

**City of Elkton
Land Development and Division Ordinance**



Elkton, Oregon

A Community Invested in Its Natural Resources

**Ordinance #176
Adopted May 17, 2021**

This project was funded by Oregon general fund dollars through the Department of Land Conservation and Development. The contents of this document do not necessarily reflect the views or policies of the State of Oregon

City of Elkton Land Development and Division Ordinance

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ARTICLE 1 – INTRODUCTION AND GENERAL PROVISIONS

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1. **Introduction**
2. **Title, Purpose, and Authority**
3. **Lot of Record and Legal Lot Determination**
4. **Non-Conforming Situations**
5. **Code Interpretations**
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Chapter 1.1 — Introduction

Welcome to the City of Elkton Land Development and Division Ordinance. This is a comprehensive land use and development code that governs all of the land within the incorporated limits of City of Elkton. The five chapters of the code are used together to review land use applications.

Chapter 1.2 — Title, Purpose, and Authority

Sections:

Section 1.2.010 Title

Section 1.2.020 Purpose

Section 1.2.030 Compliance and Scope

Section 1.2.040 Rules of Code Construction

Section 1.2.050 Development Code Consistency with Comprehensive Plan and Laws

Section 1.2.060 Development Code and Zoning Map Implementation

Section 1.2.070 Coordination of Building Permits

Section 1.2.080 Official Action

1.2.010 Title

The official name of this Development Code is “The City of Elkton Land Development and Division Ordinance” It may also be referred to as “Development Code” and “Code.”

1.2.020 Purpose

This Code is enacted to promote the public health, safety, and welfare; and to encourage the orderly and efficient development and use of land within the City of Elkton, consistent with the City of Elkton Comprehensive Plan and the following principles:

- A. Compact Development**, which promotes the efficient provision of public services and infrastructure;
- B. Mixed-Use**, which places homes, jobs, stores, parks, and services within walking distance of one another;
- C. Full Utilization of Urban Services** (e.g., water, sewer, storm drainage, parks, and transportation facilities), which maximizes the return on public investments in infrastructure;
- D. Transportation Efficiency**, or development of an interconnected street system supporting multiple modes of transportation, which yields more direct routes (shorter distances) between local destinations, conserves energy, reduces emergency response times, and provides alternatives to the automobile for those who are unable or choose not to drive a car;

- E. Human-Scale Design**, or development in which people feel safe and comfortable walking from place to place because buildings, streetscapes, parking areas, landscaping, lighting, and other components of the built environment are designed foremost with pedestrians in mind;
- F. Environmental Health**, which requires adequate light and air circulation, management of surface water runoff, and treatment and disposal of waste; and
- G. Efficient Administration of Code Requirements**, consistent with the needs of the City of Elkton, a small city with limited administrative capacity.

1.2.030 Compliance and Scope

- A. Compliance with the Development Code.** No structure or lot shall hereinafter be used, developed, or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or otherwise altered except as permitted by this Code. Furthermore, annexations and amendments to the Zoning Map, and amendments Development Code shall conform to applicable provisions of this Code.
- B. Obligation by Successor.** The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons' successors in interest.
- C. Transfer of Development Standards Prohibited.** Except as otherwise specifically authorized by this Code, no lot area, yard, landscaping, or open space that is used to satisfy a requirement of this Code for one use shall be used to satisfy the same requirement for another use.

1.2.040 Rules of Code Construction

- A. Provisions of this Code Declared to be Minimum Requirements.** The provisions of this Code, in their interpretation and application, are minimum requirements, adopted for the protection of the public health, safety, and general welfare.
- B. Highest standard or requirement applies.** Whereas the requirement of this Code varies from another provision of this Code or with other applicable regulations, the highest standard or regulation shall govern. The City Planning Official, as applicable, shall determine which Code provision sets the highest standard. Where the applicability of a Code provision is unclear, the Planning Official, or upon referral to the City Council, may issue a formal interpretation pursuant to Chapter 1.4 Interpretation.
- C. Tenses.** Words used in the present tense include the future; the singular form includes the plural; and the plural includes the singular.

- D. Requirements versus Guidelines.** The use of the word “shall,” “must,” “required,” or similar directive terms, means the Code provision is a requirement. The use of the word “should,” “encouraged,” “recommended,” or similar terms, means the provision is a guideline, which may be imposed as a requirement but only where the applicable code criteria allow the Planning Official or City Council to exercise such discretion.
- E. Interpreting Illustrations.** This Code contains illustrations and photographs, code “graphics,” which are intended to serve as examples of development design that either meet or do not meet particular Code standards. Except where a graphic contains a specific numerical standard or uses the word “shall,” “must,” “required,” or “prohibited,” strict adherence to the graphic is not required.
- F. Severability.** The provisions of this Code are severable. If any section, sentence, clause, or phrase is judged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the Code.

1.2.050 Development Code Consistency with Comprehensive Plan and Laws

- A. City of Elkton Comprehensive Plan.** This Code implements the City of Elkton Comprehensive Plan. Except as otherwise required by applicable state or federal law, all provisions of this Code shall be construed in conformity with the Comprehensive Plan, including any Comprehensive Plan elements or public facility master plans, adopted pursuant to the Comprehensive Plan.
- B. Compliance with Other Laws Required.** In addition to the requirements of this Code, all uses and development must comply with all other applicable City, State of Oregon, and federal rules and regulations.
- C. References to Other Regulations.** All references to other City, state, and federal rules and regulations are for informational purposes only and do not constitute a complete list of such requirements. The references do not imply any responsibility by the City for enforcement of state or federal regulations. Where a proposal, permit, or approval is subject to both City of Elkton requirements and state or federal requirements, the property owner is responsible for contacting the applicable agencies and complying with their rules and regulations.
- D. Current Versions and Citations.** All references to the regulations of other jurisdictions refer to the most current version and citation for those regulations, except where this Code, City Council policy, or applicable law require otherwise. Where a referenced regulation has been amended or repealed, the City Planning Official or, upon referral, the City Council, shall interpret this Code and, based on adopted City policy, determine whether an equivalent standard applies. Such determinations, unless made through a legislative process, may be appealed to City Council.

1.2.060 Development Code and Zoning Map Implementation

- A. Zoning of Areas to be Annexed.** Concurrent with annexation of land to the City of Elkton, the City Council shall enact an ordinance applying applicable zoning designation(s) to the subject land, pursuant to Chapter 4.6. The Comprehensive Plan shall guide the designation of zoning for annexed areas.
- B. Land Use Consistent With Development Code.** Land and structures in the City of Elkton may be used or developed only in accordance with this Code, including all amendments thereto. A lawful use of land (“use”) is one that is permitted in accordance with this Code, or is allowed as a legal non-conforming use, pursuant to Chapter 1.4, provided state or federal law does not prohibit the use.
- C. Development Code and Zoning Map.** The City’s Official Zoning Map (“Zoning Map”), which may be published, amended, and filed separately from this Code, is part of this code. The zoning districts depicted on the Zoning Map correspond to the zoning districts in this code. In addition, this Code may contain zoning regulations for special areas (i.e., overlay zones), and for certain uses or structures that do not appear on the Zoning Map.
- D. Interpreting the Zoning Map.** Except as otherwise specified by this Code, the City’s zoning boundaries are as designated on the Official Zoning Map, which is kept on file at City Hall. The City may adopt and publish supplemental zoning maps where it is impractical to illustrate all regulated features on one map. Examples of regulated features include, but are not limited to: historical landmarks, special street setbacks, base flood (flood plain) elevation, local wetland inventories, and specific area plans. In addition, the City may require field verification and mapping (e.g., survey) of a regulated feature as part of a development application, where the feature is thought to exist on or adjacent to the subject property but its exact location is unknown.
- E. Boundary Lines.** Zoning district boundaries are determined pursuant to Section 2.1.030.
- F. Changes to Official Zoning Map.** Proposed changes to the Official Zoning Map are subject to review and approval under Chapter 4.6 Amendments.

1.2.070 Coordination of Building Permits

- A. Land Use Approvals and Building Permits.** Land use and building approvals are processed by two City officials: The designated Building Official administers building codes, and issues building permits; and the Planning Official administers the Development Code, including Floodplain Development proposals, processes land use approvals, and coordinates with the designated Building Official on development and building projects to ensure compliance with the Development Code.
- B. Zoning Compliance Required for Building Permits.** A building permit shall not be issued until the Planning Official has confirmed that all applicable requirements of this

Code are met, or appropriate conditions of approval are in place to ensure compliance.

1.2.080 Official Action

- A. Official Action.** The City of Elkton Planning Official, Designated Building Official, and City Council are vested with authority to issue permits and grant approvals in conformance with this Code, pursuant to Article 4 Application Requirements, Administrative Procedures, and Approval Criteria. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this Code.

- B. Void Future Actions.** Any permit or approval issued or granted in conflict with the provisions of this Code shall be void, unless the City modifies it in conformance with the Code. The Planning Official shall determine when an approval is void and, as applicable, he or she shall refer it back to the decision body for modification to ensure Code compliance.

- C. Referral to City Council.** In addition to those actions that require Council approval, the Planning Official may refer any question or permit request to the City Council, who then shall take action on the request pursuant to the applicable provisions of this Code. See also, Chapter 1.5 Code Interpretations and Article 4 Application Requirements, Administrative Procedures, and Approval Criteria.

