteria contained in subsection Section 155.4.9.510.140 below.
- B. Review of Final Site Plan. Review of a Final Site Plan for ~~a travel trailer and recreational vehicle~~ RV parks shall be processed by means of a Type II Procedure under Subsection Section 155.4.1.4140, using the approval criteria in subsection Section 155.4.9.510.160 below.
- C. Preliminary Tentative Site Plan Approval Period. The ~~Preliminary Tentative~~ Site Plan Approval shall be effective for a period of one (1) year from the date of approval. The ~~Preliminary Tentative~~ Site Plan shall lapse if a final site plan has not been submitted within a one-year period.
- D. Modifications and Extensions. The applicant may request changes to the approved ~~preliminary tentative~~ site plan or conditions of approval following the procedures and criteria provided in Subsection Section 155.4.6 – Modifications. The Planning ~~Secretary Official~~ shall, upon written request by the applicant and payment of the required ~~fee~~ deposits, grant one (1) extension of the approval period not to exceed one (1) year provided that:
 - 1. Any changes to the ~~Preliminary Tentative~~ Site Plan follow the procedures in Subsection Section 155.4.6 – Modifications;
 - 2. The applicant has submitted written intent to file a Final Site Plan within the one-year extension period;
 - 3. An extension of time will not prevent the lawful development of abutting properties;
 - 4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new ~~Preliminary Tentative~~ Site Plan Application shall be required; and

155.4.10 – Recreational Vehicle (RV) Parks

5. The extension request is made before expiration of the original approved plan.

~~E. Phased Development:~~

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

155.4.9.510.130

Preliminary Tentative Site Plan Submission Requirements

A. ~~Preliminary Tentative~~ Site Plan Submission Requirements. In addition to the ~~general conditional use permit application requirements of this part~~ application submission requirements at Subsection D of Section 155.4.1.120, the application ~~for a conditional use permit~~ to construct a new park or to expand an existing park shall be accompanied by a plot plan and six (6) copies showing the general layout of the entire park and drawn to a scale not smaller than one (1) inch representing forty (40) feet. The drawing shall show the following information:

1. The name of the person who prepared the plan.
2. The name of the park and address.
3. The scale and a north point of the plan.

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4. A vicinity map showing the relationship of the park and adjacent properties.
5. Boundaries and dimensions of the park.
6. The location and dimensions of each unit site, with designation of each site by number, letter or name.
7. The location and dimensions of each existing or proposed building.
8. The location and width of park streets.
9. The location and width of walkways.
10. The location of each lighting fixture for lighting the park.
11. The location of recreational areas and buildings and area of recreational park.
12. The location and type of landscaping plantings, fences, walls, or combination of any of these, or other screening materials.
13. The location of the point of diversion where for the park water system connects the water source. ~~with the public system.~~
14. ~~The location of available fire and irrigation hydrants.~~ The location of the septic systems and drain fields.
15. The location of public telephone service for the park.
16. An enlarged plot plan of a typical unit site, showing the location of the pad, any patio, storage space, parking area, sidewalks, utility connections, and landscaping.

~~155.4.9.5~~ 10.140 ~~Preliminary~~ Tentative Site Plan Approval Criteria

- A. General Approval Criteria. Using the Type III process described under Section 155.4.1.150, ~~The~~ City may approve, approve with conditions, or deny a ~~preliminary~~ tentative site plan based on the following approval criteria:
 1. The proposed ~~preliminary~~ tentative site plan complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Section 155.4.10 and the applicable ~~Subsections~~ Sections of ~~Section~~ Division 155.2. – Land Use ~~District~~ Zone Administration and Section 155.3.0 – Design Standards Administration shall apply. Where a variance is necessary to receive ~~preliminary~~ tentative site plan approval, the application shall also comply with the relevant ~~subsections~~ Sections of ~~Section~~ Division 155.5. – Exceptions to Code Standards;

155.4.10 – Recreational Vehicle (RV) Parks

2. The proposed site plan name is not already recorded for another park in Lane County west of Mapleton; and
3. The proposed streets, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary site plan.
4. Recreational Vehicle (RV) Park may not be created on a lot or parcel of fewer than five (5) acres in area.
5. Space requirements.
 - a. One (1) manufactured home site or stick built home site is allowed in the park and shall contain at least 10,000 square feet.
 - b. Each RV site shall contain at least 2,000 square feet.
6. Setbacks. No RV or accessory shall be located closer than twenty-five (25) feet from a park property line abutting on a public street and ten (10) feet from all other park boundary lines.
7. Access. No RV park shall be established on any site that does not have frontage on and access to a county or public street.
8. Recreation areas.
 - a. There shall be one (1) or more outdoor recreation areas easily accessible to all park residents and available for year-round recreational use in parks with twenty (20) or more sites.
 - b. Recreation areas shall contain a minimum of 5,000 square feet
9. Site improvements. Sites will be crushed rock as a minimum.
10. 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 recreational vehicle.
11. Fencing and landscaping.
 - a. Every RV park shall provide an ornamental, sight-obscuring fence, wall, evergreen, or other suitable screening/planting along all park boundaries except for points of ingress and egress.

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- b. Perimeter walls or fences shall be at least six (6) feet and less than twelve (12) feet in height.
- c. Evergreen planting used as the required fencing shall be at least five (5) feet and less than twelve (12) feet in height, and shall be maintained in a living condition for the life of the RV park.

12. Signs.

- a. One (1) sign not exceeding sixty-four (64) square feet in area will be allowed on a property under one ownership to designate the name of the RV park. The sign may be indirectly lighted, but shall be non-flashing.
- 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 (3) square feet.

13. Non-residential uses. Non-residential uses within an RV Park are subject to the provisions of Section 155.2.2 – Community Commercial Zone.

14. All RV parks shall be designed based on the need to minimize the risk of flood damage. No new site shall be created entirely within a floodway. All new sites shall be usable without requiring development within the floodway. Development in a 100-year flood plain shall comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before City approval of the final site plan.

15. Where an RV park is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the City.

16. All sites shall have adequate utilities and facilities constructed to prevent or minimize flood damage to electrical and telephone systems, etc.

17. All RV park proposals will have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required by the State of Oregon and/or DEQ.

18. Phased Development.

- a. The City may approve a time schedule for developing an RV park in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any RV park phase be greater than two (2) years without reapplying for a Tentative Site Plan;

155.4.10 – Recreational Vehicle (RV) Parks

b. The criteria for approving a phased land division proposal are:

- (1) Public facilities shall be constructed in conjunction with or prior to each phase;
- (2) The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with **Section 155.4.3.180 – Performance Guarantee**. A temporary public facility is any facility not constructed to the applicable City or zone standard;
- (3) The phased development shall not result in requiring the City to construct public facilities that were required as part of the approved development proposal; and
- (4) The application for phased development approval shall be reviewed concurrently with the tentative site plan application and the decision may be appealed in the same manner as the tentative site plan.

155.4.9.510.150 Variances Authorized

Adjustments to the standards of this Section 155.4.10 shall be processed in accordance with ~~Subsection~~ Section 155.5.1 – Variances. Applications for variances shall be submitted at the same time an application for the ~~travel trailer and recreational vehicle~~ RV park is submitted.

155.4.9.510.160 Final Site Plan Submission Requirements and Approval Criteria

- A. Submission Requirements. Final site plans shall be reviewed and approved ~~by the City~~ pursuant to a Type II Procedure described under **Section 155.4.1.140**. The applicant shall submit the final site plan within one (1) year of the approval of the ~~preliminary tentative~~ site plan as provided by ~~Subsection~~ Section 155.4.9.5.120 above. ~~Specific information about the format and size of the site plan, number of copies and other detailed information can be obtained from the Planning Secretary.~~
- B. Final site plan submission requirements. At the time of application for a final site plan for an RV ~~permit to construct a new park, or expansion of an existing~~ park, the applicant shall submit six (6) copies of the following required detailed plans:
 1. New structures,
 2. Water supply and sewage disposal systems, primary and replacement septic drainage fields,
 3. Electrical systems,
 4. Road, sidewalk, and patio construction,

155.4.10 – Recreational Vehicle (RV) Parks

5. The drainage system,
6. Recreational area improvements, and
7. The replacement of existing or construction of new stick-built or manufactured home-type structures situated within the park shall be subject to the requirements of the Oregon ~~Uniform Building~~ Structural Specialty Code or Oregon Manufactured Dwelling Specialty Code, or other controlling State Codes.

