

or greater than the height of the tower, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment.

- c. A detached, stealth design WTS facility on a Preferred Site not abutting residential districts, observing all setback and height limits of the underlying zone, and all setback limits of the underlying zone unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment.
 - d. An attached WTS facility on an Acceptable Site, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment.
 - e. A WTS facility, including antennas and switching/connection equipment to land lines, affixed to an existing utility pole, but no higher than 10 feet above the height of the pole.
2. Site Plan Review (Type II Review). In addition to Subsection 1. above, the following standards apply:
- a. A detached, stealth design WTS facility on a Preferred Site, that abuts a residential district, but is not set back a distance equal to or greater than the height of the structure, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts.
 - b. A detached, stealth design WTS facility on a Acceptable Site, observing all height limits of the underlying zone, and all setback limits of the underlying zone, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment.
 - c. An attached WTS facility on a Conditionally Suitable Site, no higher than 10-feet above the existing structure, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment.
 - d. A detached, stealth design WTS facility on a Conditionally Suitable Site, observing all height limits of the underlying zone and all setback limits of the underlying zone, unless it is demonstrated

that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment.

- e. All detached WTS facilities, on any site, within 1,000 feet of an existing detached WTS facility.
 - f. All detached WTS facilities 50 feet or taller, on any site, and not designed or intended for collocation.
3. Discretionary Approval (Type III Review). In addition to the standards specified in Subsections 1. and 2. above, the following standards also apply:
- a. All WTS facilities in the Willamette River Greenway Overlay District.
 - b. All WTS facilities that exceed the height limit of the underlying zoning district on any site, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, unless height limit provisions are exempted elsewhere in this Code.
 - c. All detached non-stealth design WTS facilities on any site abutting a residential district when the height of the structure exceeds the height limit of the residential district and the setback of the WTS facility is less than the height of the structure, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment.
 - d. All detached WTS facilities on any site located within 1,000 feet of an existing WTS facility that was designed to accommodate multiple users and that has space available.
 - e. All detached WTS facilities located within Public Street or railroad rights-of-way where the actual location of the proposed WTS facility immediately abuts residential districts.
 - f. Lattice towers in any zoning district.
 - g. WTS facilities in the Historic Overlay District subject to the applicable provisions of Section 3.3-900 and other Sections of this Code.
4. Prohibited WTS facilities.
- a. Any WTS facility, other than whip antennas and switching/connection equipment mounted on existing poles, in the Historic Overlay District.

- b.** Any WTS facility in the public right-of-way that severely limits access to adjoining property, which limits public access or use of the sidewalk, or which constitutes a vision clearance violation.
- c.** Any detached WTS facility taller than 150 feet above finished grade at the base of the tower.

B. Standards for siting WTS facilities are as follows:

- 1.** All WTS facilities shall observe minimum lot/parcel size, lot/parcel coverage, building height and building setback standards of the underlying zoning district unless specifically exempted or otherwise regulated by this Section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.
- 2.** All WTS facilities shall be landscaped at the base of towers/poles, and completely around equipment shelters. Lighting of towers shall be as required by the FAA. All other lighting shall be deflected away from adjoining property.
- 3.** Any WTS facility sited on, or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 – 1.1319, as a condition of City approval, prior to construction: Wilderness Area; Wildlife Preserve; Endangered Species; Historic Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White Lights in Residential Neighborhoods; Excessive Radio Frequency Radiation Exposure.

C. Application requirements for WTS facilities are as follows:

- 1.** WTS providers whose proposal conforms with the provisions of Subsection A.1., above requiring building and electrical permits only shall submit the following information with the application for permits:
 - a.** A copy of that portion of the lease agreement (or lease memo) with the property owner, that includes collocation provisions (where applicable), facility removal within 90 days of abandonment, and a bond to guarantee removal shall be submitted for review prior to development permit approval.
 - b.** A signed statement from the applicant agreeing to allow collocation on the applicant's structure (where applicable).
 - c.** A map of the City showing the approximate geographic limits of the "cell" to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the City, or extending within the City from a distant location, and any existing detached WTS facilities of another provider within 1,000 feet of the proposed site.

- d.** An engineer's analysis/report of the recommended site location area for the proposed facility. If an existing structure approved for collocation is within the area recommended by the engineer's report, reasons for not collocating shall be provided demonstrating at least one of the following deficiencies:
 - i.** The structure is not of sufficient height to meet engineering requirements;
 - ii.** The structure is not of sufficient structural strength to accommodate the WTS facility;
 - iii.** Electromagnetic interference for one or both WTS facilities will result from collocation; or,
 - iv.** The radio frequency coverage objective cannot be adequately met.
 - e.** A plot plan showing: the lease area; antenna structure; height above grade and setback from property lines; equipment shelters and setback from property lines; access; connection point with land line system; and all landscape areas intended to screen the WTS facility.
 - f.** The method of stealth design (where applicable).
 - g.** An engineer's statement that the RF emissions at grade, or at nearest habitable space when attached to an existing structure complies with FCC rules for these emissions; the cumulative RF emissions if collocated.
 - h.** A description of the type of service offered (including, but not limited to: voice, data, video) and the consumer receiving equipment.
 - i.** Identification of the provider and backhaul provider, if different.
 - j.** Provide the RF range in Megahertz and the wattage output of the equipment.
 - k.** Provide the facilities maintenance schedule.
 - l.** Provide the zoning and Metro Plan designation of proposed site.
 - m.** Provide any required FAA determination.
- 2.** WTS providers whose proposals conforms with the provisions of Subsection A.2., above requiring Site Plan Review approval shall submit, in addition to the requirements of Section 5.17-120, the following information.

- a. Items a. through d. and f. through m. in Subsection C.1., above.
 - b. Photo simulations of the proposed WTS facility from the four cardinal compass points and/or abutting right-of-way, whichever provide the most accurate representation of the proposed facility from a variety of vantage points.
 - c. The distance from the nearest WTS facility and nearest collocation site.
3. WTS providers whose proposals conform with the provisions of Subsection A.3., above requiring Discretionary Use approval shall submit the following information:
- a. Items 1-3 in Subsection C.2., above.
 - b. Responses to the following Discretionary Use criteria:
 - i. An engineer's statement demonstrating the reasons why the WTS facility shall be located at the proposed site (including, but not limited to: service demands, topography dropped coverage);
 - ii. An engineer's statement demonstrating the reasons why the WTS facility shall be constructed at the proposed height; and
 - iii. Verification of good faith efforts made to locate or design the proposed WTS facility to qualify for a less rigorous approval process (building permit or site plan approval).
- D. The Planning Commission or Hearings Official shall use the proceeding criteria in place of the Discretionary Use criteria in Section 5.9-120 to evaluate the proposal. The Planning Commission or Hearings Official shall not grant approval of the request unless each of these criteria has been met.
- E. Failure to comply with the standards, provisions and conditions of this Section, and any other applicable Section of this Code, may constitute grounds for revocation of a City approval to locate and operate a WTS facility.
- F. Private amateur radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from the WTS facilities siting and review provisions of the Code, but shall otherwise comply with the applicable provisions of the underlying zoning district in which they are located to the extent that these provisions comply with Federal Communications Commission policy.
- G. The provisions of this Section shall be reviewed no sooner than three years nor later than five years from their date of adoption. This review ensures contemporaneity with technological changes made in this industry.

Section 4.4-100 Landscaping, Screening and Fence Standards

4.4-105 Landscaping

- A.** These regulations ensure that new development complies with the landscaping provisions of this Code and any applicable Refinement Plans, Plan Districts, Master Plans, and Conceptual Development Plans; is adequately screened from less intensive development; considers the effects of vegetation on public facilities; retains significant clusters of natural trees and shrubs wherever possible; minimizes run-off; facilitates energy conservation and crime prevention; and improves the appearance of the City to create a desirable place to live and work.
- B.** Three types of landscaping may be required:
1. Landscaping standards for private property as specified in this Section and other Sections of this Code.
 2. Street trees in the public right-of-way as specified in Section 4.2-140.
 3. Curbside planter strips in the public right-of-way as specified in Section 4.2-135.
- C.** Materials and installation costs of planting and irrigation other than what is required by the Minimum Development Standards (Section 5.15-100) shall not be required to exceed 10 percent of the value of the new development, including parking facilities. The Director shall determine the location, quantity and quality of required landscaping as specified in this Code.
- D.** Unless otherwise specified in this Code, the following areas of a lot/parcel shall be landscaped:
1. All required setback areas and any additional planting areas as specified in the appropriate zoning district.
 2. Parking lot planting areas required in this Section.
- E.** At least 65 percent of each required planting area shall be covered with living plant materials within 5 years of the date of installation. The living plant materials shall be distributed throughout the required planting area. The planting acceptable per 1,000 square feet of required planting area is as follows:
1. As a minimum, two trees not less than 6 feet in height that are at least 2 inches in caliper (at the time of planting, not including root ball); and
 2. 10 shrubs, 5 gallons or larger.
 3. Lawn and/or groundcover may be substituted for trees or shrubbery, unless required for screening when there are adequate provisions for ongoing maintenance.

EXCEPTION: These standards do not apply to single family and duplex dwellings on individual lots/parcels in the LDR District.

- F.** Parking lot planting areas shall include one canopy tree at least 2 inches in caliper that meets City street tree standards as may be permitted by the City's *Engineering Design Standards and Procedures Manual* and at least four shrubs, 5 gallon or larger, for each 100 square feet of planting area. Shrubbery that abuts public right-of-way or that is placed in the interior of any parking lot shall generally not exceed 2 ½ feet in height at maturity. Parking lot planting areas shall include:
1. Parking and driveway setback areas specified in the applicable zoning district; and
 2. Five percent of the interior of a parking lot, exclusive of any required parking setbacks, if 24 or more parking spaces are located between the street side of a building and an arterial or collector street, and are visible from any street.
 3. See also Section 3.2-240D.8.c. for multi-family design standards.
- G.** All new required planting areas shall be provided with a permanent underground irrigation system unless where planted with native species or plant communities, or as may be exempted by the Director.
- H.** Landscaped setbacks abutting required screening on the same property may be exempted by the Director from planting requirements if the area is not visible from any public right-of-way or adjacent property.
- I.** Planting Installation Standards.
1. The applicant shall provide methods for the protection of existing plant material, which will remain through the construction process. The plants to be saved and the method of protection shall be noted on the Planting Plan.
 2. Existing trees to be retained on private property shall not have construction occur within the drip line, unless a landscape architect certifies that affected trees will have at least a 90 percent chance of survival over a 5 year period. Trees to be saved shall be kept free from trunk abrasion.
 3. The Planting Plan may be required to include specifications for topsoil, including depth and organic matter requirements, to ensure the health and vitality of required planting. Where planting areas have been excavated, the Planting Plan shall provide for the replacement of topsoil. All waste material shall be removed from required planting areas prior to the application of topsoil.
 - a. Inspection may be made by the Director prior to planting to verify proper rough grade and installation of irrigation systems.

- b. Plant materials and soil preparation may be inspected prior to or in conjunction with the occupancy inspection to ensure that placement, quantity, size and variety conform to the approved Planting Plan and the requirements of this Section. Nursery tags identifying variety and species shall remain on plant specimens until the Final Building Inspection by the Building Official or the issuance of a Certificate of Occupancy.

4.4-110 Screening

- A. Unless otherwise specified in this Code, screening shall be required:
 1. Where commercial and industrial districts abut residential districts and no approved screening exists;
 2. For outdoor mechanical devices and minor and major public facilities;
 3. For outdoor storage yards and areas in non-residential districts abutting residential districts along their common property line;
 4. For trash receptacles;
 5. For automobile wrecking and salvage yards; and
 6. For multi-family developments.
- B. Screening shall be vegetative, earthen and/or structural and be designed to minimize visual and audible incompatible uses from adjacent properties. Unless specified elsewhere in this Subsection, screening shall be continuous to at least 6 feet above ground level. The following standards shall apply:
 1. **Vegetative Screening.** Evergreen shrubs shall be planted to form a continuous hedge. When immediate screening is necessary, a sight-obscuring fence shall be installed in place of, or in conjunction with the shrubs. The 6-foot height standard specified in Subsection B., above shall occur within four years of planting.

EXCEPTION: For multi-family development, the vegetative screening standard specified in Section 3.2-240D.8.d. apply.
 2. **Earthen Screening.** Earthen berms may be used to screen either visual or noise impacts. A berm shall be combined with evergreen plantings or a fence to form an attractive sight and noise buffer. The maximum height of a berm shall be 6 feet along local streets and 8 feet along collector and arterial streets or railroad rights-of-way, unless an acoustical engineer determines a lower or higher height can be utilized. Height shall be measured from the base of the berm to the top of the berm and does not include additional fences or landscaping. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other means acceptable to the Building Official. The maximum

slope shall be 1:3. The crest area shall be a minimum of 4 feet wide. The slopes shall be protected by trees, shrubs and groundcover to prevent erosion. Berms shall be irrigated as specified in Section 4.4-100. No part of a berm shall encroach into an easement. The toe of a berm over three feet in height shall be set back at least 5 feet from any property line, unless when abutting public right-of-way. Berms shall not interfere with the drainage patterns of the property.

3. **Structural Screening.** A fence or masonry wall shall be constructed to provide a uniform sight-obscuring screen.

EXCEPTIONS:

- a. No screen shall exceed four feet in residential district front yard setbacks, and all screening shall comply with vision clearance requirements of Section 4.2-130.
- b. Wherever a required screen in the form of a fence is adjacent to a residential or commercial district or an arterial or collector street, it shall be non-metallic and of a subtle color to blend with surrounding vegetation. A slatted chain-link fence may be approved by the Director.
- c. Any refuse container or disposal area which would otherwise be visible from a public street, customer or resident parking area, any public facility, adjacent property, or any residential area, shall be screened from view as specified in Subsections 1. and 3., above. All refuse materials shall be contained within the screened area. See also Section 3.2-240D.3.b. for multi-family design standards. This standard does not apply to single and two family dwellings,
- d. When abutting a street, outdoor storage areas and yards shall be provided with a 5-foot planting strip as specified in Section 4.4-100.

4.4-115 Fences

Fences shall not exceed the height standards in Table 4.4-1 and shall be located as follows:

A. General.

1. In any zoning, overlay or plan district not specifically listed in Table 4.4-1, fence standards shall be determined based upon the use, for example a commercial use in the Mixed Use Commercial District shall comply with fence standards for the commercial districts in Table 4.4-1.

EXCEPTION: In mixed use areas, fence standards shall be determined by the base zone.