- D. Notices, Filing, and Validity of Actions.** The failure of any person to receive mailed notice or failure to post or file a notice, staff report, or form shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to such notice report, or form. See Chapter 4.1 General Review Procedures.

Chapter 1.3 — Lot of Record and Legal Lot Determination

Sections:

- 1.3.010** **Purpose and Intent**
- 1.3.020** **Criteria**
- 1.3.030** **Legal Lot Determination Procedure**

1.3.010 **Purpose and Intent**

The purpose of Chapter 1.3 is to establish criteria and a process for determining when a lot of record exists for the purpose of allowing a use or development on a non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations). The owner of a lot of record shall not be denied development of one single-family dwelling per lot of record, provided applicable building codes are met. The City shall accept a legal lot determination as sufficient evidence of a hardship for purposes of approving a variance under Chapter 4.7.

1.3.020 **Criteria**

A lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.010 through 92.190:

- A.** The plot of land was lawfully created through a subdivision or partition plat in Elkton County prior to annexation to the City of Elkton.
- B.** The plot of land was created through a deed or land sales contract recorded with Douglas County before the City or County, as applicable, adopted planning, zoning, subdivision or partition regulations.
- C.** The plot of land was created through a deed or land sales contract recorded with Elkton County prior to January 1, 2007 and the subject plot of land would have complied with the applicable planning, zoning, subdivision, or partition regulations in effect at the time it was created.

1.3.030 **Legal Lot Determination Procedure**

The Planning Official, through a Type II procedure, shall process requests to validate a lot of record, pursuant to ORS 92.010 to 92.190.

Chapter 1.4 — Non-Conforming Situations

Sections:

- 1.4.010 Purpose and Applicability
- 1.4.020 Non-conforming Use
- 1.4.030 Non-conforming Lot

1.4.010 Purpose and Applicability

Chapter 1.4 provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current Code standards (“non-conforming situations”). The Code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The chapter contains three sections, as follows:

- A. **Non-conforming uses and developments** are subject to Section 1.4.020.
- B. **Non-conforming lots** are subject to Section 1.4.030.

1.4.020 Non-conforming Use

Where a use of land exists that would not be permitted under the current Code, but was lawful at the time it was established, the use may continue, provided it conforms to the following requirements:

- D. **Alteration of Non-conforming Use Limited.** As used in this section, “alteration” of a nonconforming use or structure includes: (A) a change in the use of no greater adverse impact to the neighborhood; and/or (B) a change in the structure or physical improvements of no greater adverse impact to the neighborhood.
 - 1. **Minor Alteration.** For any given nonconforming use or structure, the city administrator may approve as a minor variance to the provisions of this chapter one or more alterations up to the point where a cumulative alteration of 10 percent or less of the total square footage of that nonconforming use or structure has occurred.
 - 2. **Major Alteration.** A proposal for the alteration greater than 10 percent of the total square footage of a nonconforming use or structure may be approved by the City Council subject to the provisions for conditional use permits.
- B. **Location of Non-conforming Use.** A non-conforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.
- C. **Discontinuation or Abandonment of Non-conforming Use.** Except as provided by Section 1.4.020.E, a non-conforming use that is discontinued for any reason other than

fire or other catastrophe beyond the owner's control for a period of more than 12 months shall be deemed abandoned and shall no longer be an allowed non-conforming use. For purposes of calculating the 12 month period, a use is discontinued when:

3. the use of land is physically vacated;
4. the use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;
5. any lease or contract under which the non-conforming use has occupied the land is terminated;
6. a request for final reading of water and power meters is made to the applicable utility districts;
7. the owner's utility bill or property tax bill account became delinquent; or
8. an event occurs similar to those listed in subsections 1-5, above, as determined by the Planning Official.

D. Application of Code Criteria and Standards to Non-conforming Use. Once the City deems a use abandoned pursuant to subsection 1.4.020.C, any subsequent use of the subject lot shall conform to the current standards and criteria of this Code. After the City has deemed a non-conforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership or management; any such activity is a violation of this Code and subject to enforcement proceedings under Chapter 1.6.

E. Extension of Non-Conforming Status for Discontinued Use. Notwithstanding the provisions of subsection 1.4.020.C, a non-conforming use that is discontinued shall not be considered abandoned where, through a Type III procedure, the City Council approves an extension for repair, including as applicable ongoing, active renovation and efforts to lease the subject property. The owner must request the extension within the six-month period of discontinuance.

1.4.030 Non-conforming Lot

A legal lot or lot of record, as provided by Chapter 1.3, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone, subject to other requirements of the zone. If there is a lot area deficiency, residential use shall be limited to a single-family dwelling.

Chapter 1.5 — Code Interpretations

Sections:

1.5.010 Code Interpretations

1.5.010 Code Interpretations

Some terms or phrases within this Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

- A. Authorization of Similar Uses.** Where a proposed use is not specifically identified by this Code, or the Code is unclear as to whether the use is allowed in a particular zone, the Planning Official may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Code accordingly. However, uses and activities that this Code specifically prohibits in the subject zone, and uses and activities that the Planning Official finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of City officials shall be processed following the Type IV procedure of Chapter 4.1.
- B. Code Interpretation Procedure.** Requests for code interpretations, including, but not limited to, similar use determinations, shall be made in writing to the Planning Official and shall be processed as follows:
9. The Planning Official, within 14 days of the inquiry, shall advise the person making the inquiry in writing as to whether the City will make a formal interpretation.
 10. Where an interpretation does not involve the exercise of discretion, the Planning Official shall advise the person making the inquiry of his or her decision within a reasonable timeframe and without public notice.
 11. Where an interpretation requires discretion, the Planning Official shall inform the person making the request that an application for code interpretation is required and advise the applicant on how to make the request. At a minimum, an application for code interpretation shall include a letter citing the nature and reasons for the request, and, as required, a City fee. The Planning Official then shall review relevant background information, including, but not limited to, other relevant Code sections and previous City land use decisions, and follow the Type II review and decision-making procedures in Section 4.1.
- C. Written Interpretation.** Following the close of the public comment period on an application for a code interpretation, and formal interpretation by the Planning Official, the Planning Official shall mail or deliver the City's decision in writing to the person requesting it, to any other person who specifically requested a copy of the decision, and to those who provided public testimony on the application. The decision shall become effective when the appeal period for the decision expires.

- D. Referral to City Council.** Where a code interpretation may have significant citywide policy implications, the Planning Official may bypass the procedure in subsection 1.5.010.B and refer the request directly to the City Council for its legislative review in a public hearing. Such public hearings shall be conducted following Type IV procedure of Chapter 4.1.050.
- E. Interpretations on File.** The City shall keep on file a record of its code interpretations.

Chapter 1.6 — Enforcement

Sections:

- 1.6.010 Violation
- 1.6.020 Other Remedies

1.6.010 Violations

Except as provided under Subsection 1.6.020, any person violating or causing the violation of any of the provisions of this Code who fails to abate said violation has committed an infraction and/or misdemeanor, which, upon conviction thereof, is punishable as prescribed in Oregon Revised Statute (ORS) Chapter 161. Such person is guilty of a separate violation for each and every day during any portion of which a violation of this Code is committed or continued. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation.

- A. Classification of Violation.** Violations shall be identified by the Planning Official under one of the following classifications:
 - 1. **Type I** - Violations which represent a serious threat to public health, safety, and welfare, or those unapproved actions deemed potentially to create serious adverse environmental or land use consequences as the result of continued development activity; or
 - 2. **Type II** - Violations which do not pose a serious threat to public health, safety, and welfare, but do violate provisions of this code, including any conditions of approval.
- B. Notice of Violation**
 - 1. **Type I** - After receiving a report of an alleged Type I violation, the Planning Official determines whether the violation requires that a citation be issued immediately or whether to provide notice of the violation prior to the issuance of a citation. Notice shall be in writing and shall be provided to the owner of record for tax purposes or to the person in charge of the property. Such a notice shall indicate:
 - a) the location and nature of the violation;
 - b) the provision or provisions of this Code or conditions of approval which allegedly have been violated; and
 - c) whether immediate enforcement will be sought or if a specified time period will be allowed to correct or remove the violation.
 - 2. **Type II** - After receiving a report of an alleged Type II violation from the Planning Official, the City Attorney shall, upon determining that probable cause exists, promptly give notice of the alleged violation by certified first-class mail, return receipt requested, or by personal service to the owner of record for tax purposes and to the person in charge of the property; however, a defect in the notice of violation with respect to this notice delivery provision shall not prevent enforcement of this code. Such a notice shall indicate:

- a) the location and nature of the violation;
- b) the provision or provisions of this Code or conditions of approval, which allegedly have been violated;
- c) whether immediate enforcement shall be sought or if 15 days will be allowed to correct or remove the violation; and
- d) the date when the notice was personally served or, if the notice was sent by first-class mail, the date three days after mailing if the address to which it was mailed is within this state and seven days after mailing if the address to which it was mailed is outside this state.

C. City Attorney to Pursue Enforcement. When the compliance deadline expires, the City Attorney shall proceed with any action deemed appropriate, unless:

1. the City Attorney finds that the violation has been corrected, removed, or will not be committed; or
2. a court of competent jurisdiction has halted enforcement pending the outcome of a proceeding concerning the violation.

D. Penalties. Code violations may be subject to criminal, civil, or other sanctions authorized under ordinances of the City.