C. Approval Criteria. By means of a Type II Procedure, ~~the Planning Secretary will review~~ the final site plan ~~and shall be approved~~ or ~~deny denied the final site plan~~ based on findings regarding compliance with the following criteria:

1. The final site plan complies with the approved ~~preliminary~~ tentative site plan, and all conditions of approval have been satisfied;
2. All public improvements required by the ~~preliminary~~ tentative site plan have been installed and approved by the City. Alternatively, the developer has provided a performance guarantee in accordance with ~~Subsection~~ Section 155.4.9.510.180 – Performance Guarantee;
3. The streets for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street and easements for public utilities;
4. The streets held for private use have been approved by the City as conforming to the ~~preliminary~~ tentative site plan;
5. The final site plan contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, and storm drainage;
6. The applicant has provided copies of all recorded homeowners association ~~Codes~~, Covenants, Conditions and Restrictions (CC&Rs), deed restrictions, private easements and agreements (e.g., for access, common areas, parking, etc.), and other recorded documents pertaining to common improvements recorded and referenced on the final site plan;
7. The final site plan complies with the applicable Sections of this Code (i.e., there have been no changes in land use or development resulting in a code violation since ~~preliminary~~ tentative site plan approval);
8. Certification by the State of Oregon and Lane County, as applicable, that water and ~~sanitary sewer service~~ a sewage disposal system is available to each and every site depicted on the site plan; or bond, contract or other assurance has been provided by the applicant to the City that such services will be installed in accordance with ~~Subsection~~ Section 155.3.4 – Public Facilities Standards, and the bond requirements of ~~Subsection~~

155.4.10 – Recreational Vehicle (RV) Parks

Section 155.4.9.5.180 – Performance Guarantee. A registered professional engineer, licensed by the State of Oregon, subject to review and approval by the City, shall determine the amount of the bond, contract or other assurance by the applicant; and

9. The final site plan contains an affidavit by the surveyor who surveyed the land, represented on the site plan to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the US Geological Survey or giving two or more permanent objects for identifying its location.

155.4.9.510.170 Public Improvements

The following procedures apply to ~~travel trailer and recreational vehicle~~ RV parks when public improvements are required as a condition of approval:

- A. Public Improvements Required. Before City approval is certified on the final site plan, all required public improvements shall be installed, inspected, and approved. Alternatively, the developer ~~subdivider~~ shall provide a performance guarantee, in accordance with ~~Subsection~~ Section 155.4.310.180 – Performance Guarantee below.

155.4.9.510.180 Performance Guarantee

- A. Performance Guarantee Required. When a performance guarantee is required under ~~Subsection~~ Section 155.4.9.510.170 above, the applicant shall file an assurance of performance with the City supported by one of the following:
 1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the State of Oregon;
 2. A surety bond, executed by a surety company authorized to transact business in the State of Oregon, which remains in force until the surety company is notified by the City in writing that it may be terminated; or
 3. Cash in an escrow account or payment to the City.
- B. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. Itemized Improvement Estimate. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer licensed by the State of Oregon, to assist the City in calculating the amount of the performance assurance.
- D. Agreement. An agreement between the City and developer shall be recorded with the final site plan that stipulates all of the following:

155.4.10 – Recreational Vehicle (RV) Parks

1. Specifies the period within which all required improvements and repairs should be completed;
 2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
 3. Stipulates the improvement fees and deposits that are required.
 4. ~~(Optional) Provides~~ As an option, provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the agreement. This agreement may be prepared by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by ~~both~~ the applicant, approved by the City Council and ~~Planning Secretary~~ signed by the Mayor.
- E. When ~~Applicant~~ Developer Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has unreimbursed- costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

DIVISION 155.5 – EXCEPTIONS TO CODE STANDARDS

DIVISION 155.5 — EXCEPTIONS TO CODE STANDARDS

Sections:

155.5.0 Introduction to Exceptions to Code Standards

155.5.0.100 Introduction to Exceptions to Code Standards

155.5.1 Variances

155.5.1.100 Limitations

155.5.1.110 Application Submission Requirements

155.5.1.120 Approval Process

155.5.1.130 Approval Criteria

155.5.1.140 Effective Date

155.5.1.150 Expiration

155.5.2 Nonconforming Uses and Development

155.5.2.100 Purpose

155.5.2.110 Nonconforming Uses

155.5.2.120 Nonconforming Buildings

155.5.2.130 Nonconforming Lots

155.5.0 Introduction to Exceptions to Code Standards

Sections:

155.5.0.100 Introduction to Exceptions to Code Standards

155.5.0.100 Introduction to Exceptions to Code Standards

~~This Subsection provides standards and procedures for variances and non-conforming situations (i.e., existing uses or development that do not comply with the Code). This code~~ Code Chapter 155 cannot provide standards to fit every potential development situation. The City's varied geography and complexities of land development require flexibility. ~~Subsection~~ Division 155.5 provides that flexibility while ~~maintaining~~ ensuring that the purposes and intent of the ~~Code~~ development standards are met. ~~The variance procedures provides relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes.~~

The purpose of a variance and this Division 155.5 shall be to prevent or to lessen such practical difficulties and unnecessary physical hardships which are inconsistent with the objectives of Chapter 155. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic, or other physical conditions on the site or in the immediate vicinity.

The standards for nonconforming uses and development are intended to provide some relief from ~~code~~ Code requirements for older developments that do not comply. In this ~~sub-section~~ Section 155.5 a nonconforming structure or use applies to the entire structure when any part of said structure is found to be nonconforming.

155.5.1 VariancesSections:

| | |
|-------------|-------------------------------------|
| 155.5.1.100 | Limitations |
| 155.5.1.110 | Application Submission Requirements |
| 155.5.1.120 | Approval Process |
| 155.5.1.130 | Approval Criteria |
| 155.5.1.140 | Effective Date |
| 155.5.1.150 | Expiration |

155.5.1.100 ~~Variances~~ Limitations~~Sections:~~~~155.5.1.1 Requirements for Variances~~~~155.5.1.2 Variance Application~~~~**155.5.1.1 Requirements for Variances**~~~~A. Purpose~~

~~The purpose of a variance is to provide relief when a strict application of the zoning requirements imposes unusual practical difficulties, or unnecessary physical hardships may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from population densities, street locations, or traffic conditions in the immediate vicinity.~~

~~The power to grant variances does not extend to use regulations. In other words, no variance can be granted which would have the effect of rezoning and granting a special privilege not shared by other property in the same district.~~

A. A variance shall not be granted as a substitute for, or in lieu of, a change in zone. A variance does not apply to Use Regulations. A variance may be granted for a regulation prescribed by this Chapter 155 with respect to the following:

1. Fences, hedges, walls, or landscaping.
2. Site area, width, depth, square footage, frontage, and building coverage.
3. Front, side or rear yards.
4. Height of structures.
5. Accessory buildings.
6. Parking requirements.
7. Width of rights-of-way and roadways.

8. Outdoor lighting.

- B. A variance may only be granted to meet the minimum exception necessary to mitigate the hardship or practical difficulties.
- C. The Planning Commission may recommend that conditions of approval be imposed on the variance. Adherence to the submitted plans as approved is required. Any departure from these conditions of approval and approved plans constitutes a violation of this Section 155.5.1.
- D. A valid variance supersedes conflicting provisions of subsequent rezoning or amendments to this Chapter 155 unless otherwise specifically provided by the provisions of this Section 155.5.1 or the conditions of approval to the variance.
- E. A new application which is substantially similar to an application which has been withdrawn by the applicant or has been denied or revoked shall not be re-filed within twelve (12) months of the date of withdrawal, revocation or denial unless the City Council determines there is good and sufficient cause to allow a refiling.

155.5.1.110 **Application Submission Requirements**

The variance application shall conform to the requirements for Type III applications (Section 155.4.1.150). The application for a variance shall be made in writing to the Planning Official by the owner(s) of the land in consideration or their agent(s), duly authorized in writing. The applicant shall set forth in a detailed written narrative:

- A. The practical difficulties and/or physical hardships involved.
- B. Existing conditions on the site.
- C. Reasons for a variance being the most practicable solution to the problem.
- D. Any other pertinent information requested by the Planning Official.

155.5.1.120 **Approval Process**

Upon receipt of a complete application for a variance, a public hearing, or hearings, shall be scheduled in accordance with the provisions of a ~~A variance application shall be a~~ Type III Procedure (~~Subsection~~ ~~Section~~ 155.4.1.6150) except as otherwise specified in Chapter 155 (e.g. See Section 155.4.3.150 authorizing approval through the Type II process in conjunction with a land division).

155.5.1.130B ~~Criteria~~ **Approval Criteria**

A. The Planning Commission may recommend approval of a variance to a regulation prescribed by this Chapter 155 when, on the basis of the application, investigation and evidence submitted, the Planning Commission finds:

~~1. Variances to a requirement of this Section with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if substantive and probative evidence establishing specific findings of fact have been made that the variance conforms to the following criteria:~~

~~a1. A strict~~ Strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the ~~objectives~~ purpose of this Section 155.5.1.

~~b2.~~ There are exceptional or extraordinary circumstances or conditions applicable to the property involved, ~~or to the intended use of the property,~~ which do not apply generally to other properties in the same zone ~~ing district,~~ or

~~c3. A strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges legally enjoyed by the owners of other properties classified in the same zone~~ ing district; and The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone, and

~~d4.~~ The granting of the variance will not be detrimental to the public health, safety ~~or~~ and welfare or be materially injurious to properties ~~of~~ or improvements ~~in~~ on ~~the near vicinity~~ adjacent property.