2. Fence height is measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height is measured from the top of the berm.
3. Fences shall be permitted as specified in the screening standards in Section 4.4-110. Where permitted in the commercial, industrial and the PLO Districts, outdoor storage of materials shall be screened by a sight obscuring fence when abutting residential properties along common property lines. Partial screening along rights-of-way and non-residential districts may be permitted when necessary for security reasons.

B. Review procedure applicable to all zoning, overlay and plan districts.

1. A construction permit is required for fences over 6 feet in height.
2. Fences within the Willamette Greenway Setback area shall be reviewed under Discretionary Use procedure for fences as specified in Section 5.9-120 and as required in Section 3.3-225.

Table 4.4-1

Yard Type	Base Height by Zoning District				
	Residential	Commercial	Industrial	PLO	MS
Front Yard (1)	6' (2)	6'	6'/ 8' (3)	6'	6'
Street Side Yard (4)	6'	6'	6'/ 8' (3)	6'	6'
Rear Yard	6'	6'	6'/ 8' (3)	6'	6'
Height Exceptions	8'/ 10' (5)	8'	8' (6)	8'	N/A
Vision Clearance Area (7)	2 ½'	2 ½'	2 ½'	2 ½'	2 ½'
Barbed/ Razor Wire/ Electric	Y	Y	Y	Y/N (8)	N

- (1) The fence shall be located behind the front yard setback in all districts unless allowed in (2).
- (2) Fences may be allowed within the front yard setback as follows:
 - (a) 4' high unslatted chain link – this standard does not apply to multi-family developments.
 - (b) 3' high sight obscuring fence.
- (3) In the Campus Industrial District the base height standard is 6'. In all other industrial districts, the base height standard is 8'.
- (4) In the residential districts, a fence may be located along the property line. In all other districts, the fence shall be located behind the street yard setback.
- (5) Situations where the base fence height may be exceeded:
 - (a) 8' in residential, commercial and the PLO Districts for public utility facilities, school yards and playgrounds, provided that the fence is located behind the front yard and street side yard landscaped area and outside of the vision clearance area. Residential districts abutting these facilities, railroad tracks or residential property side and rear yards abutting streets with 4 or more travel lanes, may have fences of 8' along common property lines and right-of-way.
 - (b) 10' for residential properties abutting commercial or industrial districts along common property lines, and around permitted storage areas in residential districts. Yards of single-family homes shall not constitute permitted storage areas.
 - (c) In residential districts, any fence located within a required setback, and which exceeds the allowable fence height for that setback by more than 20 percent, shall be reviewed under Discretionary Use procedure for fences as specified in Section 5.9-100.
- (6) Special standards in the Campus Industrial District:

- (a) No fencing shall be permitted within 35' of a CI District perimeter or 20 feet of any development area perimeter or within interior lots/parcels of development areas.
EXCEPTION: 3' maximum height decorative fencing or masonry walls may be permitted as screening devices around parking lots.
- (b) Chain link fences shall be permitted only when combined with plantings of evergreen shrubs or climbing vines that will completely cover the fence(s) within 5 years of installation (as certified by a landscape architect or licensed nursery operator).
- (c) Painted fences shall match the building color scheme of the development area.
- (7) No fence shall exceed the 2½' height limitation within the vision clearance area as specified in Section 4.2-130.
- (8) Barbed wire, razor wire or electrified fencing shall be permitted atop a six foot chain link fence. The total height of the fence and barbed wire shall not exceed 8'. These materials shall not extend into the vertical plane of adjoining public sidewalks. Barbed wire or razor wire only fences are prohibited. Electrified fencing shall be posted with warning signs every 24 feet.
EXCEPTIONS:
 - (a) In the PLO District in the Downtown Exception Area and in the MUC, MUE and MUR Districts, no barbed razor wire or electrified fences shall be permitted.
 - (b) In the residential districts, barb-wire and electrified fencing on lots/parcels less than 20,000 square feet, and razor wire on any lot/parcel, regardless of size, shall be reviewed under Discretionary Use procedure as specified in Section 5.9-100, using the criteria specified in Subsection C., below.

C. Where Discretionary Use approval is required for fences, the following criteria of approval apply, in lieu of criteria specified in Section 5.9-120:

1. The applicant has reasonably demonstrated a security problem exists at the site. The demonstration shall include police reports, insurance claims paid, or affidavits from neighbors or tenants of the property corroborating the security problem;
2. Demonstration that the placement of the fence will not present a hazard or risk to the general public or neighboring properties;
3. Demonstration that the applicant has exhausted all other practical remedies to the demonstrated security problem; for example, sight obscuring screening, "unfriendly landscaping," lighting or alarms which might deter trespass on the subject property; or
4. Demonstration that the property is subject to noise found to exceed acceptable noise levels prescribed in the Oregon Administrative Rule or the Federal Highway Administration Noise Abatement Criteria, as certified by an acoustical engineer.
5. The Planning Commission, based on the evidence presented, shall approve, modify or deny the request. The Planning Commission may further condition the request including, but not limited to imposition of the following conditions; establishing the extent of the site eligible for the fencing, establishing minimum and maximum height requirements, setbacks from all property lines, and requiring specific fencing materials.

Section 4.5-100 On-Site Lighting Standards

4.5-105 Purpose and Applicability

- A. On-site lighting standards are established to create a safe and secure environment during hours of darkness and reduce or prevent light pollution by minimizing glare.
- B. On-site lighting standards apply to any development requiring Site Plan Review approval.
- C. **EXCEPTIONS:** On-site lighting standards shall not apply to:
 - 1. Individual single family or duplex dwelling units;
 - 2. City street light standards and design criteria, which are regulated by Section 4.2-145 and by the City's *Engineering Design Standards and Procedures Manual*;
 - 3. Lighting necessary for emergency equipment and work conducted in the interests of law enforcement or for the safety, health, or welfare of the City; and
 - 4. Sign lighting and signs in general, which are regulated in the Springfield Municipal Code, 1997, Chapter 8.

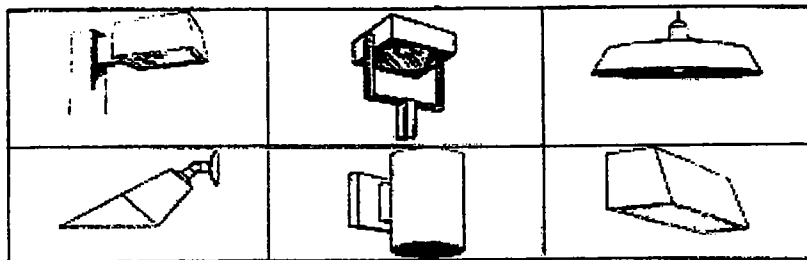
4.5-110 Illumination and Height

- A. On-site lighting shall be the minimum illumination necessary for a given application including parking areas and vehicle sales areas. All exterior light fixtures shall be shielded or recessed so that direct glare and reflection are contained within the boundaries of the property, and directed downward and away from abutting properties; public rights-of-way; and riparian, wetlands and other protected areas identified in this Code on the same property.
- B. Height.
 - 1. The height of a free standing exterior light fixture shall not exceed 25 feet or the height of the principal permitted structure, whichever is less. In this case, height is measured as the vertical distance between the paved surface and the bottom of the light fixture.
 - 2. **EXCEPTIONS:**
 - a. The Director may allow an increase to the standard in Subsection B.1., above when a determination is made that personal security is an issue, special security needs exist, or where vandalism or crime are possible. The Director may consider specific site characteristics, level of vehicle and pedestrian conflict, special security needs, and history or likelihood of crimes in making the

determination. Any approved increase shall be the minimum necessary to achieve the desired result.

- b. The height of a free standing exterior light fixture within 50 feet of any residential district and riparian, wetlands and other similarly protected areas shall not exceed 12 feet.
- c. The height restriction in Subsection B.1., above shall not apply to lighting used to illuminate outdoor performance areas, sport and recreation facilities, and playfields, unless these light fixtures are located within 50 feet of a residential district.

Figure 4.5-A



EXAMPLES OF ALLOWED COMMERCIALY AVAILABLE LUMINARIES

Section 4.6-100 Vehicle Parking, Loading, and Bicycle Parking Standards

4.6-105 Vehicle Parking – Purpose and Applicability

- A.** These regulations provide standards for the development of vehicle parking.
- B.** Unless exempted elsewhere in this Code, all development within the City and its urbanizable area shall comply with the vehicle parking provisions of this Section.

4.6-110 Vehicle Parking – General

- A.** Off-street parking spaces shall be provided for:
 - 1.** All new construction and expansion of multiple family residential, commercial, industrial and public and semi-public uses. If an existing development is expanded, new parking spaces shall be provided in proportion to the increase only.
 - 2.** Changes in use or the use category of an existing building or structure.
 - 3.** The Director may authorize a reduction in the number of required parking spaces without a Variance:
 - a.** Based on an approved Parking Study, prepared by a Transportation Engineer; and/or
 - b.** When the location of a building on a site makes it impractical to provide the number of required spaces without demolishing all or part of the building, and no alternative parking arrangements are reasonably available; and
 - c.** Based on an affirmative finding by the Director that the exception will have no negative impacts on neighboring properties; and
 - d.** All installed parking shall conform to the design standards of this Section and Sections 4.6-115 and 4.6-120.
- B.** If parking has been provided to serve an existing use, the number of parking spaces shall not be reduced if the result would be fewer spaces than required by this Section.
- C.** Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials. Parking for company motor vehicles that remain on the premises over night shall be provided in addition to the number of parking spaces required by this Section.
- D.** Unless joint use of parking facilities is requested as may be permitted in Subsection E., below the total requirement for off-street parking spaces is the sum

of the requirements for all uses. If the total number of required parking spaces results in a fraction, the fraction shall be rounded up to the next whole number. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use, unless as may be permitted in Subsection F., below.

- E. The Director, upon application by all involved property owners, may authorize joint use of parking facilities, provided that:
1. The applicant shall demonstrate that there is no substantial conflict in the principal operating hours of the buildings or uses for which the joint use of parking facilities is proposed; and
 2. The parties concerned in the joint use of off-street parking facilities shall provide evidence of agreement for the joint use by a legal instrument approved by the City Attorney. An agreement for joint use of parking facilities shall provide for continuing maintenance of jointly used parking facilities.
 3. The agreement shall be recorded at Lane County Deeds and Records at the applicant's expense.
- F. Parking spaces in a public right-of-way directly abutting the development area may be counted as fulfilling a part of the parking requirements for a development as follows: For each 18 feet of available on-street parking, there will be 1/2 space credit toward the required amount of off-street parking spaces. The developer is responsible for marking any on-street spaces.

4.6-115 Vehicle Parking – Parking Lot Design

All off-street parking areas shall comply with the following dimensional standards:

Table 4.6-1

Dimensional Feature (all dimensions in feet)	Diagram	Parking Angle			
		0	45	60	90
Stall width, standard	A	9.0	9.0	9.0	9.0
Stall width, compact	A	8.0	8.0	8.0	8.0
Stall length, standard	B	24.0	18.0	18.0	18.0
Stall length, compact	B	22.0	16.0	16.0	16.0
Aisle width between stall lines	C	12.0	12.0	16.0	24.0
Bumper overhang (typical)	D	0.0	1.5	1.8	2.0
Cross-aisle, 1-way	E	16.0	16.0	16.0	16.0
Cross-aisle, 2-way	F	24.0	24.0	24.0	24.0

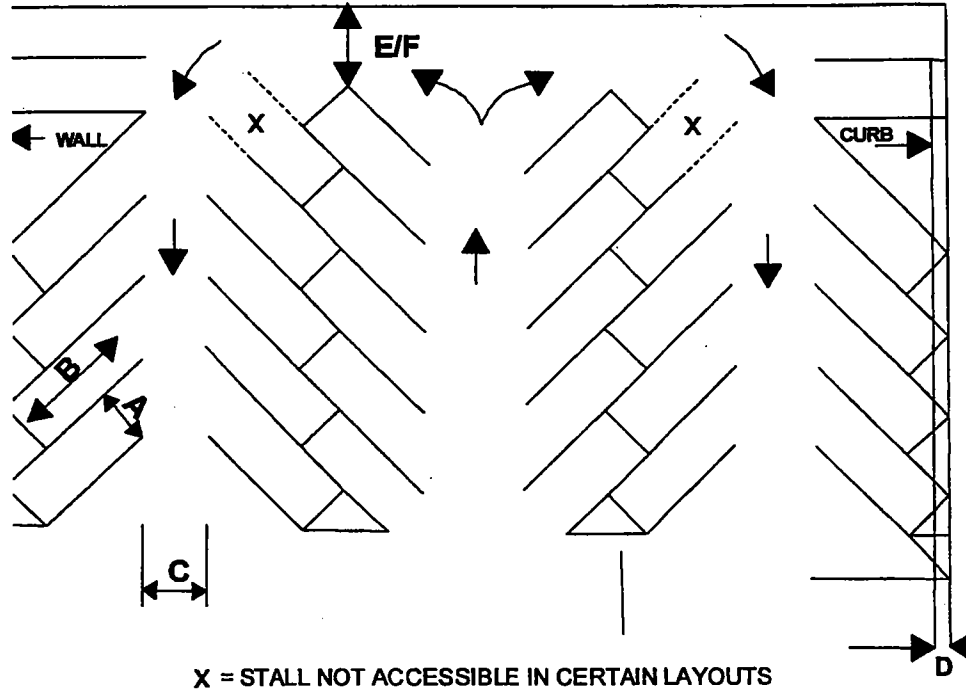
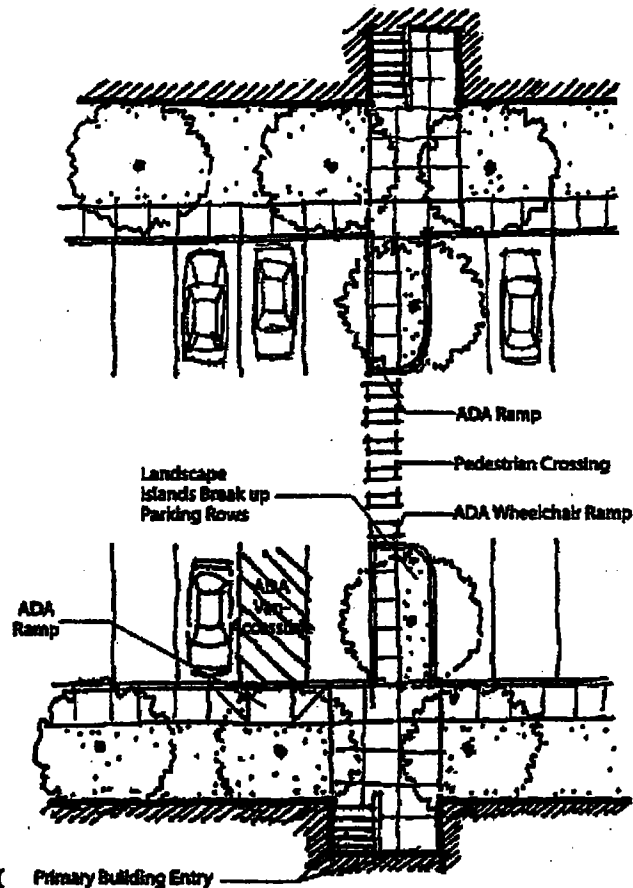


Figure 4.6-A
Parking Lot Design



4.6-120 Vehicle Parking – Parking Lot Improvements

All parking areas shall conform to the setback, vision clearance, planting and screening provisions of this Code and shall be completed prior to occupancy. Required parking spaces shall be improved as follows:

- A. All parking areas shall have a durable, dust free surfacing of Asphaltic concrete, Portland cement concrete or other materials as specified in the Building Safety Codes and approved by the Building Official. Parking lot surfacing shall not encroach upon the public right-of-way.
- B. Adequate drainage improvements shall be provided to dispose of all on-site run-off. Provisions shall be made for the on-site collection of drainage waters to eliminate sheet flow onto sidewalks, public rights-of-way, and abutting private property. All drainage systems shall be approved by the Building Official and shall be constructed in conformance with the Building Safety Codes.
- C. All parking stalls fronting a sidewalk, alley, street, landscaped area or structure shall be provided with a secured wheel bumper or linear curb not less than 6 inches in height to be set back from the front of the stall a minimum of 2 feet to allow for vehicle encroachment. Wheel bumpers shall be a minimum of 6 feet in length. Curbs shall be constructed in conformance with the Standard Construction Specifications.