1. **Criminal Penalties** - Unless specified otherwise, every violation of the terms of this Code is a Class A infraction, punishable by a fine of up to \$500. Each day such violation continues, it shall be considered a separate offense.
2. **Civil Penalties and Remedies** - In addition to, or in lieu of, criminal actions, a violation of this code or a permit issued hereunder may be the subject of a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.

1.6.020 Other Remedies

The City, in addition to finding a Code violation is an infraction and/or misdemeanor, may use any of the other remedies available to it, including, but not limited to, the following:

- A. Stop Work Order.** The City may issue a stop work order.
- B. Public Nuisance.** The City may find a violation of this Code is a public nuisance and take enforcement action pursuant to [City of Elkton Ordinance No. \[#109\]](#).
- C. Mediation.** The City and property owner may agree to engage in mediation.

ARTICLE 2 – ZONING REGULATIONS

Chapters:

7. **Establishment of Zoning Districts**
8. **Zoning District Regulations**
9. **Special Use Standards**
10. **Overlay Zones**

Chapter 2.1 – Establishment of Zoning Districts

Sections:

2.1.010	Purpose
2.1.020	Classification of Zoning Districts
2.1.030	Determination of Zoning District Boundaries

2.1.010 Purpose and Classification of Zoning Districts

Chapter 2.1 establishes zoning districts, consistent with the City of Elkton Comprehensive Plan. Every unit of land (parcel, lot, tract, and right-of-way) within the City of Elkton is designated with a zoning district or “zone,” and may also be designated with one or more overlay zones. The use of land is limited to the uses allowed by the applicable zone(s).

2.1.020 Classification of Zoning Districts

Zoning designations are as depicted on the City of Elkton Zoning Map. The City Recorder maintains official copies of the Zoning Map and Comprehensive Plan. Where a conflict between documents arises, the Comprehensive Plan shall govern.

- A. Residential District (R-1).** The residential zoning district is intended to accommodate a mix of residential uses at planned densities, consistent with the housing needs of the city; promote the orderly development and improvement of neighborhoods; facilitate compatibility between dissimilar land uses; allow residences in proximity, and with direct connections, to schools, parks, and community services; and to ensure efficient use of land and public facilities.
- B. Commercial District (C-1).** The commercial zoning district accommodates a mix of commercial services, retail, and civic uses, with existing residences permitted to continue, and new residential uses permitted in the upper stories of some buildings, and some allowed at ground level throughout the conditional use process
- C. Special Historic Overlay (SH).** The Special Historic Overlay Zone provides zoning standards to maintain recognized historic areas and preserve their character. Areas, sites, structures and objects within this zone have local, regional, statewide, or national historical significance.
- D. Open Space - Steep Slopes (O-S).** The Open Space - Steep Slopes district provides for the use, protection, preservation, conservation, and enhancement of parks, natural areas, and similar areas in a manner that meets community needs for a widerange of passive or active recreational uses.
- E. Flood Hazard Area - Open Space (F-O).** It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to: protect human life and health; to minimize expenditure of public money and costly flood control projects; to

minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; to minimize prolonged business interruptions; to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard; to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas; to ensure that potential buyers are notified that property is in an area of special flood hazard; and to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

- F. Natural Constraints Overlay (NC-1).** This zone is an overlay zone to provide protection to persons and property from hazards due to landslides, earthquakes, and weak foundation soils. The requirements of this zone apply in addition to those of the underlying zoning district. If there are any conflicts, the requirements of the NC-1 zone supersede the requirements of the underlying district.

2.1.030 Determination of Zoning District Boundaries

Where due to the scale, lack of scale, lack of detail, or illegibility of the Zoning Map, or due to any other reason, there is uncertainty, contradiction, or conflict as to the intended location of a zoning district boundary, the Planning Official or, upon referral, the City Council, shall determine the boundary as follows:

- A. Right-of-way.** Boundaries that approximately follow the centerlines of a street, highway, alley, bridge, railroad, or other right-of-way shall be construed to follow such centerlines. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same zoning district designation that is applicable to lands abutting the vacated areas. In cases where the right-of-way formerly served as a zoning district boundary, the vacated lands within the former right-of-way shall be allocated proportionately to the abutting zoning districts.
- B. Parcel, lot, tract.** Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries.
- C. Jurisdiction boundary.** Boundaries indicated as approximately following a City or County boundary, or the Urban Growth Boundary, shall be construed as following said boundary.
- D. Natural feature.** Boundaries indicated as approximately following a river, stream, topographic contour, or similar feature not corresponding to any feature listed in subsection A-C, above, shall be construed as following such feature.

Chapter 2.2 – Zoning District Regulations

Sections:

2.2.010	Purpose
2.2.020	Applicability
2.2.030	Allowed Uses
2.2.040	Lot and Development Standards
2.2.050	Setback Yards Exceptions
2.2.060	Lot Coverage
2.2.070	Height Measurement, Exceptions, and Transition

2.2.010 Purpose

Chapter 2.2 regulates allowed land uses (“uses”) and sets forth lot and development standards, including minimum dimensions, area, density, coverage, structure height, and other provisions that control the intensity, scale, and location of development. The regulations of this chapter are intended to implement the City of Elkton Comprehensive Plan and the purposes of this Code, per Section 1.2.020.

2.2.020 Applicability

All real property in the City of Elkton is subject to the zoning regulations of Chapter 2.2. Certain types of landuses are also subject to the Special Use regulations in Chapter 2.3. In addition, some properties are subject to both the general (“base zone”) regulations of Chapter 2.2 and the Overlay Zone regulations of Chapter 2.4. Property owners, realtors, project proponents, and others are advised to verify the regulations that apply to a particular property before beginning a new project, purchasing real estate, or marketing a property for sale.

2.2.030 Allowed Uses

- A. Uses Allowed in Base Zones.** Allowed uses include those that are permitted, those that are permitted subject to special use standards, and those that are allowed subject to approval of a conditional use permit, as identified by Table 2.2.030. Allowed uses fall into four general categories: Residential, Public and Institutional, Commercial, and Other. Where Table 2.2.030 does not list a specific use, and Article 5 Definitions does not identify the use or include it as an example of an allowed use, the City may find that use is allowed, or is not allowed, following the procedures of Section 1.5.020 Code Interpretations. Uses not listed in Table 2.2.030 and not found to be similar to an allowed use are prohibited.
- B. Permitted Uses and Uses Permitted Subject to Special Use Standards.** Uses listed as “Permitted (P)” are allowed provided they conform to Section 2.2.040 Lot and Development Standards. Uses listed as “Permitted Subject to Special Use Standards (S)” are allowed, provided they conform to the Chapter 2.3 Special Use Standards and Section 2.2.040 Lot and Development Standards. Uses listed as “Not Allowed (S)” are

prohibited. Uses not listed but similar to those allowed may be permitted pursuant to Section 1.5.010.

- C. Conditional Uses.** Uses listed as “Conditional Use Permit Required (CU)” are allowed subject to the requirements of Chapter 4.4 Conditional Use Permits.
- D. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of Chapter 2.2, additional standards may apply to uses within overlay zones. In addition, an overlay zone may allow exceptions to some standards of the underlying zone. See Chapter 2.4.
- E. Accessory Uses.** Uses identified as “Permitted (P)” are permitted as primary uses and as accessory uses. For information on other uses that are customarily allowed as accessory, please refer to the description of the Use Categories in Article 5 Definitions.
- F. Mixed-Use.** Uses allowed individually are also allowed in combination with one another, in the same structure, or on the same site, provided all applicable development standards and building code requirements are met.
- G. Outdoor Uses and Unenclosed Activities.** Notwithstanding the provisions of Table 2.2.030, any use, except for an allowed accessory use, that occurs primarily outside (i.e., not within a permitted building) requires a Conditional Use Permit under Chapter 4.4.
- H. Temporary Uses.** Temporary uses occur only once in a calendar year and for not longer than 30 days, consecutively in any calendar year. Uses may be permitted on a temporary basis, subject to review and approval under Chapter 4.3 Site Plan Review.
- I. Disclaimer.** Property owners are responsible for verifying whether a specific use is allowed on a particular site.