~~2. ——— Variances in accordance with this Section should not ordinarily be granted if the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner or previous owner.~~

~~3 Variances to requirements of this Section with respect to off-street parking and loading facilities may be authorized as applied for or as modified, if, on the basis of the application, investigation, and the evidence submitted, the following express written findings, in addition to those prescribed in the criteria above, are made:~~

~~a. ——— Neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Section;~~

~~b. ——— The granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets; and~~

~~c. The granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this Section.~~

~~4B.~~ A variance shall not be required for ~~existing~~ legal non-conforming structures to the extent specified in Section 155.5.2.2 and 155.5.2.3 155.5.2 below.

~~C. Effect of substantially identical variances and modification to other City ordinances.~~

~~1. A variance granted by authority of this section eliminates the necessity of obtaining approval of a substantially identical or less extensive variance or modification to the building code and development ordinance, respectively, and constitutes a variance or modification of those ordinances as applicable.~~

~~2. A variance shall not be required to the area, width, depth, frontage, or setback requirements of this Section for any subdivision area developed as a unit and receiving final approval in accordance with the provisions of the development ordinance when the requirements to be varied are specifically incorporated within the finally approved subdivision plat.~~

~~DC.~~ Reasonable ~~C~~ conditions may be imposed in connection with a variance as deemed necessary to address the approval criteria above. ~~to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being complied with.~~

~~E. Procedures for application, hearing, notice, and appeal shall be as provided in this subsection for variances.~~

~~F. Compliance with conditions of approval imposed in the variance, and adherence to the submitted plans as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of this part.~~

~~G. A valid variance supersedes conflicting provisions of subsequent rezoning or amendments to this part unless specifically provided otherwise by the provisions of this subsection or the conditions of approval to the variance.~~

~~H. Variances shall automatically be revoked if not exercised within one year of the date of approval. Further, variances may be revoked if:~~

- ~~1. The City Council determines there is probable cause to conclude that the conditions of the variance have not been met.~~
- ~~2. The City Council serves notice upon the owner of record of the property by certified mail, return receipt requested, that he or she is directed to appear and show cause why the variance should not be revoked.~~
- ~~3. The notice provides a time, place, and date of the hearing.~~

~~4. The hearing is in fact conducted, and the City Council finds by preponderance of the evidence that the conditions of the variance have in fact been violated.~~

~~I. An application which is substantially similar to an application which has been withdrawn by the applicant or has been denied or revoked shall not be re-filed within 12 months of the date of withdrawal, revocation or denial unless the City Council determines there is good and sufficient cause to allow a re-filing.~~

~~155.5.1.2~~ Variance Application

~~The variance application shall conform to the requirements for Type III applications (Subsection 155.4.1.6), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for his/her request, alternatives considered, and why the subject standard and criteria of (B) above cannot be met without the variance.~~

155.5.1.140 Effective Date

A variance shall become effective on the City Council's final decision or the applicant's appeal period is resolved.

155.5.1.150 Expiration

Authorization of a variance shall be void one (1) year after the date of approval of a variance application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for an extension of one (1) year maximum duration based on compliance with the following criteria:

- A. The request for an extension is made in writing prior to expiration of the original approval;
- B. There are special or unusual circumstances that exist which warrant an extension; or
- C. No material changes of surrounding land uses or zoning has occurred.

The Planning Commission may deny the request for an extension of a variance if new land use regulations have been adopted that affect the applicant's proposal.

155.5.2 – Nonconforming Uses and Development

155.5.2 Nonconforming Uses and Development

Sections:

| | |
|--------------------------|---|
| 155.5.2.1 100 | Procedure <u>Purpose</u> |
| 155.5.2.2 110 | Nonconforming Uses of Structures or Structures and Land in Combination |
| 155.5.2.3 120 | Repairs and Maintenance <u>Nonconforming Buildings</u> |
| 155.5.2.4 130 | Non-Conforming Uses Under Conditional Use or Temporary Permits <u>Nonconforming Lots</u> |

155.5.2.~~1~~100 ~~Procedure~~Purpose

~~Non-conformities are processed as a Type I Procedure (Subsection 155.4.1.4) with appeal to the Planning Commission as a Type II Procedure (Subsection 155.4.1.5). There were lots, structures and uses that were lawful before the effective date of this Chapter 155, or amendment hereto, but which have become either prohibited, regulated or restricted under the new terms and conditions of this Chapter 155. They shall hereafter be referred to as pre-existing, nonconforming uses, buildings or lots.~~

This Section 155.5.2 – Nonconforming Uses and Buildings provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current provisions and standards of Chapter 155. This Section 155.5.2 is intended to protect public health, safety and general welfare, while allowing reasonable use of private property. This Section contains three subsections, as follows:

A. Nonconforming uses (e.g., industrial use in residential zone) are subject to subsection 155.5.2.110.

B. Nonconforming buildings (e.g., structure does not meet setback or height standards) are subject to subsection 155.5.2.120.

C. Nonconforming lots (e.g., lot is smaller than minimum area standard) are subject to subsection 155.5.2.130.

~~155.5.2.2~~155.5.2.110 ~~Nonconforming Uses of Structures or Structures and Land in Combination~~

~~If a lawful use of a structure, or of a structure and premises in combination exists at the effective date of adoption or amendment of this Section that would not be allowed in the district under the terms of this part, the lawful~~ Where a use of land exists that would not be permitted under the current Code, but was lawful at the time it was established, the use may ~~be continued so long as provided~~ it conforms to the following provisions:

~~A. No existing structure devoted to a use not permitted in this Section in the district in which it is located) shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except as allowed in this section and except that a structure may be moved out of an existing or proposed street right-of-way to another portion of the parcel or lot upon which it is located.~~

155.5.2 – Nonconforming Uses and Development

Expansion of Nonconforming Use Limited. A pre-existing, nonconforming use may make an expansion of the existing structure for the same use up to twenty-five percent (25%) of the existing square footage of floor area. Expansion of a pre-existing, nonconforming use requires approval of a Conditional Use Permit under the provisions at Section 155.4.4 of this Chapter 155.

~~B.—1.~~ Any pre-existing, non-conforming use may be extended throughout any parts of a building, ~~which were manifestly arranged or designed for such use at the time of adoption or amendment of this part,~~ but no such use shall be extended to occupy any land outside such building.

~~C.—~~ If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use in the same manner and procedure provided for temporary use permits in paragraph 155.4.9 if it is determined the character and nature of the proposed use will contribute to less incompatibility between the existing non-conforming structure, or structure and premises, and the uses and structures existing in the surrounding vicinity.

~~D2.—~~ Remodeling, additions or enlargements of existing single family dwellings, multifamily dwellings, churches, and schools may be made if otherwise conforming to the requirements in effect for the district. If setback intrusion is the nonconforming use, remodeling, additions or enlargements are allowed as long as the setback encroachment is not increased.

B. Location of Nonconforming Use. A nonconforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.

C. Discontinuation or Abandonment of Nonconforming Use. A nonconforming use that is discontinued for any reason other than fire or other catastrophe beyond the owner's control for any twelve (12) consecutive months shall be deemed abandoned and shall no longer be an allowed use.

D. Application of Code Criteria and Standards to Nonconforming Use. Once the City deems a use abandoned pursuant to subsection 155.5.2.110(C) above, any subsequent use of the subject lot and structure shall conform to the current standards and criteria of this Chapter 155 and the nonconforming use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Chapter 155 and subject to enforcement proceedings under Section 155.1.4 (Enforcement).

E. Change of Nonconforming Use. A change from one nonconforming use to another nonconforming use requires approval of a Conditional Use Permit under the provisions at Section 155.4.4 of this Chapter 155.

~~E.—~~ Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use shall thereafter conform to the use regulations for the district

155.5.2 – Nonconforming Uses and Development

~~in which such structure is located, and the non-conforming use may not thereafter be resumed.~~

155.5.2.2-120 Nonconforming Buildings

Section 155.5.2.120 regulates nonconforming development, which includes buildings that lawfully existed before the effective date of this Chapter 155, or amendment hereto, that could not be built under the provisions of this Code today. Examples include restrictions on lot area, lot coverage, location on a lot, setbacks, height, yard, access parking, landscaping, or other physical restriction or requirement. If the building was lawful when constructed it may remain on the site so long as it remains otherwise lawful and complies with the following:

~~FA.~~ Alterations. Additional structures for fencing, covering or visually improving a legal non-conforming ~~use of a~~ structure, or structure and premises in combination, which will not extend the size, area or operation of the nonconformity and will not materially prolong its economic life, may be ~~permitted~~allowed. ~~subject to approval of a site review permit as provided in Subsection 155.4.2~~ A nonconforming structure shall not be enlarged or altered in any way that increases its nonconformity.

~~G.~~ ~~When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for one continuous twelve (12) month period, the structure, or structure and premises in combination, shall not thereafter be used, except in conformance with the regulations of the district in which it is located.~~

~~HB.~~ Destruction of Nonconforming Buildings. ~~Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall establish the non-conforming use of land only. Destruction for the purpose of this provision is defined as damage to an extent of more than seventy five percent (75%) of the assessed true cash value of the building at the time of destruction.~~ In the event of damage or destruction due to fire or other disaster, a nonconforming building or structure may be replaced in accordance with current Building Codes. Replacement shall be commenced within two (2) years of the date of destruction and shall be diligently followed to completion. The Planning Commission, with a written request of the applicant, may extend the period on additional one (1) year. Nothing in these provisions is to be construed as allowing the replacement of an additional or other single-family dwelling which may be located on the same parcel of land.