EXCEPTION: As an option, the sidewalk or landscaped area may be widened 2 feet beyond the minimum dimension required to allow for vehicle encroachment. A curb not less than 6 inches in height shall protect the widened sidewalks and planter areas.

- D. Backing into the public right-of-way, other than alleys is prohibited.

EXCEPTION: Parking areas of less than four spaces on a residentially zoned lot/parcel may back into the public right-of-way.

- E. All spaces shall be permanently and clearly marked unless the Director determines that the spaces should not be marked for safety considerations. Old striping shall not be visible after being replaced by new striping.
- F. Parking areas shall be designed to connect with parking areas on abutting sites within the same zoning district to eliminate the use of the street for cross movements.
- G. Not more than 30 percent of the total parking spaces in a parking lot may be designated for compact cars. These spaces shall be signed and/or the space painted with the words "Compact Car Only."
- H. Parking spaces for disabled persons.
 - 1. Parking spaces for disabled persons and accessible passenger loading zones that serve a particular building shall be located as close as possible to a building entrance.

2. The number and dimensions of parking spaces for disabled persons shall be as specified in Section 1104 of the Structural Specialty Code.
- I. Motor vehicle parking space reduction credit. Bicycle parking may substitute for up to 25 percent of required vehicular parking. For every 5 non-required bicycle parking spaces that meet the short or long term bicycle parking standards specified in Table 4.6-3, the motor vehicle requirement is reduced by one space. Existing parking may be converted to take advantage of this provision.

4.6-125 Vehicle Parking – Parking Space Requirements

Table 4.6-2

The following parking standards have been established according to use and apply to that use in any zoning district.

Use	Minimum Parking Requirements
Dwellings - single-family, duplexes and manufactured	2 for each dwelling
Dwellings - cluster subdivisions	See applicable dwelling unit
Child Care Centers	1 drop-off space for each 700 square feet of gross floor area, plus 1 long-term space for each 350 square feet of gross floor area
Education Facilities	Public/Private 2 for each classroom, plus 1 elementary/middle school for each 100 square feet of 6 or more student's public assembly area.
Group Care Facilities	.25 for each bedroom or dwelling unit plus 1 per full time employee on the busiest shift.
Dwellings - multiple family other than quads or quints	1.5 for each dwelling unit
Public Utility Facilities	None, unless utility vehicles will be parked over night.
Dwellings - quads or quints	.75 for each bedroom
Transient Accommodations	
Bed and breakfast facilities, boarding and rooming houses and hotels	1 plus 1 for each guest bedroom
Emergency shelter homes	None
Youth hostels	.3 for each guest bedroom
Eating and drinking establishments	1 for each 100 square feet of gross floor area.
Recreational facilities and religious, social and public institutions	1 for each 100 square feet of floor area in the primary assembly area and 1 for each 200 square feet of gross floor area for the remainder of the building.
Retail sales, personal service, including small scale repair and maintenance and offices	1 for each 300 square feet of gross floor area.
Shopping centers and malls	1 for each 250 square feet of gross floor area, exclusive of covered pedestrian walkways. Once a shopping center or mall has been approved, no additional parking shall be required, unless there is new construction
Transportation facilities	1 for each 300 square feet of gross floor area not including vehicle storage areas.
Warehouse commercial sales	1 for each 600 square feet of gross floor area.
Manufacture and assembly, and other primary industrial uses	1 for each 500 square feet industrial of gross floor area (manufacture and assembly) for each 1000 square feet of gross floor area (warehousing)

<i>Use</i>	<i>Minimum Parking Requirements</i>
Secondary industrial uses	See applicable use in this table

Special Provisions:

A. Downtown Exception Area. In the Downtown Exception Area, all lots/parcels and uses shall be exempt from the parking space requirements of this Section. However, if the Director determines there is a need for parking, the Director may require a Institute of Transportation Engineering (ITE) Parking Generation Report to determine the parking requirements. In any case, any voluntarily installed parking shall conform to the design standards of this Section.

B. Commercial Districts.

1. Parking lots in the NC District shall be designed so that every seventh space is developed as a landscaped separator between spaces. NC developments that require more than 25 parking spaces shall locate half of all the required spaces over 25 behind proposed buildings.

2. Parking lots shall be used exclusively for the parking of vehicles.

EXCEPTION: Parking spaces in excess of the number required by this Code may be used for temporary sales or display of merchandise where the activity does not create a hazard for automobile or pedestrian traffic.

3. A minimum of four off-street parking places shall be required for all commercial uses that require parking.

C. LMI, HI, and SHI Districts. Parking spaces may be reduced on a one-for-one basis when the number of spaces required is more than the number of employees working on the busiest shift, provided that a landscaped area equal to the total number of spaces reduced shall be held in reserve for future use.

D. CI District

1. To the greatest practicable, parking shall be located behind buildings, internal to development or to the side of a building.

EXCEPTIONS:

a. The number of required parking spaces for uses not shown in Table 4.6-2 shall be determined based upon standards for similar uses.

b. Parking spaces may be reduced on a one-for-one basis when the number of spaces required is more than the shift with the largest number of employees, provided that a landscaped area equal to the total number of spaces reduced is held in reserve for future use.

2. An additional 5 percent of impermeable surface may be allowed in cases where all parking on a lot/parcel is screened by earthen berms with an average height of 3 feet (measured from the finished grade of the edge of

the parking lot), sunken below grade an average depth of three feet (measured from the finished grade of the edge of the parking lot to the finished grade of the adjacent berm or landscaped area), or both.

3. Truck parking for vehicles necessary for the operation of the facility may be located either:
 - a. Within an enclosed building; or
 - b. Outside of a building if the following standards are met and shall:
 - i. Be prohibited in all front and street-side yards;
 - ii. Meet the building setback standards specified in Section 3.2-420; and
 - iii. Be screened as specified in Section 3.2-445.
- E. Medical Services District. Motor vehicle parking standards shall be determined based upon standards for similar uses in Table 4.6-2 and upon the required Traffic Study.
- F. Public Land and Open Space District. Motor vehicle parking standards shall be determined based upon standards for similar uses in Table 4.6-2. Uses not listed shall require a Parking Study.
- G. Mixed Use Districts.
 1. Nonresidential requirements.
 - a. Surface parking shall meet the minimum parking requirement for the various commercial and industrial uses in Table 4.6-2. The Director may reduce the minimum number of parking spaces required, based on a parking generation study, without the need for a Variance. The study shall demonstrate how a proposal to reduce parking is justified by estimated peak use, easy pedestrian access, availability of transit service, and adjacent on-street parking. This reduction shall be limited to 20 percent of the established standard.
 - b. The maximum number of parking spaces allowed shall not exceed 120 percent of the minimum parking requirement for commercial and industrial uses in Table 4.6-2. The Director may increase the allowed number of parking spaces based on a parking generation study, using statistical analysis from the Institute of Transportation Engineering (ITE) Parking Generation Report without the need for a Variance. The study shall demonstrate how a proposal to increase parking is justified by estimated peak use, and how parking demand management techniques to reduce the needed number of spaces would be ineffective for the development.

2. Residential requirements. Minimum off-street parking standards for residential uses shall comply with the standards specified in Table 4.6-2.
3. **EXCEPTION:** The Director may reduce the minimum residential parking standard when it is demonstrated that proposed housing is along a frequent service transit line, or is otherwise provided for by this Code.

4.6-130 Loading Areas – Purpose and Applicability

- A. These regulations provide standards for the development of loading areas.
- B. Unless exempted elsewhere in this Code, all commercial and industrial development requiring loading areas shall comply with the loading area provisions of this Section.

4.6-135 Loading Areas – Facility Design and Improvements

- A. All necessary loading areas for commercial and industrial development shall be located off-street and provided in addition to the required parking spaces.
- B. Vehicles in the loading area shall not protrude into a public right-of-way or sidewalk.

EXCEPTION: When no other reasonable alternative exists, loading areas shall be located so that vehicles are not required to back or maneuver in the public right-of-way or internal travel aisles.

- C. The minimum sizes required for commercial and industrial loading areas are as follows:
 1. 250 square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
 2. 500 square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
 3. 750 square feet for buildings in excess of 50,000 square feet of gross floor area.
- D. The required loading area shall not be less than 10 feet wide by 25 feet long and have an unobstructed height of 14 feet.
- E. A school having a capacity greater than 25 students shall have a driveway designed for the continuous forward flow of passenger vehicles for loading and unloading children.

4.6-140 Bicycle Parking – Purpose and Applicability

- A. Safe and convenient bicycle parking is required in most zoning districts and land use categories to encourage the use of bicycles as a mode of transportation.

The required number of spaces is lower for uses that do not tend to attract bicycle riders and higher for those that do. Additionally, some bicycle parking is required on the basis of specifically encouraging employee, student or customer related bicycle use. The following standards ensure that bicycle parking is convenient to the cyclist in its location and provides sufficient security from theft and damage. Long-term bicycle parking space requirements accommodate employees, commuters, students, residents and other persons who expect to leave their bicycles for more than two hours. Short-term bicycle parking spaces accommodate visitors, customers, messengers, and other persons expected to depart within approximately two hours.

- B. Unless exempted elsewhere in this Code, all development shall comply with the bicycle parking provisions of this Section.

4.6-145 Bicycle Parking – Facility Design

- A. The required minimum number of bicycle parking spaces for each principal use is 3 spaces. Specific requirements per use are given in Section 4.6-155. Additional bicycle parking spaces may be required at common use areas. Fractional numbers of spaces shall be rounded up to the next whole space.
- B. Each bicycle parking space shall be at least 2 by 6 feet with an overhead clearance of 7 feet, and with a 5-foot access aisle beside or between each row of bicycle parking, and between parked bicycles and a wall or structure (the dimensions for commonly used bicycle racks are shown in Figure 4.6-B. Bicycles may be tipped vertically for storage but not hung above the floor. Bicycle parking shall be provided at ground level unless an elevator is easily accessible to an approved bicycle storage area. Each required bicycle parking space shall be accessible without removing another bicycle.
- C. All required long-term bicycle parking spaces shall be sheltered from precipitation. Short-term bicycle parking is not required to be sheltered.
- D. Direct access from bicycle parking spaces to the public right-of-way shall be provided with access ramps, if necessary, and pedestrian access from the bicycle parking area to the building entrance.

4.6-150 Bicycle Parking – Facility Improvements

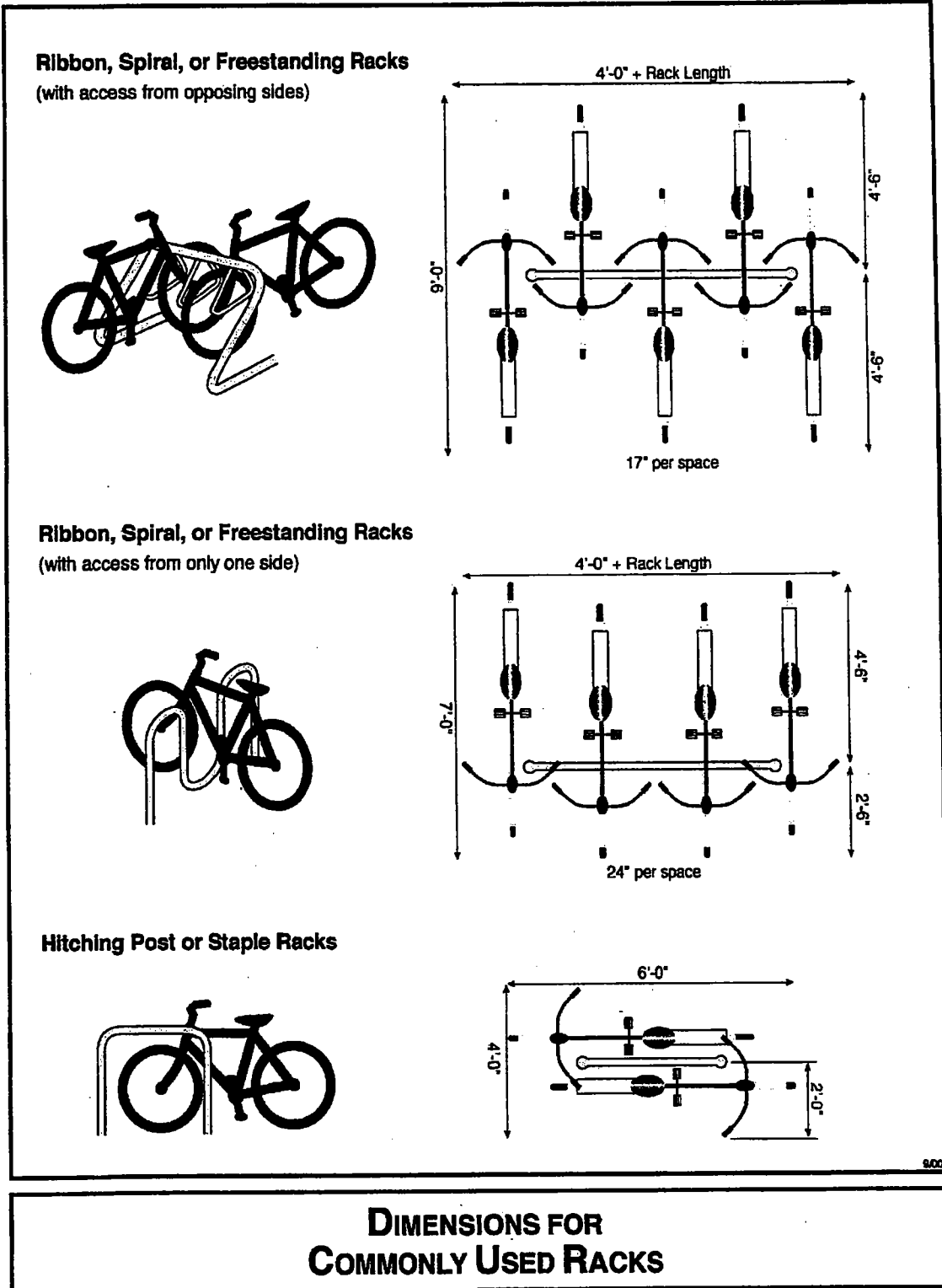
- A. Bicycle Parking Location and Security.
 - 1. Bicycle parking shall consist of a securely fixed structure that supports the bicycle frame in a stable position without damage to wheels, frames or components and that allow the frame and both wheels to be locked to the rack by the bicyclist's own locking device; and be provided within a convenient distance of, and clearly visible from, the main entrance to the building as determined by the City. Bicycle parking racks, shelters or lockers shall be securely anchored to the ground or to a structure.