Table 2.2.030 – Uses Allowed by Zoning District			
Use Type	<i>Residential Zone</i>	<i>Commercial Zone</i>	Special Use Standards
	<u>R-1</u>	<u>C-1</u>	
A. Residential Uses¹			
Single-Family Dwelling, Non-Attached	P	S	
Single-Family Dwelling, Attached (Townhome)	S	S	
Accessory Dwelling Unit	S	N	

Table 2.2.030 – Uses Allowed by Zoning District			
Duplex Dwelling	S	S	
Manufactured Home	S	S	
Manufactured Home Park	N	S	
Multifamily Dwelling	S	S	
Family Daycare	S	S	
Residential Care Home	S	S	
Residential Care Facility	S	S	
Home Occupation	S	S	
Vacation Rental Dwellings	S	S	
B. Public and Institutional Uses²			
Automobile Parking, Public Off-street Parking	N	CU	
Cemetery, including Crematorium	CU	N	
Child Daycare Center	S	S	
Club Lodge, Fraternal Organization	N	S	
Community Service; includes Governmental Offices	N	CU	
Clinic, Outpatient Only	CU	CU	
Emergency Services; includes Police, Fire, Ambulance	S	S	
Hospital, including Acute Care Center	N	CU	
Parks and Open Space, including Playgrounds, Trails, Nature Preserves, Athletic Fields, Courts, Swim Pools, and similar uses	CU	CU	
B. Public and Institutional Uses²			
Religious Institutions and Houses of Worship	CU	CU	

Table 2.2.030 – Uses Allowed by Zoning District			
School, Preschool-Kindergarten	CU	CU	
School, Secondary	CU	CU	
Solid Waste Disposal or Recycling, except as accessory to permitted use	N	N	
Public Works Utilities Storage Yards; includes Vehicle and Equipment Storage, Maintenance, and Repair	P	P	
Religious Institutions and Houses of Worship	CU	CU	
Transportation Facilities; includes construction, operation, and maintenance of facilities located within right-of-way controlled by a public agency, consistent with the Comprehensive Plan.	P	P	
Utility Structures and Facilities, City Planned Projects; i.e., utilities identified by an adopted City master plan or development review approval	P	P	
Utility Structures and Facilities, Regional Projects; project is not part of an adopted City master plan or development review approval	CU	CU	
<i>Wireless Communication Facilities</i>	N	CU	
C. Commercial Uses⁴			
Amusement, Entertainment, and Commercial Recreation; includes theaters, bowling alleys, miniature golf, concert venues, arcades, similar uses	N	CU	

Table 2.2.030 – Uses Allowed by Zoning District

Artisanal and Light Manufacture Uses in Commercial zones – includes craftsman studios; and uses providing instruction and/or retail sales related to painting, sculpting, photography, picture framing, knitting, sewing, literature, theater, music, specialty foods or catering, or similar uses	CU	CU	
Automobile Parking, Commercial Parking	N	CU	
Automotive Repair and Service, includes fueling station, car wash, tire sales and repair or replacement, painting, and other repair for automobiles, motorcycles, aircraft, boats, RVs, trucks, etc.	N	P	
Automotive Sales and Rental; includes motorcycles, boats, recreational vehicles, and trucks	N	P	
<i>Bed and Breakfast Inn</i>	S	S	
Commercial Retail Sales and Services	N	P	
Drive-Through Service	N		
Hotels, Motels, and Similar Overnight Accommodations	CU	CU	
Lumber Yard and Similar Sales of Building or Contracting Supplies, or Heavy Equipment	N	CU	
Medical Clinic, Outpatient	N	P	
Offices	CU	P	
<i>[Recreational Vehicle Park]</i>	N	S	
Self-Service Storage, Commercial	N	CU	
Veterinary Clinic	N	P	
D. Industrial and Employment Uses⁶			

Table 2.2.030 – Uses Allowed by Zoning District			
Artisanal and Light Manufacture Uses in Industrial and Public Facility zones	N	CU	
Beverage and Bottling Facility, except as allowed for Commercial Uses	N	CU	
Bulk Storage of Flammable Liquids or Gases; Petroleum Products Storage and Distribution; Wood or Biomass Fuel Dealers	N	CU	
Cement, Glass, Clay, and Stone Products Manufacture; <i>except as allowed for Artisanal and Light Manufacture Uses</i>	N	CU	
Dairy Products Manufacture, e.g., Butter, Milk, Cheese, Ice Cream; <i>except as allowed for Artisanal and Light Manufacture Uses</i>	N	CU	
Data Center or Server Farm	N	CU	
Dwelling for a caretaker or watchman	N	CU	
Finished Textile and Leather Products Manufacture; <i>except as allowed for Artisanal and Light Manufacture Uses</i>	N	CU	
Food Processing, including Canning, Freezing, Drying and Similar Food Processing and Preserving; <i>except as allowed for Artisanal and Light Manufacture Uses.</i> Rendering Plants are prohibited.	N	CU	
Freight Terminals, including Loading Docks, Storage, Warehousing, Wholesale Distribution, Cold Storage; except Self-service Storage or Mini-storage Warehouses	N	CU	
Machine Shop, and Sales, Service and Repair of Machinery; <i>except as allowed for Artisanal and Light Manufacture Uses</i>	N	CU	
Metal Manufacture, Welding ; <i>except as allowed for Artisanal and Light Manufacture Uses</i>	N	CU	

Table 2.2.030 – Uses Allowed by Zoning District			
Newspaper, Periodical, Publishing and Printing; except Artisanal and Light Manufacture Uses	N	CU	
Special Trade Contracting Facilities, such as Floor Laying, Masonry, Stone, Plumbing, Electrical, Metal Work, Roofing, Heating and Air Conditioning, Cabinet making, and Carpentry	N	CU	
Wood Products Manufacture, such as Sawmills, Paper and Allied Products, and Secondary Wood Products; except Artisanal and Light Manufacture Uses	N	CU	
Wrecking, Demolition, Junk Yards, Recycling Centers	N	CU	

KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

2.2.040 Lot and Development Standards

- A. Development Standards.** Section 2.2.040 provides the general lot and development standards for each of the City’s base zoning districts. The standards of Section 2.2.040 are organized into two tables: Table 2.2.040.D applies to the Residential zone, and Table 2.2.040.E applies to non-residential zones.
- B. Design Standards.** City standards for Access, Circulation, Site and Building Design, Parking, Landscaping, Fences and Screening, and Public Improvements, among others, are located in Article 3. Notwithstanding the provisions of Table 2.2.040 and Article 3, different standards may apply in specific locations, such as at street intersections, adjacent to natural features, and other areas as may be regulated by this Code or subject to state or federal requirements.
- C. Disclaimer.** Property owners are responsible for verifying whether a proposed development meets the applicable standards of this Code.
- D. Lot and Development Standards for Residential Districts.** The development standards in Table 2.2.040.D apply to all development in Residential zones.

Table 2.2.040.D – Lot and Development Standards for R-1 Residential Zone
 (Except as provided by 2.2.040.F through 2.2.070, or as modified under Chapter 4.7 Adjustments and Variances)

Minimum Lot Area* (square feet)	
Single-Family	
Southwest of Oregon Hwy 38	<i>6,000 Sq Ft</i>
Northeast of Oregon Hwy 38	<i>7,500 Sq Ft</i>
Townhome, attached	<i>2,500 Sq Ft</i>
Duplex	<i>6,000 Sq Ft</i>
Multiple-Family	<i>7,500 Sq Ft</i>
Non-Residential Uses	<i>7,500 Sq Ft</i>
Minimum Lot Width	
Single-Family, Not Attached:	
Corner Lot	<i>60 ft</i>
Interior Lot	<i>60 ft</i>
Townhome, Attached or CommonWall:	<i>25 ft</i>
Duplex	<i>60 ft</i>
Multiple-Family (3 or more dwelling units on a lot, where allowed)	<i>50 ft</i>
Non-Residential Uses	<i>1.5 times min. width or 100 feet, whichever is less</i>
	<i>75 ft</i>
Minimum Lot Depth	
Street frontage width may be less than minimum lot width where Flag Lots are allowed, per Chapter 4.3.040.	

<p>Building or Structure Height. See also, Sections 2.2.040 Setback Yard Exceptions, 2.2.070 Building Height Transition, 3.3.020 Clear Vision, and 3.4.050 Fences and Walls.</p> <p><u>Level Site (slope less than 15%),</u> maximum height</p> <p><u>Sloping Site (15% or greater),</u> maximum height</p> <p><u>Building Height Transition Required</u> Abutting C-1 District (Sec 2.2.070)</p>	<p>30 ft</p> <p>level site 5 ft</p> <p>No</p>
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<p><u>Fences and Non-Building Walls</u> Max. Height. – Front Yard Max. Height. – Interior Side Max. Height – Rear Yard Max. Height – Street-Side; or Reverse Frontage Lot (rear)</p> <p>(See also, Section 3.4.040.)</p>	<p>3 ft</p> <p>6 ft</p> <p>6 ft</p> <p>4 ft</p>
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<p>Lot Coverage:</p> <p>Maximum Lot Coverage (foundation plane area as % of site area)</p> <p>Single-Family, Not Attached</p> <p>Single Family, w/ ADU</p> <p>Townhome Attached/Common Wall</p> <p>Duplex</p> <p>Multifamily</p> <p>Mixed-Use/Commercial</p> <p>Civic/Institutional/Open Space</p>	<p>50%</p> <p>60%</p> <p>70%</p> <p>60%</p> <p>70%</p> <p>100%</p>
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Minimum Setbacks (feet). See also, Sections 2.2.040 Setback Yard Exceptions, 2.2.070 Building Height Transition, 3.3.020 Clear Vision, and 3.4.050 Fences and Walls.

<p>Front Yards and Street-Side Setback</p> <p><u>Standard Setback</u></p> <p>Southwest of Oregon Hwy 38 Northeast of Oregon Hwy 38</p> <p><u>Garage or Carport Opening</u></p> <p><u>Porch or Similar Open Structure</u> (e.g., balcony, portico, patio, wall) where structure is less than 50% enclosed</p> <p>Exception (0 ft for wheelchair ramp)</p>	<p>15 ft 20 ft 20 ft 10 ft</p>
<p>Rear Yards</p> <p><u>Standard Setback</u></p> <p><u>Garage or Carport Opening</u></p> <p><u>Porch or Similar Open Structure</u> (e.g., balcony, portico, patio, wall) where structure is less than 50% enclosed</p> <p>Exception (0 ft for wheelchair ramp)</p>	<p>5 ft 5 ft 10 ft</p>
<p>Interior Side Yards Setback</p> <p>Structure >24' height</p> <p>Structure <24' height</p> <p><i>Garage or Carport Opening,</i></p> <p><i>Common Walls or Zero Lot Line</i></p> <p><i>developments</i></p>	<p>5 ft 10 ft 5 ft 0 ft abutting sides; 5 ft non-abutting sides</p>
<p><u>Note:</u> Always avoid utility easements when building near property lines.</p>	

E. Lot and Development Standards for Non-Residential Districts. The development standards in Table 2.2.040.E apply to all new development as of **June 1, 2021** in the City's Non-Residential zones, as follows.