~~I.~~ ~~Notwithstanding the provisions of this or other sections of this part, a single family dwelling which constitutes a non-conforming use may be replaced if:~~

~~1. The single family dwelling constitutes the residence of the owner or operator of the premises and has been removed because it is no longer fit for human habitation. The owner or operator of the premises must have occupied the single family dwelling within one year of the date of removal. The necessary permits must be obtained and substantial construction begun within two (2) years of the date of removal.~~

155.5.2 – Nonconforming Uses and Development

~~2. The single family dwelling which constitutes the residence of the owner or operator of the premises, has been destroyed. The necessary permits must be obtained and substantial construction begun within two (2) years of the date of the deconstruction.~~

~~J. Nothing in the provisions of Subsection I above is to be construed as allowing the replacement of an additional or other single family dwelling which may be located on the same parcel of land as the residence of the owner or operator~~

C. Repairs and Maintenance. Nothing in this Chapter 155 shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety. On any legal nonconforming structure or structure devoted in whole or in part to any legal nonconforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing to an extent not exceeding an accumulative total of seventy-five percent (75%) of the current assess true cash value of the building, provided that the cubic volume of the building as it existed at the time it became nonconforming shall not be increased.

D. Definition of Replace. To rebuild a structure such that it is brought back to its original use. In replacing a damaged nonconforming structure, the structure does not need to conform to the prior design, but the design may not be altered in any manner that increases its nonconformity.

155.5.2.130 Nonconforming Lots

A. Any lot having an area or dimension less the minimum one (1) acre shall be designated a building site provided the following criteria are met:

1. The lot is shown on an officially approved and recorded subdivision map;
2. A deed or a valid contract of sale is recorded with Lane County; and
3. The lot can meet Dunes City Code building setback requirements and Lane County on-site wastewater requirements.

~~155.5.2.3 Repairs and Maintenance~~

~~A. On any non-conforming structure or structure devoted in whole or in part to any non-conforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing, to an extent not exceeding an accumulative total of seventy-five percent (75%) of the current assessed true cash value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this subsection shall not be increased.~~

~~B. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.~~

155.5.2 – Nonconforming Uses and Development

~~155.5.2.4 — Non-Conforming Uses Under Conditional Use or Temporary Permits.~~

~~Any use for which a conditional use or temporary permit has been granted as provided in this chapter and remains valid shall not be deemed a non-conforming use.~~

B. No lot or combination of contiguous lots, either vacant or containing a single-family or multi-family dwelling, shall be replatted so that an undersized lot is created, nor shall a lot be replatted if setbacks or dimensions less than the minimum one acre would result.

~~K~~C. If a lot is nonconforming for the sole reason it is less than one acre in size, the conditional use permit approval process may be used to allow intrusion of up to twenty percent (20%) into standard setbacks. This twenty percent (20%) allowance does not apply in shoreland or riparian areas.

155.6 –APPENDIX (R-1 ZONE LOT AND STREET DIAGRAMS)

DIVISION 155.6 — APPENDIX (R-1 ZONE LOT AND STREET DIAGRAMS)

Sections:

155.6.1 Lot Types, Depth and Width

155.6.1.100 Lot Types, Depth and Width

155.6.2 Setbacks

155.6.2.100 Standard Lot

155.6.2.110 Wedge/Triangle Lot

155.6.2.120 Irregular Lot

155.6.3 Lot Coverage

155.6.3.100 Lot Coverage/Buildable Area

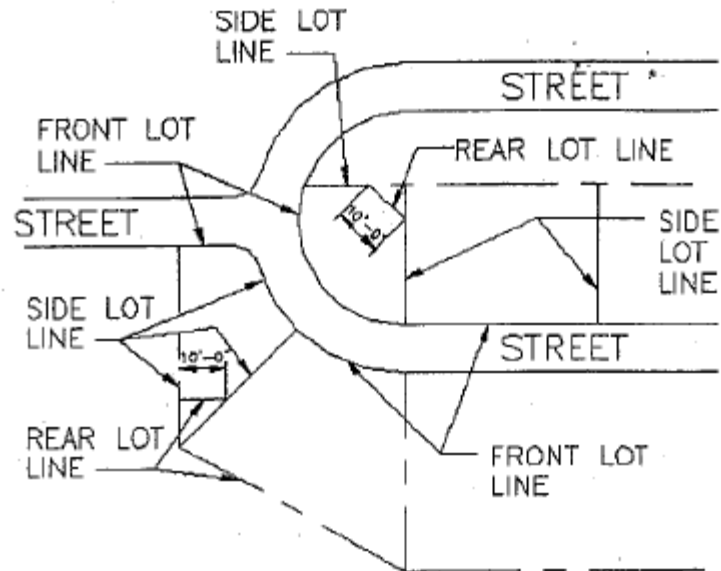
155.6.4 Street Types

155.6.4.100 Street Types

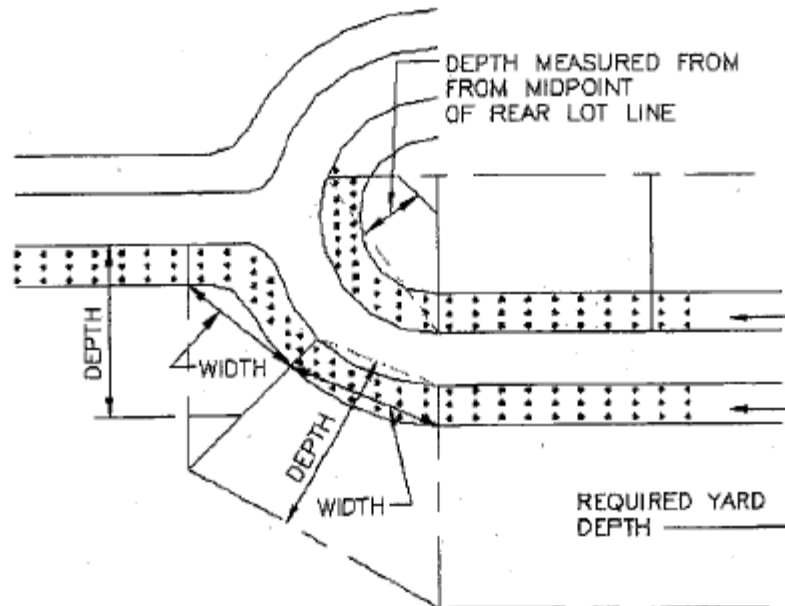
155.6.5 Vision Clearance

155.6.5.100 Vision Clearance Diagram

155.6.1 Lot Lines, Depth and Width

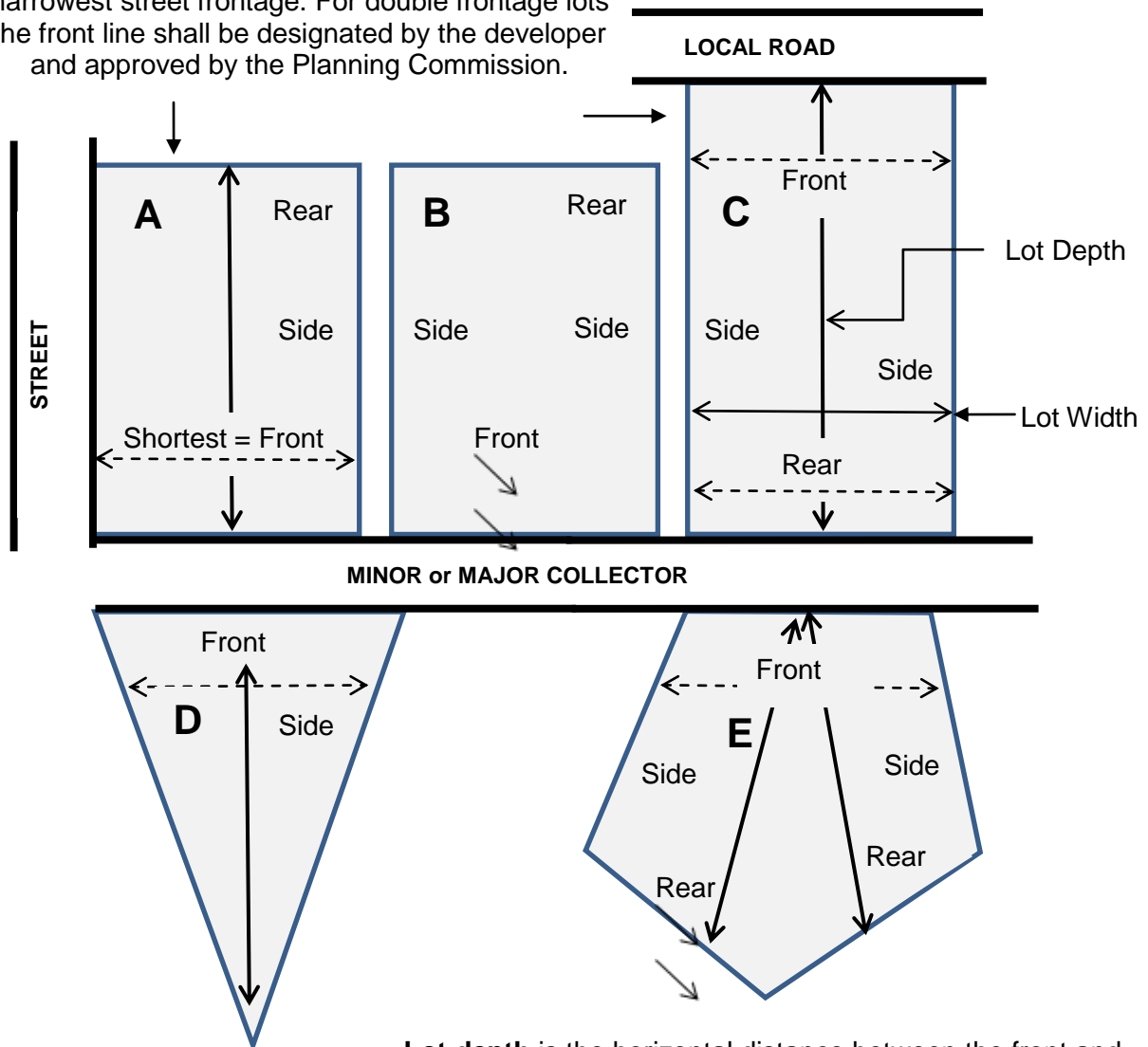


(B) Mid-point Depth of Rear Lot Line, Yard Depth



155.6.1.100 Lot Types, Depth and Width

For corner lots, the front line shall be that with the narrowest street frontage. For double frontage lots the front line shall be designated by the developer and approved by the Planning Commission.



A = Corner Lot

B = Interior Lot

C = Through Lot

D = Wedge/Triangle Lot

E = Irregular Lot

Lot depth is the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

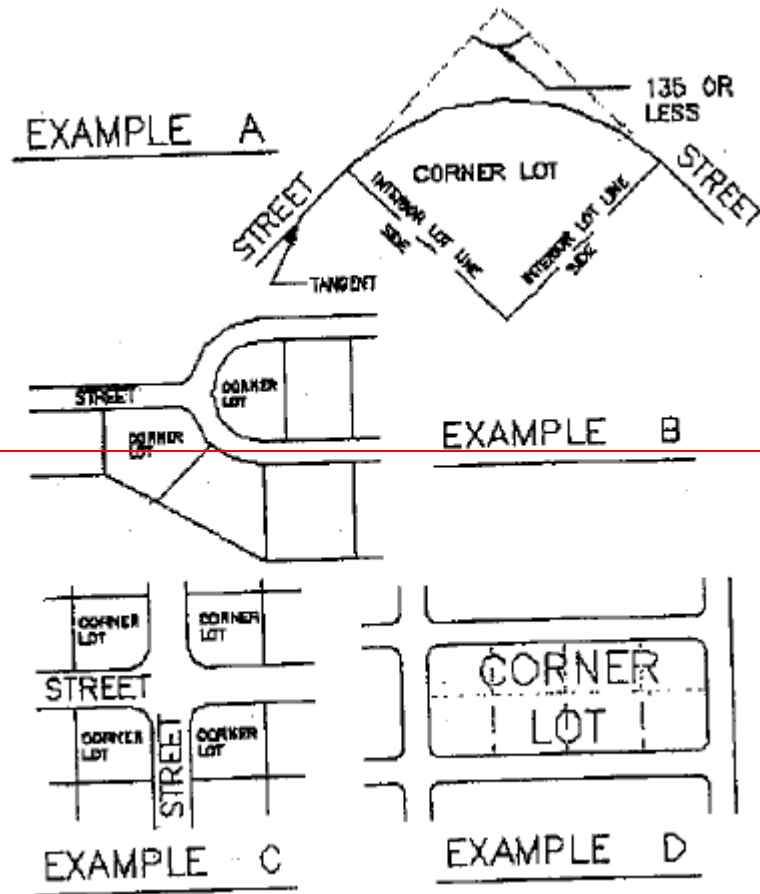
Front lot line is the lot line abutting a street. See also 155.1.3.

Side lot line is any lot line which is not a front or rear lot line.

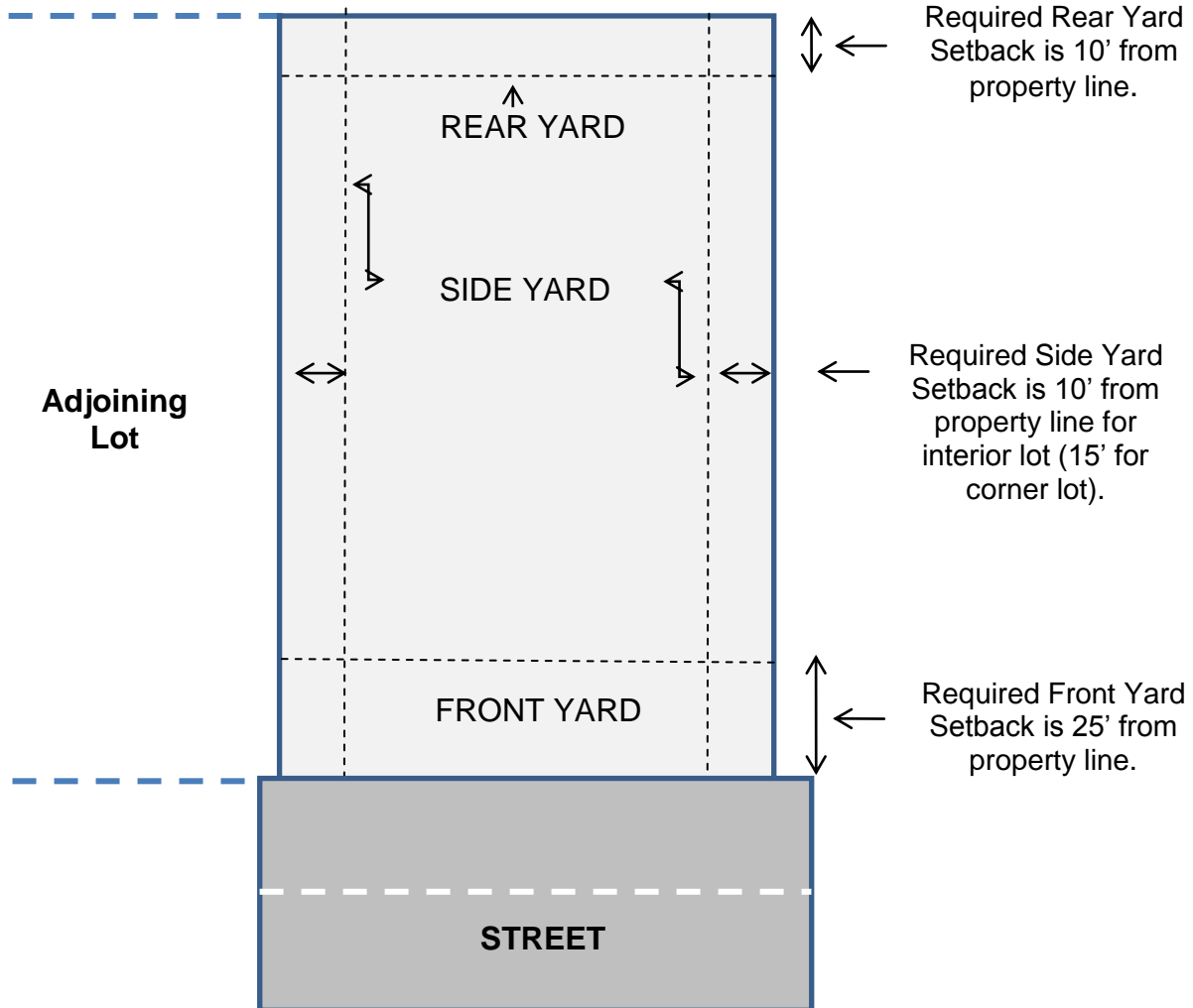
Rear lot line is opposite and most distant from the front lot line.