2. Bicycle parking shall be separated from motor vehicle parking by a barrier, curb, or sufficient distance to prevent damage to parked bicycles.
3. Where bicycle parking facilities are not directly visible and obvious from the public right-of-way, signs shall be provided to direct bicyclists to the parking. Directions to sheltered facilities inside a structure may be signed or supplied by the employer, as appropriate. Short-term parking shall be made available to the general public.
4. Bicycle parking may be located inside a building on a floor, which has an outdoor entrance open for use, and which does not require stairs to access the space;

EXCEPTION: The Director may allow parking on upper stories within multi-story residential buildings.

5. Bicycle parking and bicycle racks shall be located to avoid conflict with pedestrian movement and access. Bicycle parking may be located in the public sidewalk or right-of-way where there is a minimum 5 feet between the parked bicycle and the storefront and does not conflict with pedestrian accessibility.
 6. For multi-family dwelling with required bike parking, requirements may be met through the provision of individual garages or storage units. For housing relying on a common garage and without storage units, bicycle racks shall be provided in the garage.
- B.** Businesses with changing rooms and shower facilities or other additional amenities that encourage bicycling or other alternative modes of transportation by employees or patrons may be eligible for a reduction of Transportation System Development Charges if the City Engineer determined a decrease in vehicle trips will result.

Figure 4.6-B



4.6-150 Bicycle Parking - Number of Spaces Required

Table 4.6-3

The following parking standards have been established according to land use.

Land Use	Minimum Parking Requirements (Minimum 3 spaces required)	Type and % of Bike Parking
Residential Uses		
Tri-plexes, 4-plexes, and multi family (3 or more dwellings on same lot/parcel)	1 per dwelling unit	100% Long term
Manufactured dwelling park	1 per 400 square feet for common use buildings	N.A.
Day care centers where 13 people or more are served	1 per 10 employees	100% Long term
Group care facilities with 6 or more people living at the facility	1 per 10 employees	N.A.
Transient accommodations		
–Bed and breakfast facilities	1 per 10 guest bedrooms.	100% long term
–Bedroom, boarding and rooming houses	1 per guest room.	100% long term
–Emergency shelter homes / homeless shelters	1 per 10 beds.	75% long term 25% short term
–Campus living organizations, including fraternities and sororities	1 for each 2 occupants for which sleeping facilities are provided.	100% long term
–University and college dormitories	1 for each 2 occupants for which sleeping facilities are provided.	100% long term
Commercial Uses		
Agricultural and animal sales and service	1 per each 4000 square feet of floor area.	25% long term 75% short term
Amusement centers (including, but not limited to: arcades, pool tables, bowling alleys)	1 per each 1000 square feet of floor area.	25% long term 75% short term
Arenas (indoor and outdoor)	1 per 20 seats.	25% long term 75% short term
Artists galleries/ studios	1 per each 500 square feet of floor area.	25% long term 75% short term
Athletic facilities and sports clubs		
– Viewing areas	1 per each 280 square feet of floor area.	25% long term 75% short term
– Locker rooms, saunas whirlpools, weight rooms, or gymnasiums	1 per each 750 square feet of floor area.	25% long term 75% short term
– Lounge or snack bar areas	1 per each 600 square feet of floor area	25% long term 75% short term
– Pro shops or sales areas	1 per each 3000 square feet of floor area.	25% long term 75% short term
– Playing courts	10% of auto spaces (minimum of 4).	25% long term 75% short term
– Swimming pools	1 per each 2000 square feet of floor area.	25% long term 75% short term
Automotive, marine, appliance, service and repair	1 per each 6000 square feet of floor area.	25% long term 75% short term
Automotive parts stores	1 per each 3000 square feet of floor area.	100% short term
Ballet, dance, and gymnastic schools/academies/studios	1 per each 400 square feet of floor area.	25% long term 75% short term

Land Use	Minimum Parking Requirements (Minimum 3 spaces required)	Type and % of Bike Parking
Banks, savings and loan offices, credit unions	1 per each 3000 square feet of floor area.	25% long term 75% short term
Business and professional offices and services, personal services (except as noted below)	1 per each 3000 square feet of floor area.	25% long term 75% short term
Barber, beauty, nail, tanning shops, and self-service laundromats	1 per each 2000 square feet of floor area	25% long term 75% short term
Convenience stores, liquor stores, general merchandise stores, including supermarkets, department stores, and specialty stores (computer, gift, or video, for example)	1 per each 3000 square feet of floor area.	25% long term 75% short term
Eating and drinking establishments	1 per each 600 square feet of floor area.	25% long term 75% short term
Equipment, heavy and light, rental/sales/service Includes truck and tractor sales	1 per each 4000 square feet of floor area.	25% long term 75% short term
Furniture and home furnishing stores, hardware/ home improvement stores, including building material and supplies	1 per each 6000 square feet of floor area.	25% long term 75% short term
Garden supply/nurseries, including feed And seed stores	1 per each 6000 square feet of floor area.	25% long term 75% short term
Hotels, motels, youth hostels, and similar businesses providing overnight accommodations	1 per 10 guest bedrooms.	25% short term 75% long term
Manufactured dwelling Sales/service/repair	1 per each 3000 square feet of floor area.	25% long term 75% short term
Motor vehicle and tire sales, service stations, including quick servicing	1 per each 6000 square feet of floor area.	100% short term
Mortuaries and cemeteries	1 per each 3000 square feet of floor area.	100 % short term
Office or medical equipment and supplies	1 per each 3000 square feet of floor area.	25% long term 75% short term
Photographer's studios, picture framing and glazing	1 per each 3000 square feet of floor area.	100 % short term
Public utility facilities not containing employees in commercial districts		
Recreational vehicles and heavy truck sales, service, and repair	1 per each 4000 square feet of floor area.	100% short term
Shopping centers and malls	1 per each 3000 square feet of floor area.	25% long term 75% short term
Theaters, live entertainment and motion picture	1 per 40 seats.	25% long term 75% short term
Transportation facilities	1 per each 3000 square feet of floor area.	75% long term 25% short term
Warehouse commercial sales, regional distribution center	1 per each 6000 square feet of floor area	25% long term 75% short term
Industrial Uses		
Agricultural, resource production and extraction	1 per each 600 square feet of floor area.	100% short term
Manufacture and assembly	1 per 3000 square feet of floor area	25% short term 75% long term
Retail trade when secondary, directly	1 per each 3000 square feet of floor area.	25% long term

Land Use	Minimum Parking Requirements (Minimum 3 spaces required)	Type and % of Bike Parking
related, and limited to products manufactured, repaired, or assembled on the development site		75% short term
Education		
Universities or colleges, schools, business or specialized educational training	1 per 5 full-time students	25% long term 75% short term
Schools, driving (including use of motor vehicles)	1 per each 3000 square feet of floor area.	25% long term 75% short term
Schools, public or private (elementary through high school)	1 per 8 students.	25% long term 75% short term
Universities or colleges	1 per 5 full-time students.	25% long term 75% short term
Government		
Libraries	1 per each 1500 square feet of floor area.	25% long term 75% short term
Museum	1 per each 500 square feet of floor area.	25% long term 75% short term
Government services, not specifically listed in this or any other uses and permits table	1 per each 3000 square feet of floor area.	25% long term 75% short term
Correctional facilities, excluding Residential treatment centers	1 per 20 beds.	25% short term 75% long term
Medical and Health Services		
Blood banks	1 per each 3000 square feet of floor area.	100% short term
Hospitals, clinics, or other medical health treatment facilities (including mental health) in excess of 10,000 square feet of floor area	1 per each 3000 square feet of floor area.	25% short term 75% long term
Laboratories—medical, dental, x-ray.	1 per each 3000 square feet of floor area	25% long term 75% short term
Nursing homes, plasma center, residential treatment centers.	1 per 15 beds	75% long term 25% short term
Veterinary and wildlife care centers	1 per each 3000 square feet of floor area	100% short term
Other uses		
Civic, social, fraternal organizations, including clubs and lodges of national organization	1 per each 3000 square feet of floor area.	100% short term
Community and neighborhood centers	1 per each 1000 square feet of floor area.	25% long term 75% short term
Park, community or regional	Minimum of 4 plus additional spaces if the park is developed with the following improvements: Playing Court: 2 spaces Picnic Shelter: 2 spaces Playground: 2 spaces Athletic/ Playing Field: 4 spaces Skateboard Park: 2 spaces Restroom: 2 spaces	100% short term
Parking garages	10% of auto spaces.	100% long term
Race tracks, including drag strips and go-cart tracks	1 per 40 seats.	25% long term 75% short term
Religious, social and public institutions	1 per 40 fixed seats or 60 feet of bench length or every 200 square feet where no permanent seats or benches are	100% short term

Land Use	Minimum Parking Requirements (Minimum 3 spaces required)	Type and % of Bike Parking
	maintained in main auditorium (sanctuary or place of worship).	
Transit park and ride, transit station	Minimum 10 spaces, 10% of auto spaces, whichever is greater.	25% long term 75% short term

Section 4.7-100 Specific Development Standards

4.7-105 Accessory Structures

This Subsection regulates structures that are incidental to allowed residential uses to prevent them from becoming the predominant element of the site.

- A. Accessory Structure Groups.** Accessory structures are divided into 3 groups based on their characteristics. Accessory structures may be attached or separate from primary structures.
- 1. Group A.** This group includes buildings and covered structures for example, garages, bedrooms or living rooms, including bathrooms that are not an accessory dwelling unit as defined in Section 5.5-100, art studios, gazebos, carports, greenhouses, storage buildings, boathouses, covered decks and recreational structures. Agricultural structures as defined in this Code are deemed Group A accessory structures if located on lots/parcels less than two acres in size.
 - 2. Group B. (Architectural extensions)** This group includes uncovered, generally horizontal structures for example, decks, stairways, in ground or above ground swimming pools, tennis courts, and hot tubs.
 - 3. Group C. (Incidental equipment)** This group includes generally vertical structures for example, flag- poles, trellises and other garden structures, play structures, radio antennas, satellite receiving dishes and lampposts. Fences are addressed in Section 4.4-115.
- B. General Standards.**
- 1.** Accessory structures may be located anywhere on a site if they are not in a required building setback.
EXCEPTION: Accessory structures may be permitted in a required building setback as specified in Subsections C., D. and E., below.
 - 2.** Accessory structures shall be constructed in conjunction with or after construction of the primary structure; they shall not be built in advance of the primary structure.
- C. Group A Standards.**
- 1.** Lot/parcel Coverage. The combined square footage of all Group A accessory structures and the primary structure may not exceed the lot/parcel coverage standards specified in Section 3.2-215.
 - 2.** Relationship to primary structure. A Group A structure may not have more square footage than the primary structure.

3. Height. Group A accessory structures may be as high as the primary structure, provided that the solar access provisions of this Code are met.
4. Location. Group A accessory structures shall meet the setbacks specified in Section 3.2-215.
5. Agricultural structures as defined in this Code shall be exempt from Subsections B.2. and C. 1. through 3., above if located on lots/parcels two acres or larger or on land with a valid farm deferral tax classification from the Oregon State Department of Revenue.

D. Group B Standards.

1. Accessory structures, not including attached rails, benches and planter boxes, which are less than 2 ½ feet in height (average finished grade) are allowed in required building setbacks.
2. Accessory structures, not including attached rails, benches and planter boxes, which are between 2 ½ feet and 6 feet in height (average finished grade) are not allowed in required front yard building setbacks. They are allowed in required side and rear building setbacks, but not within three feet of a property line.
3. Accessory structures, which are over 6 feet in height, (average finished grade) are not allowed in any required building setbacks.
4. Swimming pools, tennis courts, and other accessory structures, which require fences shall not be located within the front yard setback.

- E. Group C Standards.** Group C accessory structures are only allowed in required building setbacks if they are no more than 2 feet in width or diameter, and no taller than 8 feet.

EXCEPTION: Flagpoles may be located outside of required setbacks or easements with a maximum height of 30 feet.

4.7-110 Animal Overnight Accommodations

Buildings used for the overnight accommodation of animals, and structures that enclose animals outside of buildings, shall be constructed to ensure that noise or odor do not disturb the normal operation or tranquility of neighboring residential, business, campus industrial or public land uses.

4.7-115 Auto, Manufactured Dwelling, RV, Boat, Motorcycle and Truck Sales, Service and Rentals

A. Prior to the sale or rental of any vehicle:

1. Auto and truck dealers shall occupy an office/sales building (new construction) or any existing structure of at least 1,000 square feet, with non-metallic siding and roofing, and located where possible on the front

portion of the lot/parcel. Used car and truck sales or car rentals shall be permitted only as secondary uses in the Downtown Exception Area, i.e., where a new car dealership is the primary use. If a new car dealership terminates business in the Downtown Exception Area, and that new car dealership also included the sale of new cars, used cars may continue to be sold from those premises and the business shall be classified as a pre-existing non-conforming use. The business shall install a decorative iron or masonry fence, raised planter or combination thereof that will prevent vehicles from encroaching on sidewalks. Under no circumstances shall the used car sales business be allowed to expand onto additional property not occupied by used car sales within the previous 90 days.