Table 2.2.040.E – Lot and Development Standards for Non-Residential zones (Except as provided by 2.2.040.F through 2.2.070, or as modified under Chapter 4.7 Adjustments and Variances)	
Minimum Lot Area* (square feet) *Development must conform to lotwidth, depth, yard setback, and coverage standards.	None
Minimum Lot Width and Depth	None
Building and Structure Height*	
<u>Standard (slope less than 15%), maximum height</u>	40 ft
<u>Sloping Site (15% or greater), maximum height</u>	Standard +5 ft
<u>Building Height Transition</u> required adjacent to R-1 District, per Section 2.2.070.	Yes
<u>[Height Increase</u> The City may increase the standard height, above, for specific projects with approval of a Conditional Use Permit (CUP), per Chapter 4.4.]	Yes

Table 2.2.040.E – Lot and Development Standards for Non-Residential zones (Except as provided by 2.2.040.F through 2.2.070, as modified under Chapter 4.7 Adjustments and Variances)	
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<p><u>Fences and Non-Building Walls</u> Maximum Height – Front Yard Maximum Height – Interior Side Maximum Height – Rear Yard Maximum Height – Street-Side</p>	<p>4 ft 6 ft 6 ft 4 ft, or 6 ft with 10 ft setback</p>
<p>Lot Coverage: 1. Maximum Lot Coverage (foundation plane area as % of sitearea)</p>	<p>90%</p>
<p>Minimum Landscape Area (% site area), <i>includes required parking lot landscaping and any required screening. This standard does not apply to individual, detached single-family dwellings.</i></p>	<p>10%</p>

<p>Minimum Setback Yards (feet): (See also, Section 2.2.070, R-1 Height Step-Down.)</p>	
<p><u>Front, Street-Side, Interior Side, and Rear</u> property lines, except garage or carport, or as required by other codeprovisions</p>	<p>0 ft</p>
<p><u>Garage or Carport Entry</u>, setback fromstreet</p>	<p>20 ft</p>
<p><u>Alley</u></p>	<p>3 ft</p>

Adjacent to R-1 District	10 ft, and per Section 2.2.170
<p>Special Setback for Planned Street Improvements: New structures or structure additions on lots abutting an existing public street that does not meet the minimum standards of Section 3.6.020 for right-of-way width shall provide setbacks sufficient to allow for the future widening of the right-of-way, plus the minimum required yard setback. Building permits shall not be issued for new structures or additions that do not meet this standard.</p>	
<p><i>Note: Always check for utility easements prior to construction.</i></p>	

2.2.050 Setback Yards Exceptions

A. Encroachments

1. Except as otherwise restricted by applicable building codes, building elements such as eaves, chimneys, bay windows, overhangs, heating, cooling and ventilation systems, and similar incidental structures, may extend into the required setback yards by no more than two (2) feet, provided that a setback of not less than three (3) feet is maintained, all applicable building codes are met, and the clear vision standards in Section 3.3.030 are met.
2. Uncovered porches, decks, patios, and similar features not exceeding 30 inches in height may encroach into setbacks, provided a minimum setback of not less than 36 inches is maintained and all applicable building codes are met.
3. Fences may be placed within setback yards, subject to the standards of Section 2.2.040 and 3.4.040.

B. Reverse Frontage Lots. Buildings on reverse-frontage lots (through lots) are required to meet the build-to line standard on only one street. Reverse frontage lots are subject to the fence height and setback requirements of Section 2.2.040 and the design standards (e.g., materials and landscape buffer requirements) of Section 3.4.040.

C. Flag Lots. The City Council shall designate the front yard of a flag lot to ensure compatibility with adjacent land uses, based on existing development patterns and location of adjacent driveways, utilities, and natural features, as either:

1. front yard parallel to the street providing automobile access; or

2. front yard parallel to the flagpole from which driveway access is received.

The City shall review proposals for flag lots pursuant to the standards in Section 4.3.040 and may impose reasonable conditions to ensure development is compatible with adjacent uses.

2.2.060 Lot Coverage

- A. A. Lot Coverage Calculation.** The maximum allowable lot coverage, as provided in Table 2.2.040.D, is calculated as the percentage of a lot or parcel covered by buildings and structures (as defined by the foundation plan area) at 36 inches or greater above the finished grade. It does not include paved surface-level developments such as driveways, parking pads, and patios that do not meet the minimum elevation of 36 inches above grade.

2.2.070 Height Measurement, Exceptions, and Transition

- A. Building Height Measurement.** Building height is measured pursuant to the building code.
- B. Exception from Maximum Building Height Standards.** Except as required pursuant to FAA regulations, chimneys, bell towers, steeples, roof equipment, flag poles, and similar features not for human occupancy are exempt from the maximum building heights, provided that all applicable fire and building codes are met.
- C. Building Height Transition.** To provide for compatible scale and height relationships between new multi-story buildings and existing single-story dwellings, new buildings and vertical additions to existing buildings shall maintain a building height transition to adjacent single-story building(s), as follows:
 1. This standard applies to new and vertically expanded buildings and structures (in any zone) within 15 feet (as measured horizontally) of an existing single-story building with a height of 24 feet or less; and
 2. The building height transition standard is met where the new or vertically expanded building or structure meets the following criteria:
 - e) The existing single-story dwelling is not located within 15 feet of, and on the same side of the street as, the proposed structure.
 - f) The height of the proposed structure is not more than 120 percent of the height of the subject single-story dwelling.
 - g) Where the proposed structure is to be located between two existing single-story dwellings, the height of the proposed structure shall not exceed 120 percent of the average maximum height of both adjacent dwellings. For example, where the two adjacent dwellings have an average maximum height of 24 feet, the new

or vertically expanded structure shall not exceed 28.8 feet in height.

Exception: The building height transition standard does not apply when the approval body finds that the subject single-story buildings located within 15 feet of the subject site are redevelopable. “Redevelopable,” for the purposes of this section, means a lot either has an assessed market value that exceeds the assessed market value of all improvements on the lot, based on the most recent data from the Douglas County Assessor’s Office; or the front yard of the subject lot is large enough that it could be subdivided based on the minimum lot size standards of the applicable zone.

- D. Fence Height Increase.** Where Table 2.2.040 provides for a height increase, the proposal shall be subject to City review and approval pursuant to Chapter 4.4.

Chapter 2.3 – Special Use Standards

Sections:

2.3.010	Purpose
2.3.020	Applicability
2.3.030	Review Process
2.3.040	Light Manufacture Uses
2.3.050	Drive-Through Service
2.3.060	Duplex Dwellings
2.3.070	Townhomes, Attached Single-Family Dwellings
2.3.080	Multifamily Development
2.3.090	Dwellings in Commercial
2.3.100	Family Daycare
2.3.110	Residential Care Homes and Residential Care Facilities
2.3.120	Home Occupations
2.3.130	Manufactured Homes
2.3.140	Mobile Home and Manufactured Home Parks
2.3.150	Mobile Homes and Recreational Vehicles Used as Dwellings
2.3.160	Temporary Uses
2.3.170	Accessory Dwelling Units
2.3.180	Bed and Breakfast Inn
2.3.210	Parks and Open Spaces
2.3.220	Vacation Rental Dwelling

2.3.010 Purpose

Special uses included in Chapter 2.3 are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These special use standards may differ from the development standards established for other uses in the same zoning district.

2.3.020 Applicability

All uses designated as Special (“S”) Uses in Table 2.2.020, and uses the City determines to be similar to such uses, are subject to the standards of Chapter 2.3. The standards of this chapter supplement the other requirements of this Code. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

2.3.030 Review Process

The City uses the procedures for Site Plan Review, under Chapter 4.2, in reviewing proposed uses for compliance with the requirements of Chapter 2.3.

2.3.040 Light Manufacture Uses

- A. Purpose.** The following provisions are intended to encourage mixed-use development, including cottage industries and business incubators, by integrating small-scale manufacturing with commercial uses. For the purposes of this section, artisanal uses are those that blend manufacturing and retail uses such as brewpubs, winery tasting rooms, artist studios, cabinet makers, and similar uses, on the same site.
- B. Applicability.** The following standards apply where manufacturing uses are allowed in commercial zones and where retail uses are allowed in industrial zones. The standards are applied through Site Plan Review or Conditional Use Permit review, as applicable.
- C. Standards.**
1. Where a manufacturing use is allowed in a commercial zone, it shall be permitted only in conjunction with a primary commercial use.
 2. Where a manufacturing use is allowed in a commercial zone, it shall be wholly enclosed in a building, unless unenclosed operations are authorized by a Conditional Use Permit.
 3. Where a manufacturing use is allowed in a commercial zone and the subject site is located within 100 feet of a residential zone, the City may limit the hours of operation of the commercial or industrial uses to between 7:00 a.m. and 9:00 p.m. where it has identified concerns about noise, parking, or other impacts related to the use.
 4. Where a commercial use is allowed in an industrial zone, it shall be permitted only in conjunction with the primary industrial use and shall not exceed the floor area of the primary industrial use.