Lot width is the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

155.6.2 Corner Lots



155.6.2.100 Standard Lot

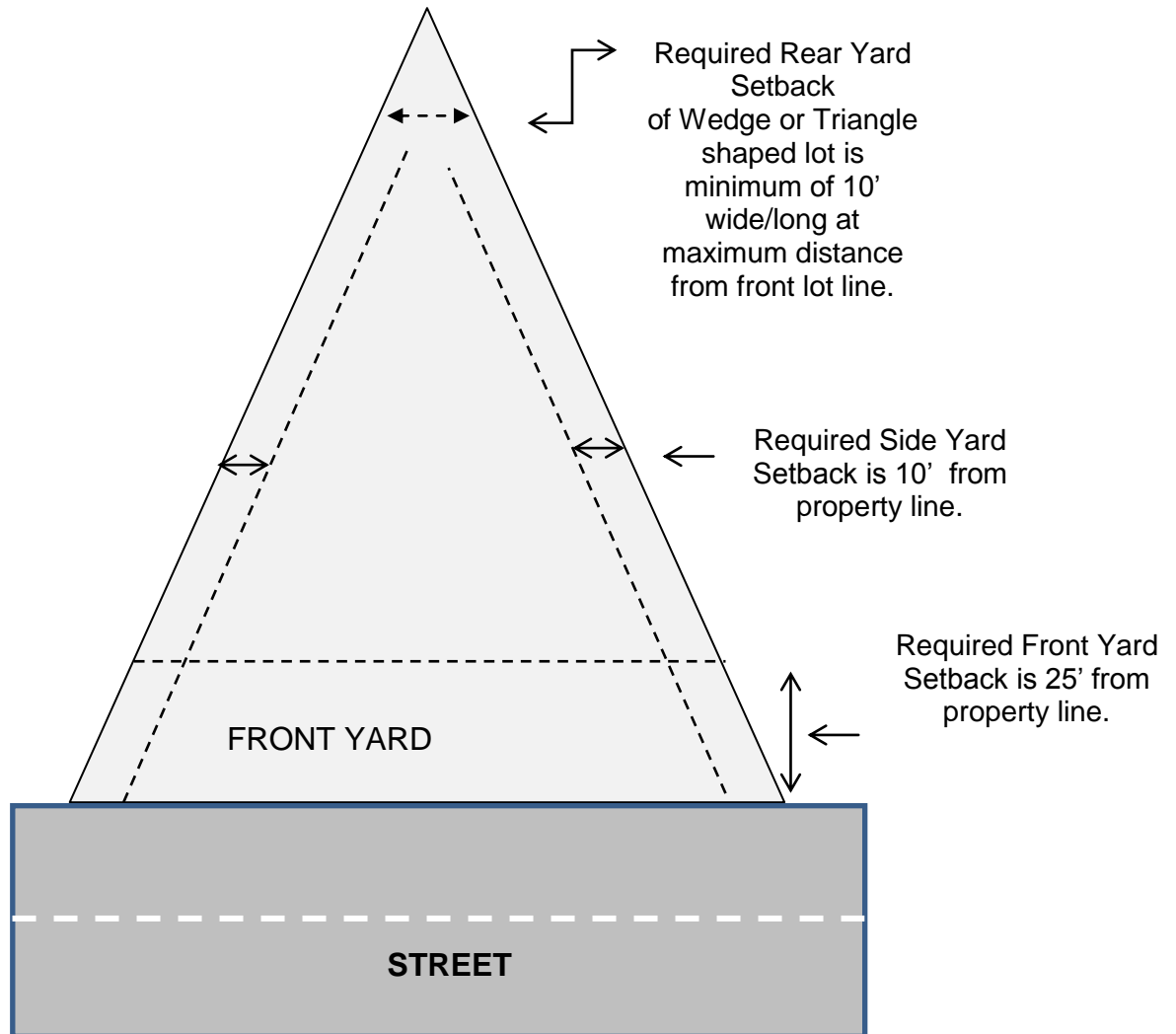


Interior Lot is a lot other than a corner lot with frontage only on one street.

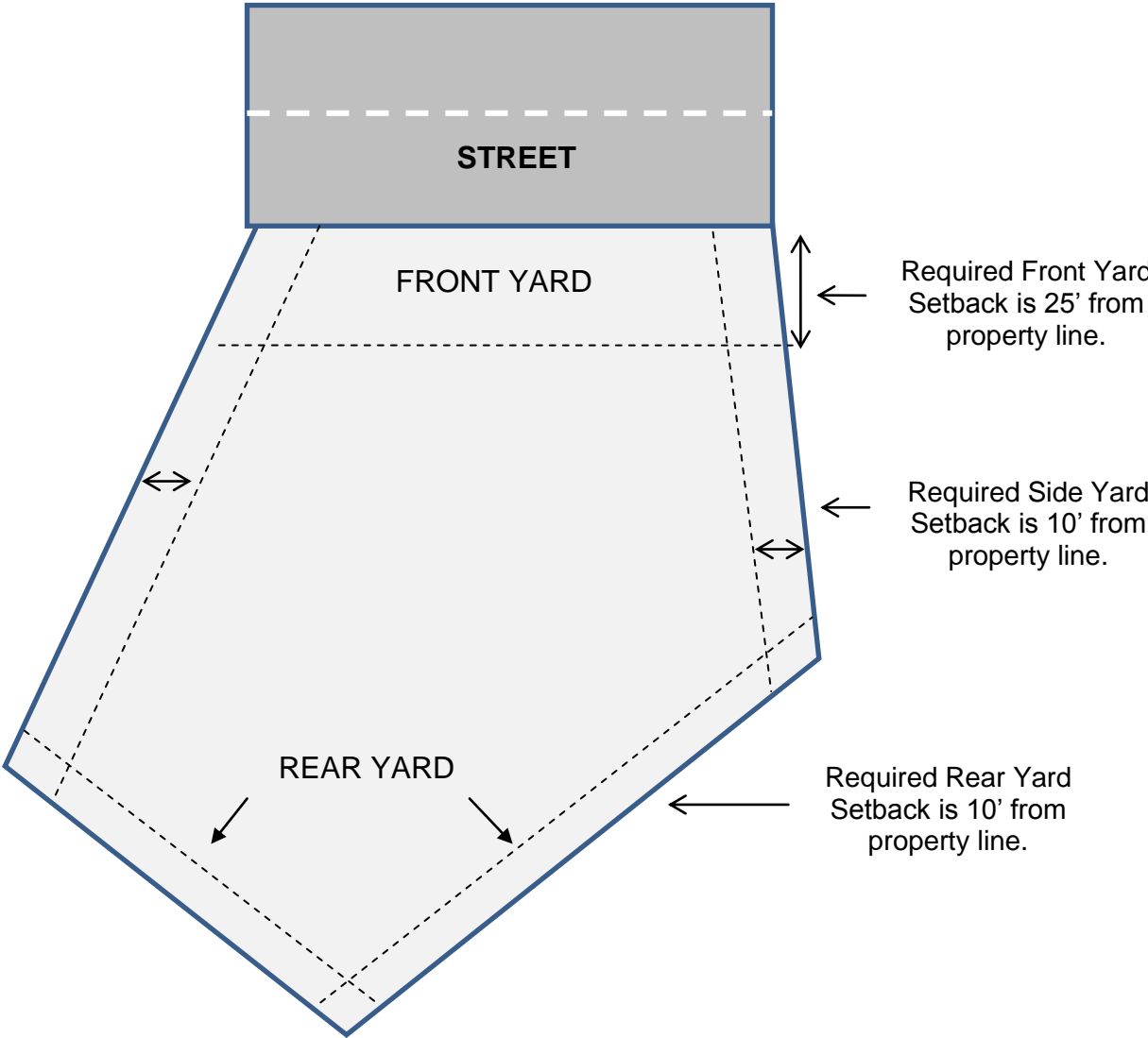
Corner Lot is a lot with at least two sides abutting a street other than an alley, provided the angle of intersection of the adjacent streets does not exceed 135°.

Double Frontage Lot is a lot with frontage on two or more streets; access shall be provided first from the street with the lowest classification.

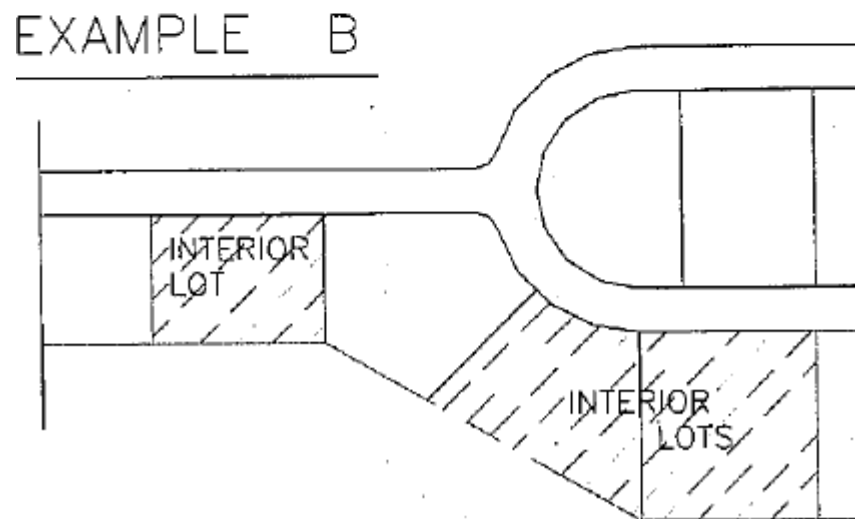
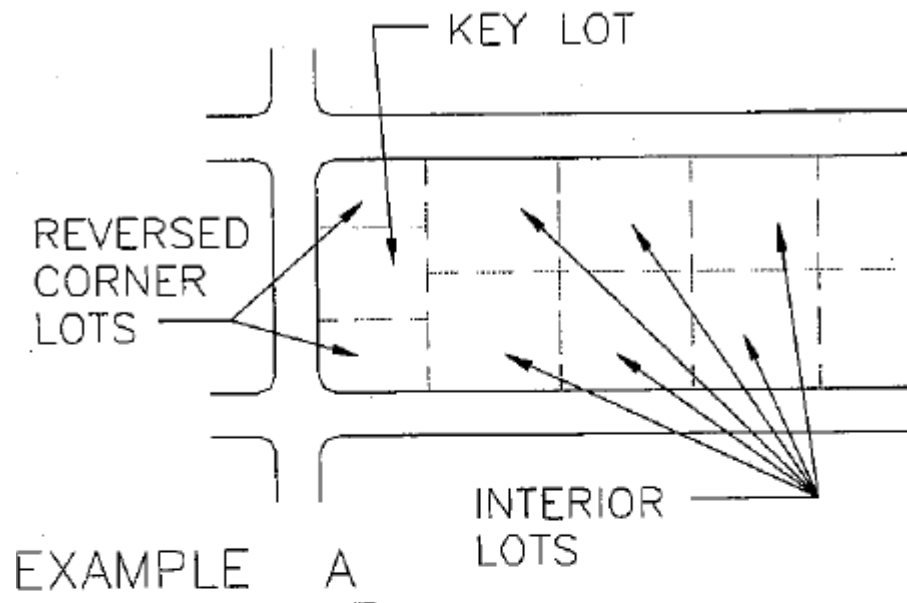
155.6.2.110 Wedge/Triangle Lot