2. All truck rental facilities shall have approved concrete wheel stops and a four foot high fence where permitted in this Code, preferably chain or cable, with bollards placed at 5 foot intervals and secured in the ground with concrete footings of appropriate size and depth to prevent trucks from driving on sidewalks or over curbs. These barriers shall be located between the sidewalk and the paved parking or travel area.
- B. Mobile/Manufactured dwelling and RV sales are prohibited in the Downtown Exception Area. A permanent office/sales building of at least 1,000 square feet, with non-metallic siding and roofing, which may be a Class A Manufactured Home, shall be located where possible on the front of the lot/parcel, prior to the sale or rental of any vehicle, home or accessory product.
- C. All activities associated with motor vehicle repair and service, with the exception of maintenance activities including the pumping gas or changing tires, shall take place within a building constructed to ensure that noise or odors do not disturb the normal operation or tranquility of neighboring residential, commercial, campus industrial or public land uses. Storage of motor vehicles to be repaired shall be screened by a sight-obscuring fence. Service stations in the NC District shall be limited to two pumps. A 5 foot-wide landscape strip shall be installed along the street frontage of all service stations.
- D. Storage of boats and motorcycles to be repaired shall be screened by a sight-obscuring fence.
- E. In the BKMU Plan District, automobile, boat, camper and RV sales shall be located entirely indoors and primarily sell new units.

4.7-120 Bed and Breakfast Facilities

- A. Bed and Breakfast facilities shall be located on collector or arterial streets.

EXCEPTIONS:

1. In the Washburne Historic District, Bed and Breakfast facilities may be located on any classification of street.
2. Outside of the Washburne Historic District, Bed and Breakfast facilities may be located on local streets.

3. All Bed and Breakfast facilities proposed to be placed on local streets shall require Discretionary Use approval as specified in Section 5.9-100.
- B. The facility shall be owner-occupied.
 - C. The shall be no more than 4 guest bedrooms.
 - D. No guest parking is permitted within the front yard setback. Required guest parking shall be screened from public view
 - E. For structures on the Springfield Historic Inventory, any external modification shall be fully compatible with the original design.
 - F. A minimum of 25 percent of the lot/parcel shall be landscaped.

4.7-125 Child Care Facilities

- A. Child Care Homes and Day Care Group Homes.
 1. Child Care Homes and Child Care Group Homes shall be permitted only in a structure constructed and used for residential purposes.
 2. The facility shall meet Children's Services Division (CSD) regulations.
- B. Child Care Centers.
 1. Child Care Centers shall meet CSD regulations.
 2. The out door play area shall be enclosed by a 6 foot high sight obscuring fence. In residential districts, the Director may require up to a 10 foot-wide landscape buffer from an outdoor play area if conflicts with neighboring properties are identified.
 3. Public sidewalks shall be installed in all cases where there are curb and gutter streets.
 4. If possible, each Child Care Center site shall have a circular drive for drop-offs. L-shaped drives or street side drop-offs may also be approved.
 5. In residential districts, the Child Care Center shall have a landscaped front yard setback of 10 feet.

4.7-130 Churches

- A. Churches shall have a landscaped front yard setback of 15 feet and landscaped side and rear yard setbacks of 20 feet.

EXCEPTION: The landscaped setbacks for parking lots and driveways may be reduced to 5 feet when the Director determines that adequate buffering has been provided.

- B. A minimum of 25 percent of the lot/parcel shall be landscaped.
- C. Churches shall abut an arterial or collector street.

4.7-135 Condominiums

Condominiums are regulated under ORS 100. For new development, the condominium process may begin after any required City development approvals. Normally, this means after Final Site Plan Review approval.

4.7-140 Duplexes

- A. A corner duplex or duplex lot/parcel in any residential district may be partitioned for the purpose of allowing independent ownership of each dwelling unit, if each of the two resulting lots/parcels meets the size standards specified in Section 3.2-215. Duplexes or duplex lots/parcels eligible for this type of partition shall meet the partition standards of Section 5.12-100 and the following:
 - 1. Utility service to each unit shall be separate.
 - 2. All walls connecting abutting units shall be fire resistive walls as specified in the Structural Specialty Code and Fire and Life Safety Code.
 - 3. The property line separating the two units shall have not more than two angle points. The angle points shall not occur within the wall between abutting units.
- B. Duplexes on interior lots/parcels zoned Low Density Residential, approved prior to the adoption of this Code, as part of a Planned Unit Development shall not be considered to be non-conforming uses.
- C. Duplexes on interior lots/parcels zoned Low Density Residential, approved prior to the adoption of this Code on property previously zoned RG Garden Apartments shall not be considered to be a non-conforming use.
- D. Duplexes on interior lots/parcels zoned Low Density Residential, which meets the density requirements of this zoning district, shall not be considered a non-conforming use.

4.7-145 Eating and Drinking Establishments

The cumulative total area of sit-down restaurants and delicatessens, secondary retail uses and exercise studios in the GO District shall be limited to no more than 10 percent of the gross floor area of the office building in which they are sited.

4.7-150 Garden Supply and Feed Stores

Garden supply and feed and seed stores shall be permitted only as secondary uses in the MRC District. The bulk storage or sales of fertilizer, feed or plant materials that require heavy equipment for loading is prohibited.

4.7-155 Group Care Facilities

Residential facilities with more than 15 people, Foster Homes for over 5 children, Shelter Homes for battered and abused persons and Halfway Houses.

- A. These facilities shall have a front yard setback of 15 feet and side and rear yard setbacks of 20 feet. The landscaped setbacks for parking lots and driveways may be reduced to 5 feet when the Director determines that adequate buffering has been provided.
- B. A minimum of 25 percent of the lot/parcel shall be landscaped.
- C. No parking shall be permitted within the front yard setback. Required parking shall be screened from Public view.
- D. For structures on the Springfield Historic Inventory, any external modification shall be fully compatible with the original design.
- E. The maximum density in the Low Density Residential District is 24 bedrooms per developable acre.

4.7-160 High Impact Public Facilities

- A. The facility shall be designated on the Metro Plan's Public Facilities and Services Plan or be approved in accordance with a Type III review procedure (Discretionary Use).
- B. The facility shall be screened as specified in Section 4.4-100.
- C. In residential districts, a minimum of 25 percent of the lot/parcel shall be landscaped.

4.7-165 Home Occupations

A home occupation is a lawful activity carried on within a dwelling or accessory structure by a member or members of the family who occupy the dwelling. A home occupation is permitted provided that:

- A. The primary use of the building is a dwelling;
- B. The occupation is a secondary use that does not significantly affect the residential character of the dwelling or neighborhood; and
- C. Compliance with the following standards shall occur at all times:
 - 1. There shall be no display which would indicate from the exterior that the building is being used for any purpose other than a residential dwelling.
 - 2. There shall be no outside storage of materials visible from public property or adjacent private property.

3. Mechanical equipment, unless compatible with residential purposes, shall be prohibited.
 4. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the home occupation.
 5. The home occupation shall not create hazardous traffic conditions or utilize on-street parking of nearby properties.
 6. If the proposed home occupation requires any modification to the dwelling or accessory structure of a nature that is not typically found in a residential district, the proposed home occupation is considered inappropriate and prohibited.
 7. No merchandise, other than what is produced on-site shall be sold to the public from premises.
 8. The use or storage of heavy equipment or heavy vehicles shall not be permitted. Heavy equipment and heavy vehicles shall include, but not be limited to the use of: semi-trucks, trucks and tractors, back hoes, bob cats, refrigerator trucks, livestock trucks, commercial buses, farm tractors, garbage trucks and log trucks.
 9. Any home occupation, which requires more than one vehicle for its operation shall be prohibited. The one vehicle permitted is limited to passenger vehicles, passenger vans or pick-up trucks.
 10. No residence shall be used as a headquarters or dispatch center where employees or subcontractors report to the residence to be dispatched elsewhere.
 11. Customer access to home occupations is limited to the hours of 7 a.m. to 6 p.m.
 12. The applicant shall sign an agreement with the City acknowledging any applicable standards listed in Subsections 1. through 11., above.
- D. The following uses are prohibited as a home occupation:
1. Automobile repair, including, but not limited to: tune-ups, alignments, body-fender work, painting, detailing and upholstery;
 2. Health salons, gyms, dance studios, aerobic exercise studios, karate and judo instruction;
 3. Medical and dental offices;
 4. Mortician, hearse services;

5. Tow truck services;
 6. Veterinary uses (including care, grooming and boarding);
 7. Wholesale distribution taking up more than the equivalent of 40 percent of the primary residence.
 8. Gun dealerships involving and storage of guns for sale or customers visiting the residence.
- E. Any home occupation:
1. In violation of the provisions of this Code shall be subject to civil infraction citation process of the Springfield Municipal Code, 1997, Article 5.15.1. Any proposed home occupation, or component thereof, not specifically identified in the Springfield Development Code shall be prohibited unless authorized by the Springfield Planning Commission as the result of an application for Formal Interpretation.
 2. Which has been approved by the Planning Commission shall be subject to revocation by the Planning Commission if the home occupation is found to be in violation of the approval standards. The revocation shall be sent to the applicant in writing. The home occupation shall cease within 30 days of the receipt of the revocation notice. The revocation decision may be appealed to the City Council as specified in Section 5.3-100.

4.7-170 Manufactured Dwelling as a Permanent Office

Permanent Office. A manufactured dwelling, provided it meets City and State construction and safety standards for the proposed use, may be used as a permanent office building in the Light-Medium Industrial and Heavy Industrial Districts provided the following conditions are met prior to occupancy:

- A. A permanent foundation is provided for the manufactured dwelling.
- B. Siding shall be compatible with adjacent structures; the roof shall have a minimum 16 percent pitch.
- C. Foundation covers, skirting, landscaping and backfill shall be required.
- D. The manufactured dwelling shall be a Type 1 or Type 2 unit.
- E. Compliance with these regulations shall be a condition of continued use of the manufactured dwelling on the property.

4.7-175 Manufacturing as a Secondary Use in Commercial Districts

Manufacture or assembly of goods or products shall occur indoors, shall not generate more noise, odor or other physical attributes than the permitted uses, shall occupy less than 50 percent of the floor area of the building, and the goods or products shall be sold on premises.

4.7-180 Mixed Use Districts

- A.** Specific development standards for the MUC District shall be the same as those specified in Section 3.2-310 as an "S" use and listed in applicable Subsections of Section 4.7-100, and the following:

EXCEPTIONS:

- 1.** Drive-through uses may conflict with safe and convenient movement of pedestrians and bicycles within MUC Districts. A drive-through use, for the purposes of this Section, is defined as a business activity involving buying or selling goods or provision of services wherever one of the parties conducts the activity from within a motor vehicle. Facilities usually associated with a drive-through usually involve queuing lines, service windows, service islands, and service bays for vehicular use. Drive-through uses are therefore not permitted in MUC Districts unless the use is incidental to a primary site use, and when designed in conformance with the following standards:
 - a.** The drive-through use shall be limited to service windows which are part of a primary use structure, and no more than two queuing lanes.
 - b.** Drive-up facilities shall be designed so that circulation and drive-up windows are not adjacent to sidewalks or between buildings and the street, to the maximum extent practicable.
- 2.** Parking Lots and Parking Structures, Public and Private.
 - a.** In MUC Districts, surface parking lots abutting public streets shall include perimeter landscaping and shade trees as specified in Sections 3.2-315 and 4.4-100.
 - b.** Parking structures located within 20 feet of pedestrian facilities, including, but not limited to: public or private streets, pedestrian accessways, greenways, transit stations, shelters, or plazas, shall provide a pedestrian-scale environment on the façade facing the pedestrian facility. One or more of the following techniques may be used:
 - i.** Provide retail or office uses on the ground floor of the parking structure facing the pedestrian facility;

- ii. Provide architectural features that enhance the ground floor of a parking structure adjacent to the pedestrian facility, for example, building articulation, awnings, canopies, building ornamentation and art; and/or
 - iii. Provide pedestrian amenities in the transition area between the parking structure and pedestrian facility, including landscaping, trellises, seating areas, kiosks, water features with a sitting area, plazas, outdoor eating areas, and drinking fountains.
 - c. Residential Uses.
 - i. In areas designated for mixed-use in adopted refinement plans, specific area plans, and specific development plans, multiple family development are required to meet development standards as specified in the local refinement plan. MDR and HDR District standards specified in Section 3.2-200 shall be complied with where local refinement plans do not specify development standards, or in areas where no local refinement plan has been prepared. All multiple family developments shall meet the standards specified in Section 3.2-240.
 - ii. Cluster Subdivisions. Development standards specified in Section 3.2-230 apply to cluster subdivisions in the MUC District.
 - d. Small scale repair and maintenance services. In MUC Districts these services shall take place entirely indoors, and buildings shall be constructed and utilized to ensure that noise or odor do not disturb the normal operation and tranquility of neighboring residential and business area.
- B. Specific development standards for uses within the MUE District shall be the same as those specified in Section 3.2-410 as an "S" use and listed in applicable Subsections of this Section.
- C. Specific development standards for uses within the MUR District shall be the same as those specified in Section 3.2-210 as an "S" use and listed in applicable Subsections of this Section as they apply to MDR and HDR development.

EXCEPTIONS:

1. Professional offices specified in Section 4.7-190 are exempt from those specific development standards, but shall meet the standards for development specified in Subsection 3.2-630C.3.
2. The MUR District allows uses that are not allowed in the MDR and HDR Districts. Permitted uses are listed in Section 3.2-610. Nonresidential uses that are not "professional office" related but have "S" designations in

Section 3.2-610, shall comply with the development standards listed in Subsection 3.2-630C.3.

3. Residential and Child Care Uses shall comply with the specific development standards listed in Subsection 4.7-125.

4.7-185 Night Watchman's Quarters

A manufactured unit, provided it meets City and State standards for safety and construction, may be used as a permanent residence for employees of businesses or property owners in Community Commercial, Light Medium Industrial, and Heavy Industrial Districts when their presence is required for security purposes by the employer 24 hours a day; provided the following standards are met:

- A. A permanent foundation shall be provided for the manufactured unit, unless the manufactured unit will be used for less than 120 days.
- B. The manufactured unit shall be removed from the premises within 30 days if the business requiring security personnel or the property owner ceases operation.
- C. Foundation cover-skirting, landscaping, and backfill shall be required.
- D. The manufactured unit is either a Type 1 or Type 2.