2.3.050 Drive-Through Service

Drive-through service uses shall comply with the design standards of Section 3.2.060.

2.3.060 Duplex Dwellings

- A. Purpose.** The following provisions are intended to promote compatibility between duplex dwellings and single-family dwellings in the R-1 zone.
- B. Applicability.** The following standards apply where a duplex is proposed adjacent to a single-family dwelling where the duplex lot and single-family lot share a common property line. The standards are applied through a Type I review procedure, prior to

submittal of building plans to the Building Official.

C. Standards. Duplexes shall meet all of the following standards:

1. The duplex shall not exceed the height of the subject single-family dwelling by more than 20 percent for that portion of the duplex placed within 20 feet of the single-family dwelling.
2. The duplex, if located on a corner lot and containing two garages, shall have each garage entrance oriented on each different street or alley.
3. The duplex shall have no blank wall oriented to a street. This standard is met if any elevation facing a street is composed of not less than 30 percent windows and door surface area.
4. The roof form on the duplex (e.g., gable, flat, or hipped) shall be similar to the roof form of adjacent single-family dwellings on the same block face.

D. Location. Duplex Residential Dwellings shall only be permitted on lots and parcels bound by Main Street to the Southeast, River Drive to the southwest, Elkton High School to the Northwest, and those lots and parcels within 100 ft of Oregon Highway 38 to the Northwest.

2.3.070 Townhomes, Attached Single-Family Dwellings

A. Purpose. The following provisions are intended to promote a compatible building scale where attached single-family dwellings are proposed, while minimizing the impact of garages along street fronts and creating a streetscape that is conducive to walking.

B. Applicability. The following standards apply to new attached single-family dwellings. The standards are applied through Site Plan Review, pursuant to Section 4.2, prior to issuance of building permits.

C. Standards. Where Townhome Dwellings are proposed, the structure(s) shall meet all of the following standards:

1. Each building shall contain not more than four (4) consecutively attached dwelling units and not exceed an overall length or width of 120 feet.
2. The primary entrance of each dwelling unit shall orient to a street, or an interior courtyard that is not less than 25 feet in width.
3. Where the subject site is served by an existing or planned alley, vehicle access shall be from the alley and all garage entrances shall orient to the alley.

4. The development standards Chapter 2.2 and the building and site design standards of Article 3 shall be met.

D. Location. Townhome Dwellings shall only be permitted on lots and parcels bound by Main Street to the Southeast, River Drive to the southwest, Elkton High School to the Northwest, and those lots and parcels within 100 ft of Oregon Highway 38 to the Northwest.

2.3.080 Multifamily Development

A. Purpose. The following standards are intended to ensure that multifamily developments are planned with adequate open space and are designed to prevent conflicts between residential uses, on-site recreation, and vehicle circulation and parking areas. The standards supplement the design standards of Article 3.

B. Applicability. This applies to new multifamily developments.

C. Standards.

1. **Common Open Space and Landscaping.** A minimum of 25 percent of the site area in the Residential districts and 10 percent of the site area in the Commercial district shall be designated and permanently reserved as common area and/or landscaped open space.
2. **Private Open Space.** Private open space areas shall be required for dwelling units based on the following criteria:
 - a) All ground-floor dwelling units shall have front or rear patios or decks containing at least 92 square feet of usable area. Ground floor housing means the housing unit entrance (front or rear) is within five feet of the finished ground elevation (i.e., after grading and landscaping).
 - b) All upper-floor housing units shall have balconies or porches containing at least 92 square feet of usable area. Upper-floor housing means housing units that are more than five feet above the finished grade.
3. **Access, Circulation, Landscaping, Parking, Public Facilities.** The standards of Chapters 3.2 through 3.6 shall be met.
4. **Trash Storage.** Trash receptacles, recycling, and storage facilities shall be oriented away from building entrances, setback at least 10 feet from any public right-of-way and adjacent residences, and shall be screened with an evergreen hedge or solid fence or wall of not less than six feet in height. Receptacles must be accessible to trash pick-up trucks.

5. All exterior lights on the premises of multiple family dwellings shall not be so bright or aimed in such a manner as to illuminate adjacent properties or structures.
6. Development shall front on an improved city street; if the street is substandard, the developer may be required to improve the street to city standards, or to participate in a Local Improvement District for construction of necessary improvements.
7. All cuts and fills over 2 feet in height or depth shall be provided with a retaining wall or be landscaped in such a way as to minimize erosion and to create an attractive landscape.

D. Location. Multifamily Dwellings in the R-1 Residential Zone shall only be permitted on lots and parcels bound by Main Street to the Southeast, River Drive to the southwest, Elkton High School to the Northwest, and those lots and parcels within 100 ft of Oregon Highway 38 to the Northwest.

2.3.090 Dwellings in Commercial [and Mixed Employment] Zones

- A. Purpose.** This section provides standards for residential uses in the C-1 Zone.
- B. Applicability.** This section applies to dwellings in the C-1 zone.
- C. Standards.** Residential uses in the C-1 zone shall conform to all of the following standards:
 1. New residential uses shall not be located in a ground building floor space fronting commercial streets.
 2. New residential uses fronting commercial streets shall be permitted only above or below a ground floor space containing a permitted non-residential use.
 3. Ground-floor dwellings may be permitted, subject to the Type-II Conditional Use process. All ground-floor dwellings must be in conjunction with a permitted commercial use and shall comply with all applicable standards of Chapter 3.
 4. Single-family dwellings lawfully existing as of June 1, 2021 may continue as permitted uses; and in the event of involuntary damage or destruction due to fire or other event beyond the owner's control, such single-family use may be rebuilt and reestablished pursuant to Section 2.2.030 and applicable building codes.

2.3.100 Family Daycare

Family daycare uses are limited to on-site care for not more than 16 children, and shall conform to the statelicensing requirements and standards under ORS 657A.250 and ORS

657A.440(4).

2.3.110 Residential Care Homes and Residential Care Facilities

Residential Care Homes and Residential Care Facilities, where allowed, shall conform to all of the following standards and procedures. Residential Care Facilities are not the same as Acute Care Facilities, which are classified as Community Service uses, and they are not the same as Senior Housing Facilities that provide limited or no medical care, which are classified as Multifamily Housing.

- A. Licensing and State Requirements.** Residential Care Homes and Residential Care Facilities shall be licensed by the State of Oregon and comply with state requirements, pursuant to ORS 197.660 through 197.670.
- B. Residential Care Homes.** Residential Care Homes may provide residential care alone, or in conjunction with treatment or training, for five or fewer individuals who need not be related. Staff required to meet state licensing requirements is not counted in the number of facility residents and need not be related to each other or the residents. The same Development Code standards that apply to single-family dwellings also apply to Residential Care Homes, except where state law supersedes City standards.
- C. Residential Care Facilities.** Residential Care Facilities may provide residential care alone, or in conjunction with treatment or training, for between 6 and 15 individuals who need not be related. Staff required to meet state licensing requirements is not counted in the number of facility residents and need not be related to each other or the residents. The same Development Code standards that apply to multiple family dwellings also apply to Residential Care Homes, except where state law supersedes City standards.
- D. Access.** The access and circulation standards of Chapter 3.3 shall be met.
- E. Parking.** The parking standards of Chapter 3.5 shall be met.
- F. Landscaping.** Residential Care Facilities are required to comply with the landscaping and screening standards of Chapter 3.4. The City may require the installation of a landscape hedge or fence on the property line separating a Residential Care Facility from an abutting lot containing a single-family dwelling for the purposes of visual screening and privacy between uses. The landscaping standards do not apply to building permits for individual Residential Care Homes.
- G. Building Design Standards.** Residential Care Facilities are required to comply with the building orientation and design standards for multifamily housing, pursuant to Chapter 3.1; except where a state requirement conflicts with a City standard, the state requirement, not the City standard, shall apply. The building design standards do not apply to Residential Care Homes.

H. Review Procedure. Residential Care Homes are subject to review and approval through a Type I Site Plan Review procedure under Section 4.1.020 prior to issuance of building permits. Residential Care Facilities are subject to a Type III (public hearing) review and approval under Section 4.1.040.

2.3.120 Home Occupations

A. Purpose. The purpose of this section is to encourage those who are engaged in small commercial ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which by the nature of the venture are appropriate in scale and impact to be operated within a residence.

B. Applicability. This section applies to Home Occupation uses in Residential zones. A home-based business in a commercial or residential-commercial zone is considered a commercial use and is not subject to the standards of this section.

C. Home Occupation in Residential Zones. Home Occupations of less than 500 square feet of lot area are permitted, provided the owner completes a Home Occupation Registration Form and obtains a City of Elkton Home Occupation Permit. Home Occupations greater than 500 square feet of lot area are allowed, subject to approval of a Conditional Use Permit. For the purpose of this section, "lot area" includes building floor area, areas within accessory structures, and all other portions of a lot.

D. Home Occupation Standards. Home Occupations shall conform to all of the standards below, except the City may approve adjustments to the standards through the Conditional Use Permit approval, provided all uses and structures on the subject property conform to applicable City regulations, including, but not limited to, building codes and nuisance regulations.