155.6.2.120 Irregular Lot

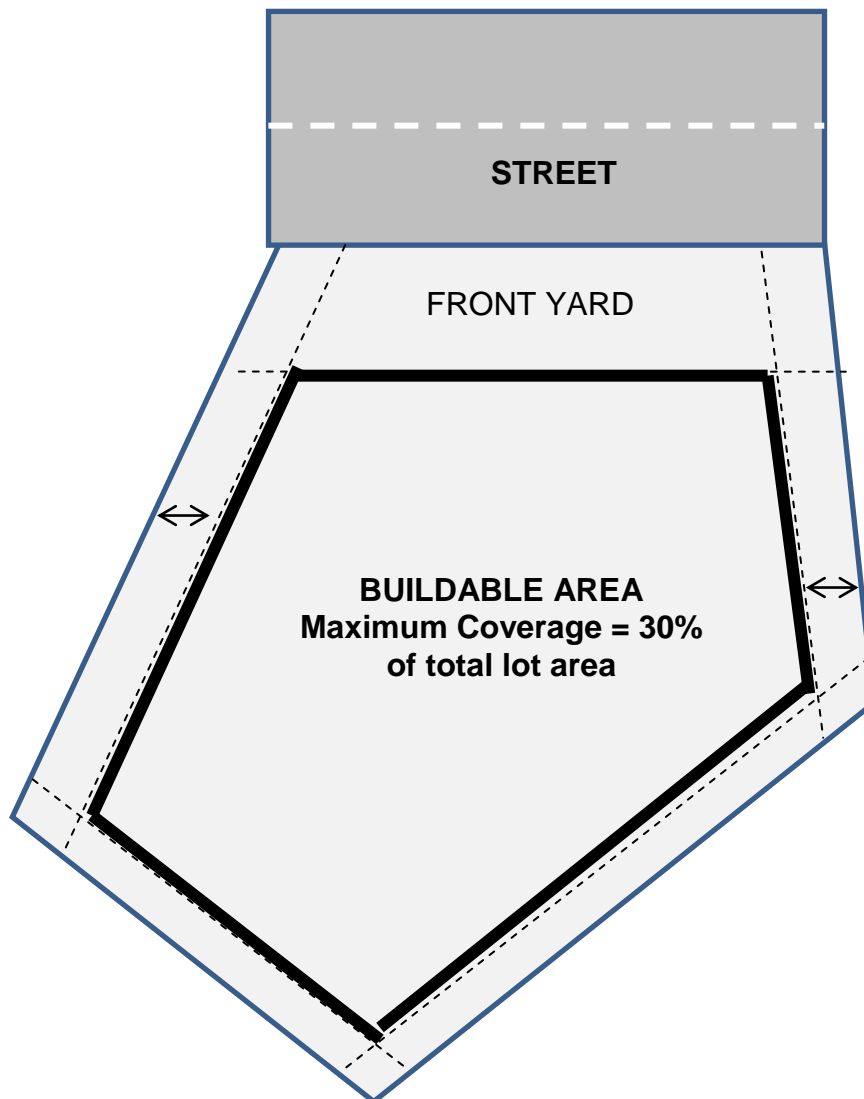


155.6.3 Interior Lots

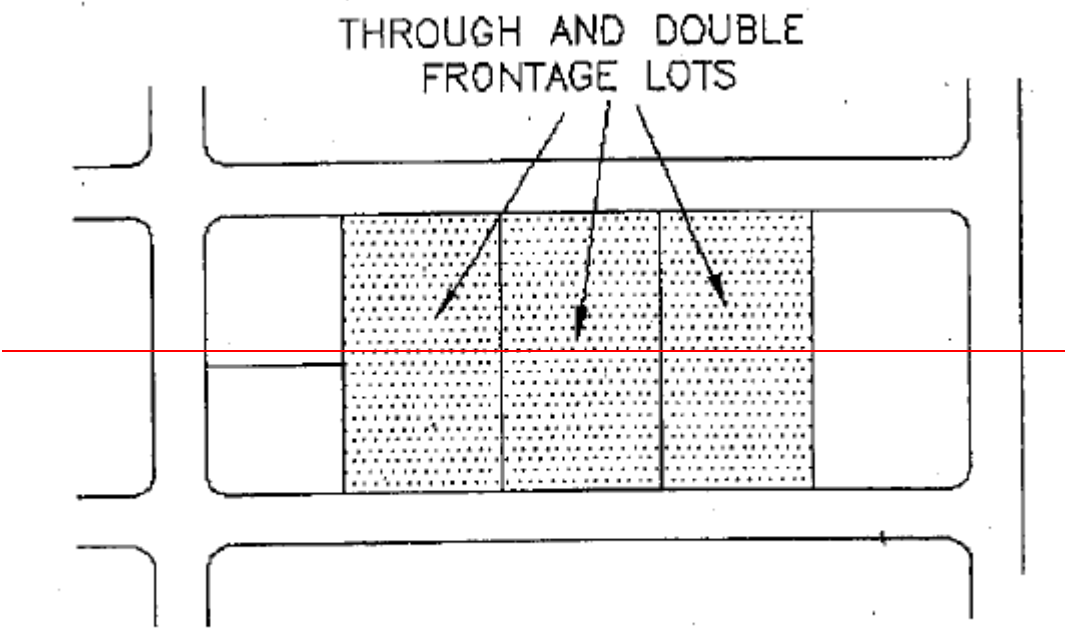


155.6.3.100 **Lot Coverage/Buildable Area**

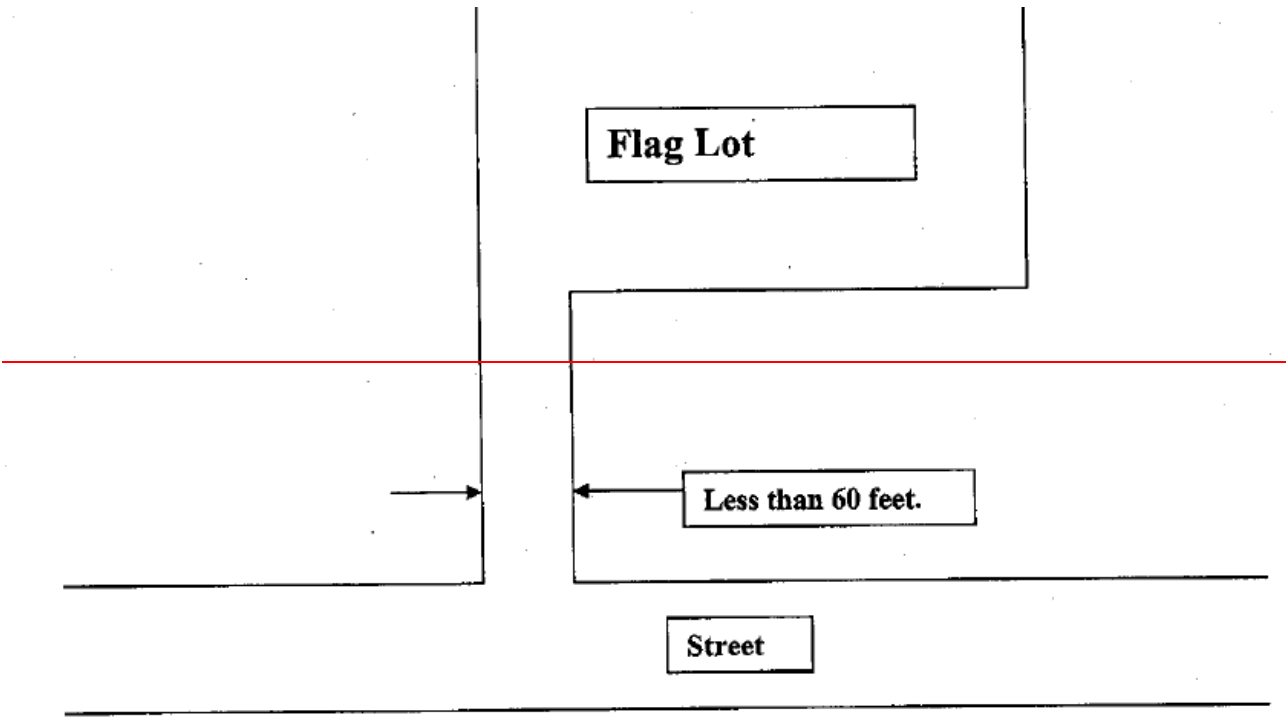
Lot Coverage is the area of a lot covered by impervious surfaces and as allowed by the applicable land use zone standards found in Section 155.2.1.160.