4.7-190 Professional Offices

- A. Professional offices in residential districts are permitted when:
 1. The lots/parcels are adjacent to CC or MRC Districts; and
 2. The majority of the square footage of the structure on the lot/parcel is not more than 100 feet from CC or MRC Districts. Where public-right-of-way separates the residential district from the commercial district, the right-of-way width is not counted in the measurement.
- B. A professional office exceeding 2,000 square feet of gross floor area shall abut an arterial or collector street.
- C. No parking shall be permitted within the front yard setback. Required parking shall be screened from the public view.
- D. For structures on the Springfield Historic Inventory, any external modification shall be fully compatible with the original design.
- E. Professional offices permitted are limited to: accountants, architects, attorneys, computer programmers, designers, engineers, insurance agencies, investment counselors, licensed real estate agents, medical and dental practitioners, counselors, planners, and studios for artists, interior decorators and photographers, and similar general office uses engaged in support services to their businesses and/or their parent companies.

- F. A minimum of 25 percent of the lot/parcel shall be landscaped.

4.7-195 Public/Private Elementary/ Middle Schools

A. Residential, Community Commercial, LMI and HI and PLO District Development Standards. A unique relationship exists between schools and the community, which requires special consideration when applying screening standards. Maintaining clear sight lines for the security and safety of children is desirable and may be achieved through the use of non-opaque fencing and/or landscaping. The standards in Section 5.17-100 are applied only when required to screen playground structures, spectator seating facilities, parking, storage yards and trash receptacles or where significant conflicts are determined by the Director.

1. All new facilities and additions over 10,000 square feet or those additions exceeding 50 percent of the size of the existing building shall be approved in accordance with a Type III review procedure (a Type II Site Plan application raised to a Type III review as specified in Section 5.1-130). The Site Plan application shall also address the standards specified in Subsections 2. through 11., below.

EXCEPTION: Public/Private Elementary/ Middle Schools in the PLO District are reviewed under Type II Review.

2. A maximum of 65 percent of the site may be covered in impervious surface. The remainder of the site shall comply with the planting standards in Section 4.4-100.
3. Schools shall have a landscaped front yard of 20 feet and landscaped side and rear yards of 30 feet. Athletic spectator seating structures adjoining residential uses shall be set back at least 75 feet, unless the Director determines that adequate buffering can be provided with a reduced setback. However, in no instance shall this setback (from spectator facilities) be less than 30 feet. Parking areas shall maintain a landscaped buffer of 15 feet when adjoining a residential use.
4. Light shall be directed away from adjoining less intensive uses.
5. Other uses permitted within school facilities include day care facilities, social service offices or other after school program activities approved by the School District and which otherwise do not require discretionary approval.
6. All plants used for "landscaped buffering" shall be a minimum of 5-gallon size and shall reach a height of at least 36 inches within one year of planting.
7. Paved playground areas may be used as overflow parking for special events.

8. Parking is limited to two spaces for each teaching station in the school plus on parking space for each 100 square feet of public indoor assembly area. All parking lots and driveways shall be designated to separate bus and passenger vehicle traffic. All parking lots shall have sidewalks raised a minimum of 6 inches above grade where pedestrians have to cross parking lots to enter or leave the school grounds.
 9. Any jointly shared recreational facilities, playgrounds or athletic field shall require a joint use agreement that will provide for public use and continued maintenance.
 10. Elementary schools shall have a maximum building height of 35 feet, middle schools shall have a maximum building height of 45 feet.
 11. A Traffic Impact Study and Parking Study, prepared by a Transportation Engineer, shall be approved by the City Engineer.
- B. In the PLO District, public/private elementary/ middle schools shall be adjacent to residentially-zoned property.

4.7-200 Public and Private Parks

Public parks shall be designated in the Metro Plan including the Willamalane Park and Recreation District Comprehensive Plan or be approved in accordance with a Discretionary Use application as specified in Section 5.9-100.

- A. Standards for Public and Private Parks in the BKMU District.
1. Community Parks shall be designated on a Park Facilities Plan adopted by the City, or be approved in accordance with Type III review procedure (Discretionary Use).
 2. A Traffic Impact Study shall be prepared by a Traffic Engineer and approved by the City Engineer.
- B. Standards for Public and Private Parks in the PLO District.
1. Primary access shall be on arterial or collector streets unless specified or exempted elsewhere in this Section.
 2. Stadiums, swimming pools and other major noise generators within parks shall be located at least 30 feet from residential property lines and screened by a noise attenuating barrier.
 3. Community and regional parks shall be designated on a Park Facilities Plan adopted by the City, or be approved in accordance with Type III review procedure (Discretionary Use).
 4. A traffic impact and parking study shall be prepared by a Traffic Engineer and approved by the City Engineer.

- C. Standards for the Urbanizable Fringe Overlay District. Neighborhood Parks shall be shown on the Metro Plan or an adopted refinement plan, or shall be reviewed under Type III Discretionary Use procedures.

4.7-203 Public Land and Open Space

- A. Primary access shall be on arterial or collector streets except as provided or exempted elsewhere in Section 3.2-700.
- B. Stadiums, swimming pools and other major noise generators shall be located at least 30 feet from residential property lines and shall be screened by a noise attenuating barrier.
- C. Community and regional parks shall comply with the criteria specified in Section 4.7-200B.
- D. For all special uses, a traffic impact study shall be prepared as specified in Section 4.2-105A.4.
- E. R.V. parks and campgrounds within regional parks shall comply with the standards specified in Section 4.7-220D.
- F. Private/Public Elementary and Middle Schools shall meet the standards specified in Section 4.7-195.
- G. Wellness centers shall comply with the criteria specified in Section 4.7-250.
- H. Pedestrian amenities for public buildings in mixed uses Metro Plan land use designations as specified in Section 3.2-625G.

4.7-205 Recreational Facilities

- A. Arcades, Auditoriums, Bingo Parlors, Dance Halls (licensed by the state of Oregon as specified in ORS 167.118), Non-Alcohol Night Clubs, Hydrotubes, Velodromes and Skating Rinks shall not be permitted to abut a residential district.
- B. Non-Alcohol Night Clubs shall locate at least 500 feet from an established tavern. Taverns shall locate at least 500 feet from an established non-alcohol night club.
- C. Stadiums, swimming pools, batting cages and other major noise generators shall be located at least 30 feet from residential and commercial property lines and screened by a noise attenuating barrier.

4.7-210 Residential Uses in Commercial Districts

- A. In areas designated mixed use in the Metro Plan or a Refinement Plan diagram, Plan District map, or Conceptual Development Plan, multiple family developments shall meet the standards as specified in the applicable regulation. MDR and HDR District standards contained in this Code shall be followed where a Refinement Plan diagram, Plan District map, or Conceptual Development Plan does not

specify development standards, or in areas where no applicable regulation has been prepared.

- B. In areas with mixed use zoning, the residential development standards of the applicable mixed use zoning and/or overlay district apply.
- C. One single family dwelling, detached or attached to a commercial building in the NC or CC Districts as a secondary use, shall comply with the residential development standards of Section 3.2-215 concerning setbacks and height.
- D. In the BKMU Plan District, residential uses shall be encouraged as second story uses above commercial and industrial uses and shall not occupy more than 35 percent of the land area within the BKMU Plan District. All MDR development standards specified in Section 3.2-200 apply.

4.7-215 Rooming and Boarding Houses

- A. Rooming and Boarding House facilities in an LDR District shall be located on collector or arterial streets.
- B. One half of an additional parking space shall be provided for each boarding room. No additional required parking spaces shall be located within the front yard setback.
- C. For structures on the Springfield Historic Inventory, any external modification shall be fully compatible with the original design.
- D. A minimum of 25 percent of the lot/parcel shall be landscaped.

4.7-220 RV Park Standards

- A. New or expanded RV Parks shall:
 - 1. Be at least one acre in size.
 - 2. Have a 20 foot landscaped perimeter setback.
 - 3. Abut an arterial or collector street and shall be designed to direct the flow of traffic away from local streets, as specified in Section 4.2-120, Site Access and Driveways.
- B. Special Standards for RV Parks within the PLO Zoning District and UF-10 Overlay District.
 - 1. For R.V. Parks and campgrounds within regional parks inside the city limits the following criteria shall apply:
 - a. The site is served by sanitary sewer.

- b. The R.V. Park/campground is consistent with the standards, criteria and guidelines adopted by the Willamalane Park and Recreation District.
2. For R.V. parks and campgrounds within regional parks outside the city limits the following criteria apply:
- a. The site shall be more than 5 acres but less than 100 acres.
 - b. The site shall be more than 1,000 feet from a public sanitary sewer line as measured in a direct line from the sewer line to the property line.
 - c. The R.V. Park/campground is consistent with the standards, criteria and guidelines adopted by the Willamalane Park and Recreation District.
 - d. The R.V. Park/campground is screened from adjacent uses.
 - e. Approval shall be in accordance with Type III Review, discretionary Use.
 - f. The R.V. Park or campground use may be terminated within 120 days by the City when a public sanitary sewer line is within 1,000 feet from the subject property line. All improvements related to the R.V. Park or campground shall be removed and the site restored to its pre-development condition. The termination clause shall appear as a provision in a deed restriction for the property and will be a required condition of Site Plan Approval.

4.7-225 RVs as a Residential Use in Manufactured Dwelling Parks in Glenwood

RVs as a Residential use. RVs as a residential use shall be permitted only in those manufactured dwelling parks in Glenwood that existed as of January 27, 1982.

4.7-230 Secondary Retail Sales in the GO District

The cumulative total area of secondary retail uses, exercise studios, and sit-down restaurants and delicatessens in the GO District shall be limited to no more than 10 percent of the gross floor area of the office building in which they are sited.

4.7-235 Small Scale Repair and Maintenance Services

In the NC District, these services shall take place entirely indoors, and buildings shall be utilized to ensure that noise or odor do not disturb the normal operation and tranquility of neighboring residential and business area.

4.7-240 Transportation Facilities – Bus Terminals, Heliports and Helistops

New transit stations, heliports and helistops shall not be located within 200 feet of any residential district. Noise attenuating barriers shall be constructed where necessary to mitigate land use conflicts.

EXCEPTION: In the BKMU District, transit stations are exempt from the setback requirement.

4.7-245 Warehouse Commercial Retail and Wholesale

- A.** Buildings shall be located in the front of lots/parcels, where possible, to minimize the visibility of outdoor storage yards or areas.
- B.** Any outdoor storage yard or area shall be surrounded by a sight-obscuring fence.
EXCEPTION: Sales of heavy equipment and trucks does not require fencing.
- C.** In the Downtown Exception Area, the storage and display of rental equipment shall be confined within a building.
- D.** Existing uses in this category shall adhere to the standards of Subsections B. and C., above by May 5, 1991.
- E.** For mini-storage facilities, an on-site manager's living quarters shall be permitted when the living quarters are constructed as part of and attached to a new or existing mini-storage facility.
- F.** Light-Medium Industrial and Warehousing. For Warehouse-Commercial use, at least 50 percent of the structure shall be used for storage of materials and 50 percent or less may be used for combined retail and office floor space.
- G.** Special provisions for the BKMU District:
 - 1.** Buildings shall be located to minimize the visibility of outdoor storage yards or areas.
 - 2.** Outdoor storage yards shall only be permitted as a secondary use.
 - 3.** Any outdoor storage yard or area shall be surrounded by a sight obscuring fence.
 - 4.** Light-Medium Industrial and Warehousing. For Warehouse-Commercial use, at least 50 percent of the structure is used for storage of materials and 50 percent or less may be used for combined retail and office floor space.

4.7-250 Wellness Centers in the PLO District

- A.** The building is owned by a public agency.

- B. The center is secondary to a primary public community recreation center on the same development site. The square footage that is dedicated to non-public, wellness-related uses shall not exceed 50 percent of the combined total area (within the center and within the primary recreation facility) that is dedicated to public, recreation-related uses.**

Section 4.8-100 Temporary Use Standards

4.8-105 Manufactured Dwelling as a Temporary Residence After a Disaster

A manufactured dwelling may be used as a temporary on-site residence during the repair or reconstruction of a house which has been rendered inhabitable by fire, wind, flood or other disaster. The following standards apply in these circumstances:

- A. The applicant shall submit a Plot Plan showing in detail the proposed location and size of the manufactured dwelling with respect to existing structures and property lines. Utility service connections for sewer, power and water shall also be shown.
- B. Upon approval of the request, permits for the temporary manufactured dwelling and for the repair or reconstruction of the residence shall be applied for concurrently with the following restrictions:

- 1. The Temporary Manufactured Dwelling Permit shall expire in 6 months.

EXCEPTION: A one time extension not to exceed 6 months may be granted by the Building Official due to inclement weather and building material availability.

- 2. The persons residing in the temporary manufactured dwelling are limited to those who resided in the house at the time of the disaster.
- 3. The temporary manufactured dwelling shall meet City and State standards for safety and construction of units for residential purposes. The temporary manufactured dwelling shall not be expanded or have attached permanent structures.
- 4. The temporary manufactured dwelling shall be removed from the property within one week of the completion of the repair or reconstruction of the house and issuance of a Certificate of Occupancy by the Building Official.

4.8-110 Manufactured Dwelling as a Construction Office

A manufactured dwelling, provided it meets City and State construction and safety standards for the proposed use, may be used for a temporary construction office in any zoning district until the construction is complete.

4.8-115 Manufactured Dwelling as a Sales Office on a Manufactured Dwelling Sales Lot

A manufactured dwelling, provided it meets City and State construction and safety standards for the proposed use, may be used for manufactured dwelling sales offices in manufactured dwelling sales lots until units in that sales lot are completely sold. The manufactured dwelling office shall not be used for the sale of units other than in that sales lot in which it is placed.

4.8-120 Manufactured Dwelling as a Temporary Office Prior to the Construction of a Permanent Office

A manufactured dwelling, provided it meets City and State construction and safety standards for the proposed use, may be used as a temporary office building in the Community Commercial, Light-Medium Industrial and Heavy Industrial Districts for not more than 12 consecutive months provided:

- A. The applicant shall submit a Plot Plan showing where the manufactured unit will be placed and where the permanent buildings will be placed.
- B. A Building Permit application for a permanent structure shall be submitted as a condition of Site Plan approval.
- C. The Development Services Department shall conduct a work-in-progress inspection three months after Plot Plan approval. If reasonable progress on construction of the permanent building has been made, an extension of not more than 9 months shall be granted for the use of the manufactured unit. If reasonable progress on construction has not been made, approval for use of the manufactured unit shall be revoked, and the manufactured unit removed from the property within 30 days.
- D. The manufactured unit shall be removed from the property prior to final occupancy of the permanent building. The Building Official may issue a Temporary Occupancy Permit (valid for one week) upon completion of construction to allow the applicant time to relocate materials from the manufactured unit to the permanent offices.