1. Appearance of Residence.

- a) The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
- b) The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
- c) The home occupation shall not violate any conditions of development approval (i.e., prior land use development permit or approval).
- d) No products or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

2. Storage.

- a) Outside storage visible from the public right-of-way or adjacent properties that exceeds what is customary for a single-family residence in the vicinity is

prohibited.

- b) On-site storage of hazardous materials (including toxic, explosive, noxious, combustible, or flammable material) beyond those normally incidental to residential use is prohibited.
- c) Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be enclosed in a structure or otherwise screened from view from adjacent properties and public right-of-way.

3. Employees.

- a) Other than family members residing within the dwelling located on the home occupation site, there shall be not more than two (2) employees at the home occupation site at any given time. As used in this chapter, the term "home occupation site" means the legal lot on which the home occupation is conducted.
- b) Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work, pick up, or deliver at the home occupation site.
- c) The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch of employees to other locations.

4. Advertising and Signs. Signs shall not exceed a total of four square feet of surface area on each side of one or two faces.

5. Vehicles, Parking, and Traffic.

- a) Not more than one (1) commercially licensed vehicle associated with the home occupation is allowed at the home occupation site in the same 24-hour period. Vehicles shall be of a size that would not overhang into the public right-of-way when parked.
- b) There shall be no commercial vehicle deliveries between 9:00 p.m. to 7:00 a.m.

6. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation only from 7:00 a.m. to 9:00 p.m.

7. Prohibited Home Occupation Uses.

- a) Any activity that produces radio, TV, or other electronic interference; noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that can be detected beyond the property line, is prohibited.
- b) Any activity involving on-site retail sales, including garage sales exceeding the thresholds of a temporary use, is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from

arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by the home business is allowed.

- c) The following uses, and uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, are prohibited:
 - i. Ambulance service
 - ii. Animal hospital, veterinary services, kennels, or animal boarding
 - iii. Auto and other vehicle repair, including auto painting
 - iv. Repair, reconditioning, or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site

- 8. **Enforcement.** With cause, the City's designated Code Enforcement Officer may visit a home occupation site to inspect the site and enforce the provisions of this Code.

2.3.130 Manufactured Home on a Single-Family Lot

Manufactured homes are permitted on individual lots, subject to all of the following design standards. Manufactured dwellings relocated into the City of Elkton shall conform to City standards. The following standards do not apply to dwellings lawfully established and existing within the City prior to June 1, 2021. See also, Sections 2.3.130 and 2.3.140, respectively, regarding Mobile Home and Manufactured Home Parks, and Mobile Homes and Recreational Vehicles Used as Dwellings.

- A. Floor Plan.** The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 square feet.
- B. Roof.** The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees).
- C. Residential Building Materials.** The manufactured home shall have exterior siding and roofing which in color, material, and appearance are similar to the exterior siding and roof material used on nearby residences; horizontal wood or horizontal wood-appearance siding and composite roofing is also permitted.
- D. Garages and Carports.** If the manufactured home has a garage or carport, the garage or carport shall be constructed of materials like those used on the home.
- E. Thermal Envelope.** The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the state Building Code. Evidence demonstrating that the manufactured home meets "Super Good Cents" energy efficiency standards, or an equivalent standard, is deemed to satisfy the exterior thermal envelope certification requirement.

- F. Placement.** The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complies with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, OAR Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home.
- G. Floodplain.** Manufactured homes shall comply with Chapter 2.4 Flood Area - Open Space Overlay and the following standards.
1. The stand shall be a minimum of 12 inches above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped. [Manufactured Dwelling Specialty Code, 4-3.1(5)]
 2. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of 12 inches above BFE.
 3. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for anchoring techniques). [44 Code of Federal Regulations 60.3(c)(6)]
- E.**
1. Electrical crossover connections shall be a minimum of 12 inches above BFE. [Manufactured Dwelling Specialty Code 6-4.2(1)]
- H. Foundation Skirt.** The foundation area of the manufactured home shall be fully skirted with concrete, horizontal wood or vinyl siding, or other materials, pursuant to applicable building codes.
- I. Prohibited.** The manufactured home shall not be located in a designated historic district, except where the historic district regulations specifically provide for manufactured homes.

2.3.140 Mobile Home and Manufactured Dwelling Parks

Mobile home and manufactured dwelling parks (not including recreational vehicles) are permitted on parcels of one (1) acre or larger, subject to compliance with subsections A-E, below:

- A. Permitted Uses.** Single-family residences, manufactured home park manager's office, home occupations, and accessory structures that are necessary for the operation and maintenance of the manufactured dwelling park (e.g., landscape maintenance).

- B. Development Standards.** Development of manufactured and mobile home parks, including placement of manufactured and mobile homes with a park, shall comply with applicable building codes and state requirements for Mobile Home and Manufactured Dwelling Parks in ORS 446.
- C. Perimeter Landscaping.** When manufactured dwellings are oriented with their back or side yards facing a public right-of-way, the City may require installation of fencing and planting of a landscape buffer of 5 to 10 feet in width between the right-of-way and a manufactured home park for the privacy and security of park residents or for privacy of adjacent residences.
- D. Manufactured Dwelling Design In Small Developments.** In manufactured dwelling parks that are smaller than three acres, manufactured homes shall meet both of the following standards:
2. The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees).
 3. The manufactured home shall have exterior siding and roofing which in color, material, and appearance are similar to the exterior siding and roof material used on nearby residences; horizontal wood or horizontal wood-appearance siding and composite roofing is also permitted.
- E. Floodplain.** Manufactured homes shall comply with Chapter 2.4 Flood Area - Open Space Overlay and the following standards.
1. The stand shall be a minimum of 12 inches above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped. [Manufactured Dwelling Specialty Code, 4-3.1(5)]
 2. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of 12 inches above BFE.
 3. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for anchoring techniques). [44 Code of Federal Regulations 60.3(c)(6)]
 4. Electrical crossover connections shall be a minimum of 12 inches above BFE. [Manufactured Dwelling Specialty Code 6-4.2(1)]

2.3.150 Mobile Homes and Recreational Vehicles Used as Dwellings

A. General. Recreational vehicles may be parked by an owner on his or her own land for non-rental temporary living purposes as follows:

4. The recreational vehicle shall be accessory to a permanent residential dwelling.
5. Recreational vehicles shall not be connected to the City sanitary sewer system.
6. No more than thirty (30) days per calendar year with no more than fourteen (14) consecutive days for any one stay. Requests for extended time limits requires approval by the City Council through a Variance procedure.
7. Review Procedure. An approved Temporary Use permit is required before any person occupies a recreational vehicle for temporary living purposes. Failure to complete the application form and secure an executed permit in advance is a violation of City Code.

B. Medical Hardship Application. A Medical Hardship Special Use Permit may be issued to an applicant showing an undue hardship. The special use permit shall not exceed the length specified by the permit type. The temporary structure shall be for a Class A, B or C manufactured home (see Sections 10.080 through 10.140) and placed on the caregiver's property in accordance with the provisions that follow. The Special Use Permit application will be reviewed through a Type I procedure. The applicant must demonstrate to the review body, with supporting factual information, that the permit is necessary to provide adequate and immediate health care for a family member in need of close attention who would otherwise be unable to receive the needed attention from the hospital or care facility, or within the primary residence on the property. The manufactured home to be used must meet all city, county, and state health and building requirements and is to be used in conjunction with a permanent residential structure on the same lot. The application for medical hardship special use permit must contain:

1. A written medical report from a licensed physician indicating the nature of the medical or disability hardship and the amount and type of care needed by the affected person or persons.
2. A written explanation including factual information that demonstrates why it is necessary to provide adequate and immediate health care for a family member on-site in a temporary structure, rather than in a hospital or care facility or within the primary residence.
3. A plot plan showing in detail the proposed location of the manufactured home on the site, with respect to the surrounding area, setbacks, existing structures and improvements to be made.
4. A signed petition indicating approval of all property owners located within one hundred (100) feet of the subject property.

C. Medical Hardship Permit. A permit issued for medical hardship will include the following conditions:

1. There shall be no change in occupancy of the manufactured home under the permit.(i.e.the permit is for the original individual for whom the temporary structure is needed.)
2. The manufactured home shall not be expanded or attached to a permanent structure on the property.
3. The manufactured homes shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral without paying a sewer hookup charge.

2.3.160 Temporary Uses

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers,leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, seasonal sales such as Christmas tree sales and vegetable stands, and similar uses. This Code contains permit procedures for three types of temporary uses, Seasonal and Special Events, Temporary Sales Offices and Model Homes, and Temporary Buildings, Trailers, Kiosks, and Other Structures, as follows:

A. Seasonal and Special Events. Through a Type II procedure, pursuant to Section 4.1.030, the City shall approve, approve with conditions, or deny a temporary use application for a Seasonal or Special Event, based on the following criteria:

1. The use is permitted in the underlying zone, and does not violate any conditions of approval for the property (e.g., prior development permit approval).
2. The use occurs only once in a calendar year and for not longer than 30 consecutive days.
3. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval).
4. The applicant, if different than the property owner, has proof of the owner's permission to place the use on the property.
5. Ingress and egress are adequate and do not raise safety concerns when the proposed use is combined with the other uses of the site, pursuant to Chapter 3.3 Access and Circulation.
6. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 3.4 Landscaping and Fences.

7. There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to the Chapter 3.5 Parking and Loading.
8. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 3.6 Public Facilities.
9. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use.
10. The use is adequately served by sewer or septic system and water, as applicable.
11. The applicant shall be responsible for maintaining all required licenses and permits.