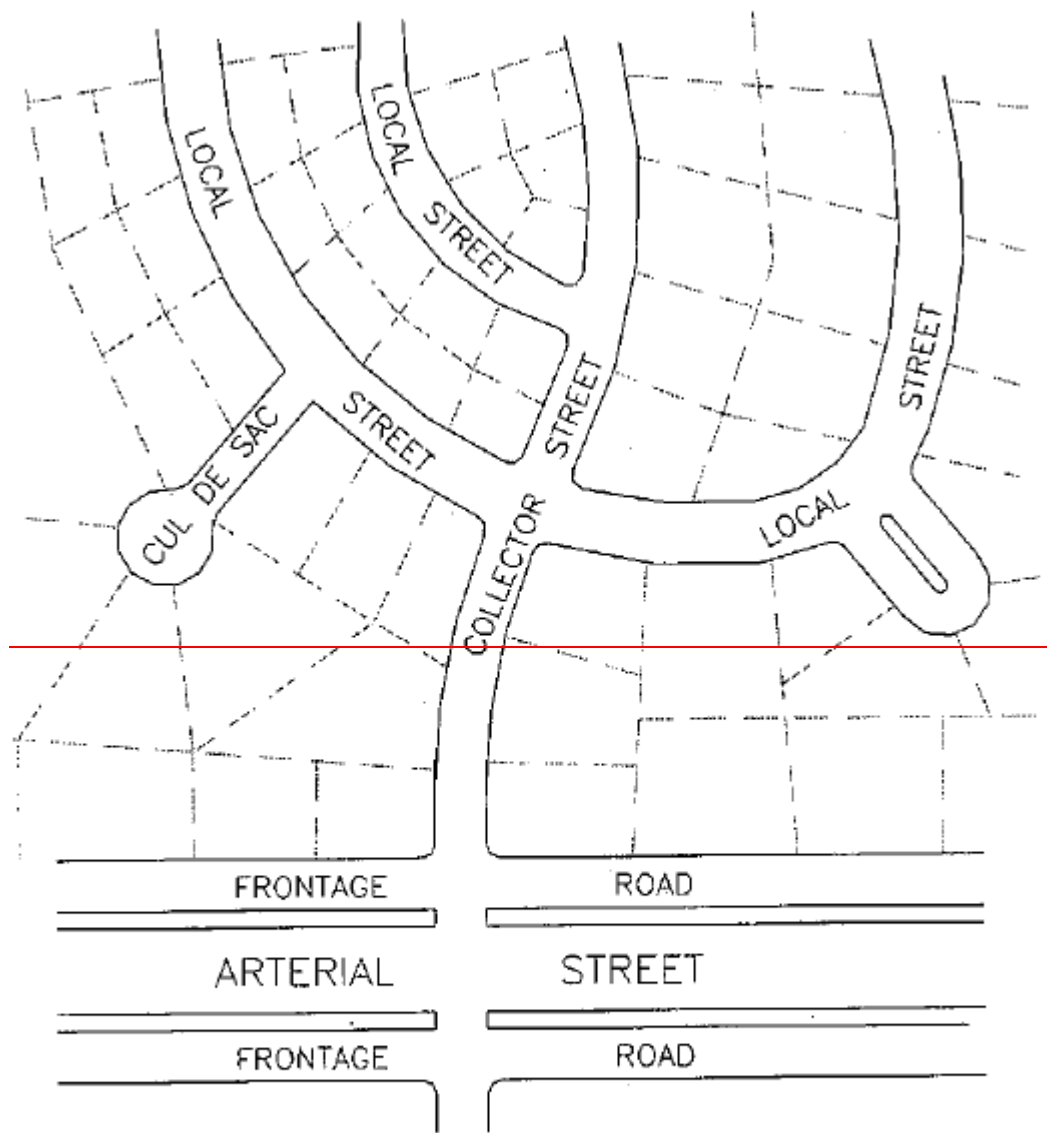
155.6.4 Through and Double Frontage Lots



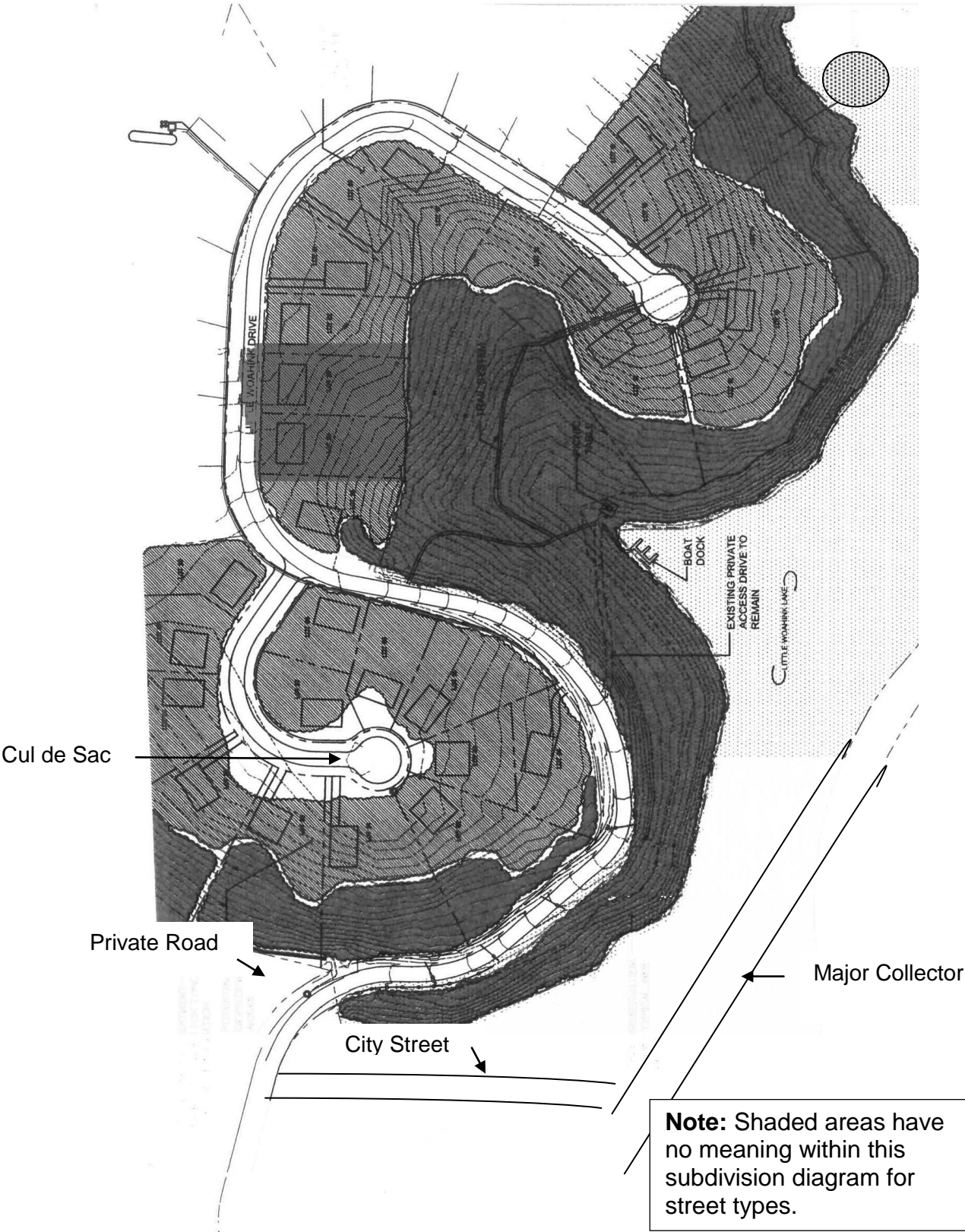
155.6.5 Flag Lots



~~155.6.6~~ ~~Subdivision Street Types~~



155.6.4.100 Street Types



155.6.5.100 Vision Clearance Diagram

Signs, structures, vegetation, or other obstructions to vision must be managed at the intersection so as to provide clear lines of sight for both ingress and egress. Driveway approaches and driveways are not allowed within the clear vision area.