4.8-125 Sales/ Display of Produce Grown on the Property

- A. The majority of the produce to be sold shall be grown on the premises. Commercially produced nursery stock shall not be sold from the premises.
- B. The sales are located entirely on private property.
- C. There shall be room to pull off the roadway so that hazardous traffic conditions will not be created.

4.8-130 Residential Dwelling as a Sales Office in a Subdivision

- A. The residential unit is representative of those being sold.
- B. No merchandise shall be sold from the premises.
- C. Unless extended by the Director, the use shall not be permitted longer than 12 consecutive months.

CHAPTER 5

THE DEVELOPMENT REVIEW PROCESS AND APPLICATIONS

Section

- 5.1-100 The Development Review Process**
- 5.2-100 Public Hearings Process**
- 5.3-100 Appeals**
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- 5.5-100 Accessory Dwelling Unit**
- 5.6-100 Refinement Plans, Plan Districts and the Development Code – Adoption or Amendment**
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- 5.20-100 Vacation of Rights-of-Way and Easements**

Section

5.21-100 Variances

5.22-100 Zoning Map Amendments

Section 5.1-100 The Development Review Process

5.1-105 Description

- A. All applications required by this Code are reviewed using Type I, II, III, and IV procedures. The procedure "type" assigned to each application governs the decision-making process for that application. Sections 5.1-125 through 5.1-140 describe the four review procedure types and list all of this Code's applications applicable to that procedure type.
- B. The Building Official will not issue a Building Permit for which Development Approval is required and has not been obtained.

5.1-110 Development Exemptions

The following developments and activities do not require Type I, II, III, or IV review procedures, but shall conform to all other applicable provisions of this Code or any other applicable Code as determined by the Director.

- A. Normal maintenance, replacement or enhancement of existing landscaping consistent with approved plans.

EXCEPTION: Development approval may be required for replacement or enhancement of landscaping as specified in Sections 3.3-300, 3.3-500, 5.17-100, 4.1-100, 5.12-100 and 5.19-100.
- B. An emergency measure necessary for the safety or protection of life or property when authorized by the Public Works Director. An emergency measure may be conditioned by the requirement to obtain Development Approval at a later date.
- C. Special Events sponsored by non-profit organizations and public agencies that conform to all applicable statutes, Ordinances and regulations necessary to protect the public health and safety. A Special Event is an activity sponsored by a non-profit organization or public agency 14 calendar days or less and includes, but is not limited to school carnivals, benefit dinners, concerts, bazaars, festivals, neighborhood fairs and revival meetings.
- D. Agricultural uses and structures on any lot/parcel 2 acres or larger where the underlying zoning allows this use and on any size lot/parcel with a valid farm deferral tax classification from the Oregon State Department of Revenue.
- E. The establishment, construction or termination of certain public facilities authorized by the City Engineer including streets, driveways, drainage ways, sewers, pump stations, and traffic control devices, but not including substations, treatment facilities, storage tanks, reservoirs and electrical transmission structures and communications towers, unless specified elsewhere in this Code. Underground public or private facilities, including but not limited to, water lines, electrical power or gas distribution lines, or telephone or television cable systems are also exempt. See Section 4.3-145 for additional information

concerning siting standards and the review process for certain wireless telecommunications systems facilities.

- F. Excavation or filling of land as specified in Springfield Municipal Code, 1997.

EXCEPTION: Work in the FP Flood Plain and WG Willamette Greenway Overlay Districts or when an identified Goal 5 resource is present.

- G. Single-family homes on lawfully created lots/parcels within the city limits and duplexes on MDR and HDR property that do not require Site Plan Review.
- H. Single-family homes on lawfully created lots/parcels in the City's urbanizable area zoned LDR that are less than 5 acres.

5.1-115 The Development Review Committee

The Development Review Committee (DRC) is composed of representatives from City Departments and Divisions. When applicable, agencies, including, but not limited to: utility companies, the Lane Transit District, Lane Regional Air Pollution Authority, and the State Highway Division may participate. The DRC is responsible for ensuring that Code requirements are complied with and for recommending conditions to the Director, the Historic Commission, the Hearings Official or the Planning Commission. The Director shall chair meetings of the DRC and ensure overall compliance of Code requirements.

5.1-120 Pre-Development Meetings

Pre-Development Options. The City has established three pre-development processes to assist prospective applicants through the application review process:

- A. **The Development Issues Meeting.** The purpose of the Development Issues Meeting is to give a prospective applicant the opportunity to discuss a limited number of development issues with City staff. The discussions can be general or specific depending on the questions submitted with the application. The Development Issues Meeting is voluntary, unless specifically required elsewhere in this Code.

- B. **Pre-Application Report.** The purpose of the Pre-Application Report is to give a prospective applicant the opportunity to discuss an entire development proposal with City Staff. This meeting is recommended for large and/or complex proposals to avoid unanticipated costs or delay during the formal application process.

EXCEPTION: The Pre-Application Report is required for a Master Plan application as specified in Section 5.13-115.

- C. **The Pre-Submittal Meeting.** The purpose of the Pre-Submittal Meeting is to provide an opportunity for the property owner, applicant and the development team to meet with City staff to determine that an application is complete for processing prior to formal submittal to the City. A complete application will facilitate the review process. The Pre-Submittal Meeting will examine key elements of the application, including but not limited to: transportation, stormwater management, sanitary sewer facilities, and landscaping. The Pre-Submittal Meeting is mandatory for all Site

Plan Review, Subdivision and Partition applications. The Pre-Submittal Meeting is required even if the meetings specified in Subsection A. and B. have been utilized. Applications shall be reviewed by the Director within 30 days of receipt to determine if they meet the requirements specified in Section 5.4-105 and are complete.

5.1-125 Type I Applications (Ministerial)

Type I decisions are made by the Director without public notice and without a public hearing. Type I procedure is used when there are clear and objective approval criteria, and/or City standards that do not require the use of discretion. Type I applications are reviewed as described below:

- A. Type I applications are submitted to the Development Services Department. The Director shall determine application completeness.
- B. The Director's decision shall address all of the applicable approval criteria and/or development standards. The Director may approve, approve with conditions, or deny the application.
- C. The Director's decision is the final decision of the City. The Director's decision is effective on the day it is mailed or otherwise provided to the applicant.

5.1-130 Type II Applications (Administrative)

Type II decisions are made by the Director after public notice, but without a public hearing, unless appealed. Type II applications are reviewed as described below, unless the Director determines that the application should be reviewed as a Type III decision due to the complexity of the application or the need for discretionary review:

- A. Type II applications are submitted to the Development Services Department. The Director shall determine application completeness.
- B. The Director shall provide mailed notice to the property owners and occupants within 300 feet of the property being reviewed and to the applicable neighborhood association. In addition, the applicant shall post one sign, approved by the Director, on the subject property. For all Type II notices, an affidavit will be completed by staff stating that the required notice was provided to the appropriate individuals. There is a 14 day period, beginning from the date of the notice, for persons to provide written comments to the Director. The Type II notice shall contain the following:
 - 1. A map locating the subject property;
 - 2. Identification of the application by Department case number;
 - 3. Identification of the subject property by reference to the Lane County assessment map and tax lot number, and the property address/location;
 - 4. Identification of the property owner and applicant;

5. An explanation of the nature of the application and the proposed use or uses that could be authorized by the decision;
 6. The applicable approval criteria from this Code that apply to the decision;
 7. The name and phone number of the assigned planner;
 8. A statement that the application, all documents and evidence relied upon by the applicant, and the applicable criteria are available for inspection at the Development Services Department at no cost and that copies will be provided at reasonable cost;
 9. A statement listing where, and when written comments are due;
 10. A statement briefly summarizing the local decision making process for the particular application; and
 11. A statement that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient information to enable the Approval Authority to respond to the issue.
- C. The Director shall distribute the application to the Development Review Committee or the Historic Commission for comments.
- D. The Director's decision shall address all of the applicable approval criteria and/or development standards and any written comments from those persons who received notice. The Director may approve, approve with conditions, or deny the application.
- E. The Director's decision is the City's final decision and is effective the day it is mailed to the applicant, property owner and those persons who submitted written comments, unless appealed. The Director's decision shall include an explanation of the rights of each party to appeal the decision.
- F. The Director's decision may be appealed within 15 calendar days to the Planning Commission or Hearing's Official as specified in Section 5.3-100. Any action taken to begin development prior to the expiration of the appeal period is solely at the applicant's risk and expense. The City assumes no liability or expense if the development is ultimately terminated based upon the outcome of the appeal.

5.1-135 Type III Applications (Quasi-Judicial)

Type III decisions are made by the Planning Commission or Hearings Official after a public hearing. Type III decisions may be complex in nature and generally use discretionary approval criteria. Type III applications are reviewed as described below:

- A. Type III applications are submitted to the Development Services Department. The Director shall determine application completeness.
- B. The Director shall provide newspaper notice and mailed notice to the property owners and occupants within 300 feet of the property being reviewed and to the appropriate neighborhood association as specified in Section 5.2-115. In addition, the applicant shall post one sign, approved by the Director, on the subject property. For all Type III mailed notices, an affidavit will be completed by staff stating that the required notice was provided to the appropriate individuals. Any person may provide written comments to the Director through the day of the public hearing or may testify in person.
- C. The Director shall distribute the application to the Development Review Committee or the Historic Commission for comments, where applicable.
- D. The Planning Commission or Hearings Official may approve, approve with conditions, or deny the application. The Planning Commission's or Hearings Official's decision shall include findings that address all of the applicable approval criteria and/or development standards and any written or oral testimony.
- E. The Planning Commission's or the Hearings Official's decision is the City's final decision, unless appealed. The decision is effective the day notice is mailed to the applicant, property owner and those persons who submitted written or oral testimony. The notice of decision shall include an explanation of the rights of each party to appeal the decision.
- F. The Planning Commission's decision may be appealed within 15 calendar days to the City Council as specified in Section 5.3-100. The Hearings Official's decision may be appealed within 21 calendar days to the Land Use Board of Appeals as specified in Section 5.3-100. Any action taken to begin development prior to the expiration of the appeal period is solely at the applicant's risk and expense. The City assumes no liability or expense if the development is ultimately terminated based upon the outcome of the appeal.

5.1-140 Type IV Procedure (Legislative)

Type IV decisions are made by the City Council after a public hearing, upon a recommendation by the Planning Commission, where applicable. Type IV decisions apply to legislative matters involving the creation, revision, or large-scale implementation of public policy (including, but not limited to: adoption of land use regulations which apply to entire districts and Metro Plan amendments). Type IV applications are reviewed as described below:

- A. Type IV applications are submitted to the Development Services Department. The Director shall determine application completeness.
- B. The Director shall provide newspaper notice and mailed notice to the property owners and occupants within 300 feet of the property being reviewed and to the appropriate neighborhood association, where applicable. In addition, the

applicant shall post one sign, approved by the Director, on the subject property. For all Type IV mailed notices, an affidavit will be completed by staff stating that the required notice was provided to the appropriate individuals. Where required, the Director shall also mail notice to the Department of Land Conservation and Development as specified in OAR 660-18-0020. Any person may provide written comments to the Director through the day of the public hearing or may testify in person.

- C. The Director shall distribute the application to the Development Review Committee or the Historic Commission for comments, where applicable.
- D. The Planning Commission's decision shall address all of the applicable approval criteria and/or development standards and any written or oral testimony. The Planning Commission shall make a recommendation to the City Council to approve, approve with conditions, or deny the application.
- E. The City Council may approve, approve with conditions, or deny the application. The City Council's decision shall include findings that address all of the applicable approval criteria and/or development standards and any written or oral testimony.
- F. The City Council's decision is the City's final decision either on the date the decision is made, or 30 days after the decision is made if there is no emergency clause in the adopting Ordinance. Notice of decision is mailed to the applicant, property owner and those persons who submitted written or oral testimony. Where required, the notice of decision shall also be mailed to the Department of Land Conservation and Development as specified in OAR 660-18-0040.

EXCEPTION: For annexations, the City Council decision is final only upon concurrence of the Lane County Local Government Boundary Commission. For Metro Plan amendments that require adoption by the City, Eugene and/or Lane County, the City Council decision is final only upon concurrence of the Lane County Commissioners and the City of Eugene, as appropriate.

- G. The City Council's decision may be appealed within 21 calendar days to the Land Use Board of Appeals as specified in OAR 660-018-0060 and Section 5.3-100. Any action taken to begin development prior to the expiration of the appeal period is solely at the applicant's risk and expense. The City assumes no liability or expense if the development is ultimately terminated based upon the outcome of the appeal.

5.1-145 Expedited Land Divisions

An application for and any appeal of an expedited land division is subject to the process provisions in ORS 197.360 through ORS 197.380, however, the applicable standards of Section 5.12-100 apply during application submittal and processing.

Section 5.2-100 Public Hearings Process

5.2-105 Purpose

This Section provides a public hearing process that makes available a venue for citizen involvement before the Planning Commission, Hearings Official and the City Council.

5.2-110 Hearing Body Jurisdiction

- A. The Planning Commission shall hear:
1. Type II review procedure administrative appeals within the city limits;
 2. Type III review procedure quasi-judicial applications within the city limits;
 3. Type IV review procedure legislative applications that require a recommendation to the City Council; and
 4. Appeals as may be assigned by the City Council.
- B. The Hearings Official shall hear:
1. Type II review procedure administrative appeals within the City's urbanizable area and appeals of all expedited land division actions as defined in ORS 197.360;
 2. Type III review procedure quasi-judicial applications within the City's urbanizable area; and
 3. Appeals as may be assigned by the City Council.
- C. The City Council shall hear:
1. Type III review procedure quasi-judicial appeals within the city limits; and
 2. Type IV review procedure legislative applications final decisions.

5.2-115 Notice

- A. **Mailed Notice.** Where required, notice of a public hearing will be sent by mail at least 20 days before the date of the hearing. If two public hearings are required, notice may be sent 10 days before the first hearing. The mailed notice will be sent to: the applicant and the owners of record of the subject property; all property owners and occupants within 300 feet of the subject property; the appropriate neighborhood association; and any person who submits a written request to receive notice. In addition, the applicant shall post one sign, approved by the Director, on the subject property. Information pertaining to property ownership shall be obtained from the most recent property tax assessment role. The mailed notice shall contain the following:

1. A map locating the subject property;
2. Identification of the application by Department case number;
3. Identification of the subject property by reference to the Lane County assessment map and tax lot number and the property address/location;
4. Identification of the property owner and applicant;
5. An explanation of the nature of the application and the proposed use or uses that could be authorized by the decision;
6. The applicable approval criteria from this Code and all other relevant criteria that apply to the application and decision;
7. The name and phone number of the assigned planner;
8. A statement that the application, all documents and evidence relied upon by the applicant, and the applicable criteria are available for inspection at the Development Services Department at no cost and that copies will be provided at reasonable cost;
9. The time, date and place of the public hearing;
10. Identification of which Approval Authority will conduct the hearing;
11. Disclosure of the requirements of this Section for submittal of written materials prior to the hearing and a general statement of the requirements of this Section for the submission of testimony and the procedure for the conduct of hearings;
12. If the hearing is an appeal, identification of the appellant's name, if different from property owner's name or the applicant's name;
13. A statement that failure to raise an issue in a hearing by the close of the record at or following the final evidentiary hearing, in person or by letter, or failure to provide sufficient specificity regarding an issue to afford the Approval Authority an opportunity to respond to the issue, precludes raising the issue in an appeal to the Oregon Land Use Board of Appeals on that issue; and
14. A statement that at least seven days prior to the hearing, a copy of the staff report for the hearing will be available for a free inspection at the Development Services Department and copies will be provided at a reasonable cost.

- B. Newspaper Notice - Quasi-judicial and legislative land use decisions.** Notice shall also be published in a newspaper of general circulation. The notice shall include the nature of the application and the proposed use; the subject property location; the date, time, place and location of the hearing; and a statement that the application, all documents and evidence relied upon by the applicant, the

applicable criteria and a copy of the staff report will be available for a free inspection and copies will be available at a reasonable cost.

5.2-120 Rules of Conduct

- A.** Affected parties are entitled to an opportunity to be heard, to present and rebut evidence before an impartial hearing body, to have the proceedings recorded, and to have a decision based on evidence supported by findings as part of the record.
- B.** No person shall be disorderly, abusive or disruptive during the hearing.
- C.** No person shall testify without first receiving recognition from the presiding officer and stating their full name and residence address.
- D.** No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
- E.** There shall be no audience demonstrations for example: applause, cheering, booing, display of signs, or other conduct disruptive of the hearing. This conduct may be cause for immediate termination of the hearing by the hearing body.

5.2-125 Conflicts, Disclosure and Challenge for Bias

- A.** A member of the Planning Commission, or City Council or the Hearings Official shall not participate in any proceeding or action in which any of the following persons or business has a direct or substantial financial interest: The member or a spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which they are then serving or has served within the previous two years, or any business which they are negotiating for or has an arrangement or understanding concerning a prospective partnership or employment.
- B.** Disclosure.
 - 1.** To assure fair and impartial recommendations and determinations and to assure advocates the opportunity to respond or refute information which the hearing body has available to it, it is mandatory that full disclosure of pre-hearing (ex parte) consideration of all Type III and IV agenda items be made at the beginning of the public hearing. However, it is anticipated that members of a hearing body may ask questions of the staff relating to the staff report prior to the public hearing.
 - 2.** Members of the hearing body should avoid pre-hearing contacts so that their recommendations and determinations can be based solely on the evidence presented at the public hearing. If a public hearing is scheduled by another hearing body regarding a matter under the member's consideration, the member may attend that hearing provided only that the member does not engage in any conduct which would bias their decision.
 - 3.** Disclosure shall be made of any discussion between any voting member and an applicant or their representative or any other person with direct interest concerning a specific case that is scheduled or likely to come

before the hearing body. The substance of any ex-parte contact shall be related at the beginning of the public hearing and made part of the record.

C. Challenge for Bias.

- 1. Any proponent or opponent of an application may challenge the qualifications of any member to participate in the hearing and decision. Apart from a challenge based upon disclosure made at the time of the hearing, which may be made orally, the challenge shall state facts in writing, by affidavit, relied upon by the submitting party relating to a member's bias, prejudice, personal interest, or other facts from which the party has concluded that the member will not participate and made a decision in an impartial manner.**
 - a. The written challenge shall be delivered to the presiding officer, and the member whose qualification is challenged not less than 48 hours preceding the public hearing.**
 - b. The challenge will be made part of the record.**
- 2. No member shall participate in a hearing or decision of an application when they have determined that they cannot participate in an impartial manner.**

5.2-130 Duties of the Presiding Officer

The Chairperson of the Planning Commission is the presiding officer at all hearings before the Planning Commission. The Mayor is the presiding officer at all hearings before the City Council. In the absence of the Chairperson of the Planning Commission, the Vice-Chairperson shall act as the presiding officer at any public hearing. In the absence of the Mayor, the Council President shall be the presiding officer at all hearings before the City Council. The Hearings Official is considered to be a presiding officer. In the absence of the Hearings Official, a substitute shall preside. A presiding officer shall have the authority to:

- A. Regulate the course and decorum of the hearing;**
- B. Dispose of the procedural request or similar matters;**
- C. Rule on offers of proof and relevance of evidence and testimony;**
- D. Take other action authorized by the hearing body appropriate for conduct commensurate with the nature of the hearing;**
- E. Impose reasonable time limits on those testifying; and**
- F. Rule upon a challenge for bias under Section 5.2-125.**

5.2-135 Order of Procedure

- A. Open Public Hearing. The presiding officer shall commence the public hearing by summarizing the rules of conduct and include the following:**

1. The nature of the application and the proposed use;
 2. The applicable approval criteria;
 3. The order of procedure;
 4. That the testimony and evidence shall be directed toward the approval criteria specified in Subsection 2., above or other applicable criteria from other planning documents which the person believes apply to the decision;
 5. That failure to raise an issue by the close of the record at or following the final evidentiary hearing with sufficient specificity to afford the Approval Authority and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals based on that issue; and
 6. That, unless there is a continuance, if a participant so requests before the conclusion of the first evidentiary hearing, the record shall remain open for at least seven days after the hearing. An extension to allow the record to remain open shall not be subject to the limitations of ORS 227.178.
- B.** Disclosure of Conflicts and Ex-parte Conflicts, if any. Inquire of the body whether any member wishes to abstain from participation in the hearing. Any member announcing their abstention shall not participate in the hearing, discussion of the question, or vote on the question. The abstention shall not prohibit the member from speaking from the floor in favor of, or in opposition to the proposal as a member of the public. Any member whose participation has been challenged by allegation of bias, prejudgment, personal interest, or partiality, or who has been subject to significant ex parte or pre-hearing contact from proponents or opponents, may make a statement in response or an explanation for the record and their decision to abstain or not. Unless the member allows, this statement shall not be subject to cross examination, but is subject to rebuttal by any person.
- C.** Inquire whether there are any objections to jurisdiction of the hearing body to hear the matter, and if objections are received, conduct further inquiry as necessary to determine the question. The presiding officer shall terminate the hearing if the inquiry results in substantial evidence that the hearing body lacks jurisdiction, (e.g., the necessary procedural requirements for an Ordinance have not been met). Any matter terminated may, if the defect can be remedied, be rescheduled by the hearing body.
- D.** Staff Report. Request staff to summarize the nature of the proposal, explain any graphic or pictorial displays which are a part of the record, and provide any other information as may be requested by the hearing body, including any written received correspondence. The staff report and any testimony will be part of the public record.
- E.** Request the representative of the Planning Commission or the Historic Commission to summarize the reasoning in support of their recommendation.
- F.** Applicant Testimony.

1. The applicant shall testify on their own behalf, or by their representative.
 2. Upon failure of the applicant or their representative to appear at the hearing, or upon their express waiver of presenting testimony and evidence, the hearing body shall consider the written application, plus staff materials, as presenting the applicant's case.
- G. Testimony by Those in Favor.**
- H. Testimony by Those Neutral.**
- I. Testimony by Those Opposed.**
- J. Staff Summary.** City staff members and representatives of other public agencies shall be afforded an opportunity to make presentations, following a summation by staff, as necessary.
- K. Rebuttal by Applicant.** Allow the applicant to offer rebuttal evidence and testimony and the opponent to respond to any new information presented by the applicant for the first time in rebuttal. The scope and extent of rebuttal shall be determined by the presiding officer.
- L. Questions.** In addition to the direct questions presented by members, direct questions of persons testifying be allowed by the presiding officer upon request by any person present. Persons having questions should state the questions and to whom the questions are addressed during their own presentation. Reply by the person to whom the questions are addressed may be made during the rebuttal period or as determined by the presiding officer.
- M. Close Public Hearing.**
- N. Discussion of Policy Issues and Compliance with Adopted Plans, which may include questions of staff or the public.**
- O. Decision regarding approval, continuance and reopening of the record.** The presiding officer shall conclude the public hearing and the hearing body shall deliberate on the proposal. The hearing body shall either make its decision and state its findings, which may incorporate findings proposed by the applicant, opponents, the staff, or the Planning Commission; or may continue its deliberations to a subsequent meeting, the time and place of which shall be announced; or, if requested by a party before the conclusion of the hearing, shall leave the record open for at least seven days.
- P. Continuance Procedures.**
1. Upon its own motion, the Planning Commission, Hearings Official or the City Council may order a continuance if the public hearing is not closed on the scheduled date or for other reasons. Unless waived by the applicant, any continuance shall be subject to the limits of the 120 Calendar Day Review Period as specified by ORS 227.178. At the time the continuance is

granted, the time and place to which the hearing is continued will be announced. No further public notice under Section 5.2-115 will be required.

2. In the event that the applicant requests the continuance, the applicant shall stipulate in writing, consent to the extension of the 120 Calendar Day Review Period as specified by ORS 227.178, and waive any rights that may accrue to the applicant as a result of the 120 Calendar Day Review Period being extended.

Q. Participant request for Open Record. Unless there is a continuance as specified in Subsection P., above, if requested by a participant before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. This extension shall not be subject to the limitation of ORS 227.178.

R. Reopening the Record. When the Planning Commission, Hearings Official or City Council reopens a record to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or criteria for decision-making that apply to the particular application.

5.2-140 Burden of Proof

The burden of proof at evidentiary public hearings is upon the proponent of the requested action and is based upon specific criteria found in this Code or other applicable planning documents.

5.2-145 Record of Proceedings, Evidence and Summary of Testimony

All public hearings shall be recorded. A summary of all pertinent testimony offered at public hearings will be reduced to writing and made a part of the application file. All physical and documentary evidence presented will be marked to show the identity of the persons offering them and whether presented on behalf of proponent or opponent. These exhibits will be retained by the City until after any applicable appeal period has expired, at which time the exhibits will be released upon demand to the identified person.

5.2-150 Amendments and Suspensions

Any rule of procedure not required by law may be amended, suspended or repealed at any hearing by majority vote of those members present and voting.

5.2-155 Finality of Decision

- A. All actions or decisions of the Director, Planning Commission or Historic Commission are final unless appealed or where the City Council is required to act.
- B. All actions or decisions of the City Council are final, unless there is a referral back to the Planning Commission or Historic Commission or a continuance of a hearing or where a State agency or where Eugene and Lane County are required to act.
- C. All actions or decisions of the Hearings Official are final.

Section 5.3-100 Appeals

5.3-105 Purpose

This Section provides procedures and approval criteria for the review of appeals of the Director's, Hearings Official's, Planning Commission's or City Council's decision on land use and development applications.

5.3-110 Review

Appeals of decisions under this Code are reviewed as follows:

- A. Type III procedure. The Director's decision, which is a Type II procedure, may be appealed to the Planning Commission or Hearings Official by a party as specified in Section 5.3-115.
 - 1. The Planning Commission shall hear appeals of the Director's decision within the city limits.
 - 2. The Hearings Official shall hear:
 - a. Appeals of the Director's decision outside of the city limits but inside the City's urbanizable area;
 - b. Appeals of expedited land division actions as specified in ORS 197.375; and
 - c. Appeals of a Drinking Water Protection application as specified in Section 3.3-245.
- B. Type IV procedure. The Planning Commission's quasi-judicial decision, which is a Type III procedure, may be appealed to the City Council by a party as specified in Section 5.3-120.
- C. If more than one party files an appeal on a decision, the Director may consolidate them to be heard as one proceeding.

5.3-115 Appeals of the Director's or Hearings Official's Type II Decision

- A. Standing to Appeal. Only the property owner, applicant, if different and those persons who submitted written comments within the specific comment period for limited land use decisions, or those persons entitled to notice for non-limited land use decisions shall have standing to appeal the Director's or Hearings Official's decision.
- B. Filing an Appeal. An appeal application shall be filed with the Director within 15 calendar days of the Director's or Hearings Official's decision.
- C. Notice. The Director shall provide notice of the public hearing to the property owner, applicant, if different, the appellant and all persons previously noticed as

part of the process leading to the Director's or Hearings Official's decision. The notice of the appeal hearing shall be as specified in Section 5.2-115.

- D. **Review.** The review is de novo and the public hearing shall be conducted as specified in Section 5.2-135.
- E. **Decision.** The Planning Commission or Hearings Official shall consider the Director's staff report and all other evidence presented, including oral and written testimony in making their decision. The Planning Commission or Hearings Official may affirm, modify or reverse the Director's decision and shall adopt findings in support of their decision. The Planning Commission or Hearing's Official may attach conditions as may be reasonably necessary in order to allow the appeal to be granted. The Planning Commission's or Hearings Official's decision is final.

EXCEPTIONS:

- 1. A Type III appeal decision may be reviewed as an appeal by the City Council on its own motion.
- 2. An appeal of an expedited land division shall be as specified in ORS 197.375.

5.3-120 Appeals of the Planning Commission's Type III Decision

- A. **Standing to Appeal.** Only those persons who participated either orally or in writing have standing to appeal the decision of the Planning Commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record.
- B. **Filing an Appeal.** An appeal application shall be filed with the Director within 15 calendar days of the Planning Commission's decision.
- C. **Notice.** The Director shall provide notice of the public hearing to all parties who participated either orally or in writing before the close of the public record leading to the Planning Commission's decision. The notice of the appeal hearing shall include the information specified in Section 5.2-115.
- D. **Review.** The review shall be as determined by the City Council. The parties may be permitted to present their oral or written arguments as to all matters within that record. The public hearing shall be conducted as specified in Section 5.2-135.
- E. **Decision.** The City Council shall consider the Director's report and all other evidence presented, including oral and written testimony in making their decision. The City Council may affirm, modify or reverse the Director's decision and shall adopt findings in support of their decision. The City Council may attach conditions as may be reasonably necessary in order to allow the appeal to be granted. The City Council's decision is final.