B. Temporary Sales Office or Model Home. Through a Type II procedure, pursuant to Section 4.1.030, the City shall approve, approve with conditions, or deny a temporary use application for a Temporary Sales Office or Model Home, based on the following criteria:

1. Temporary sales office. The use of any real property within the City as a temporary sales office, office for the purpose of facilitating the sale of real property, shall meet all of the following criteria:
 - a) The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold.
 - b) The property to be used for a temporary sales office shall not be permanently improved for that purpose.
 - c) Public health, safety, and welfare shall be protected through conditions imposed by the City, regarding temporary utility connections.
2. **Model house.** The use of any real property within the City for a model home, including a model home in any subdivision or on any tract of land within the City, shall meet all of the following criteria:
 - a) Where the model house is located in a Residential zone, it shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated.
 - b) A model house located in a Residential zone shall be designed as a permanent structure that meets all relevant requirements of this Code and other applicable codes and permit requirements.
 - c) A model house located in a non-Residential zone, as with a manufactured home sales display lot, shall be removed when the use of the subject site for home sales ends.

C. Temporary Buildings, Trailers, Kiosks, and Other Structures. Through a Type II procedure, pursuant to Section 4.1.030, the City shall approve, approve with conditions, or deny an application for a placement and use of a temporary building,

trailer, kiosk, or other structure, based on following criteria:

1. The use is permitted in the underlying zone and does not violate any conditions of approval for the property (e.g., prior development permit approval).
2. The applicant, if different than the property owner, has proof of the owner's permission to place the use on the property.
3. The lot development standards of Section 2.2.040 are met.
4. Ingress and egress are adequate and do not raise safety concerns when the proposed use is combined with the other uses of the site, pursuant to Chapter 3.3 Access and Circulation.
5. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 3.4 Landscaping and Fences.
6. There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to the Chapter 3.5 Parking and Loading.
7. The temporary use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 3.6 Public Facilities.
8. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use.
9. The use is adequately served by sewer or septic system and water, as applicable.
10. The structure complies with applicable building codes.
11. Except where specifically authorized by the City Council, the length of time that the temporary structure may remain on a site shall not exceed 6 consecutive months or a total of 6 months in any one calendar year.
12. The applicant has obtained and will maintain all required licenses and permits.
13. Public health, safety, and welfare are protected through the installation of a water meter, if necessary, and other improvements, pursuant to Chapter 3.6 Public Facilities, as necessary.

2.3.170 Accessory Dwelling Units

Accessory dwellings, where allowed, are subject to review and approval through a Type II procedure, pursuant to Section 4.1.030, and shall conform to all of the following standards:

- A. One Unit.** A maximum of one Accessory Dwelling unit is allowed per legal lot.
- B. Lot Size.** The minimum lot size for a lot with an Accessory Dwelling is 6,000 square feet.
- C. Building Design.** Except where specifically authorized by the City Council, the Accessory Dwelling shall be constructed of materials that are the same or similar to the materials used on the primary dwelling. The Accessory Dwelling shall comply with applicable Oregon Structural Specialty Code requirements.
- D. Building Height.** The height of an accessory dwelling shall not exceed the height of the primary dwelling.
- E. Parking.** A minimum of two (2) off-street parking spaces are required, total, for a site containing an Accessory Dwelling unit.
- F. Screening and Buffering.** The City may require a landscape hedge or fence be installed on the property line separating a detached accessory dwelling from an abutting lot containing a single-family dwelling for the purposes of visual screening and privacy between uses. Screening and buffering shall conform to the standards of Chapter 3.4.

2.3.180 Bed and Breakfast Inns

Bed and Breakfast Inns, where allowed, are subject to review and approval through a Type II procedure, pursuant to Section 4.1.030, and shall conform to all of the following standards:

- A. Accessory Use.** The use must be accessory to a permitted residential use.
- B. Maximum Size.** A maximum of six bedrooms for guests, and a maximum of 12 guests are permitted per night.
- C. Length of Stay.** The maximum length of stay is 28 days per guest; any stay longer is classified as a hotel or commercial lodging use.
- D. Employees.** The inn shall have not more than two non-resident employees on-site at any one time. There is no limit on residential employees.
- E. Food Service.** Food service shall be provided only to overnight guests of the business, except where a restaurant use is also an allowed use.
- F. Screening and Buffering.** The City may require a landscape hedge or fence be

installed on the property line separating a detached accessory dwelling from an abutting single-family dwelling for the purposes of visual screening and privacy between uses. Screening and buffering shall conform to the standards of Chapter 3.4.]

2.3.180 Vacation Rental Dwellings (Short Term rentals, Transient Lodging)

Vacation Rental Dwellings, where allowed, are subject to review and approval through a Vacation Rental License - Type II procedure, pursuant to Section 4.1.030. The vacation rental license is in recognition of the desire of many owners to rent their property on a short-term basis and to provide for the orderly use and regulation of such rentals to preserve the health, safety and welfare of the community. This use shall not adversely affect the residential character of the neighborhood. These standards and procedures are in addition to City ordinances and Federal and State laws and regulations. The purpose of an inspection is to ensure the health and welfare of the occupants. Vacation Rental Dwellings shall conform to all of the following standards:

- A.** Except for individual units located on the same property, such as a duplex or triplex, a person holding a vacation rental license or an interest in a property covered by a vacation rental license shall not be eligible to apply for or hold, as a member of a group or any other form of beneficial ownership, a vacation rental license covering any other property. Any change of ownership, in whatever form, shall be reported to the City within thirty (30) days.
- B.** Vacation rentals in the residential zone shall have no more than four (4) bedrooms. (This provision shall be waived for any existing vacation rental as of the effective date of **Ordinance No. ___**, adopted June 1, 2021.)
- C.** A vacation rental shall comply with all applicable laws. Basic visitor rules as provided by the City must be prominently displayed on the inside of the primary exit door.
- D.** Each vacation rental shall have a local contact person who must live within ten (10) miles of the City of Elkton and be available for response to alleged violations within two (2) hours of notification. The contact information for the local contact person shall be kept current with the City of Elkton; identified on the vacation rental application; and available by phone at all reasonable times (8:00 a.m. to 11:00 p.m.) and respond within two (2) hours if there is a problem during the dwelling's use as a vacation rental. The City license, with the name and phone number of the local contact, shall be posted on the front of the vacation rental building, where the public can easily read it. The license placard furnished by the City will be a specific color matched to property management companies, to further assist the public in identifying the responsible party. The house number for the vacation rental shall be prominently displayed on the exterior of the building, using numbers at least four (4) inches in height, and be readily visible from the street. A copy of the local contact person agreement, in a form approved by the City, which lists the duties and responsibilities of the local contact person, signed by both the

property owner and the local contact person, shall be filed with the City, and kept current.

- E.** One on-property parking space shall be provided for each bedroom in the dwelling, but in no event shall fewer than two (2) spaces be provided for the vacation rental. If access to the rental property crosses private property via an easement, right-of-way, or other conveyance, all parking must be contained on the rental property. Owners are required to provide parking that is unimpeded, surfaced, useable and available to renters. The parking shall be mapped and posted in the home, and a copy given to the City with the vacation rental license application, and again whenever the location of designated parking spaces change. The owner shall require renters to use only the parking spaces that are surfaced and marked on the map.
- F.** The maximum number of overnight vehicles allowed on the property shall not exceed the number of surfaced parking areas on the property or six (6) vehicles, whichever is less. Daytime parking is limited to surfaced parking on the property. If access to the rental property crosses private property via an easement, right-of-way, or conveyance, ingress and egress must be accomplished without encroachment on other properties adjoining the privately maintained access road or driveway. In such situations applicants will provide evidence of their right to use the privately maintained access road or driveway consistent with vacation rental before a vacation rental license is granted.
- G.** There shall not be any noise, litter or odor noticeable at or beyond the property line resulting from the use of the dwelling as a vacation rental in violation of this Ordinance.
- H.** The maximum allowable number of overnight occupants shall be two (2) persons per sleeping area plus two (2) additional persons per vacation rental. The rental agent shall match the number of persons and vehicles to the particular property being rented. Advertisements for the rental shall not list a number of occupants that exceeds the number authorized by the City. Recreational vehicles, campers, tents and similar structures shall not be allowed on vacation rental properties. Parking a boat trailer of moderate size, with or without a boat, is permitted as a substitute for one vehicle.
- I.** Weekly solid waste collection service shall be provided. A sufficient number of suitable garbage receptacles shall be provided and must have bear-proof mechanisms. Except on collection day, these garbage receptacles shall not be readily visible from the street. Renters shall be advised not to place trash outside in plastic bags.
- J.** Each vacation rental shall provide and maintain a container for the disposal of cooking grease into a solid waste receptacle to prevent the grease from entering the sewer system.
- K.** All pets must be under control at all times. Methods of control include a leash or demonstrated effective voice command. The person having the control, custody or

possession of a dog shall clean up after the dog by using a dog waste bag or other suitable method.

- L.** Vacation rental licenses are non-transferable.
- M.** The licensee must comply with the requirements of the occupancy tax ordinance as a condition for issuance or renewal of a vacation rental license.
- N.** Licensees shall keep all information current and notify City Hall of any changes in mailing address, email address or agent or contact person. Email addresses, mailing addresses and phone numbers for the owner, local contact person and person responsible for tax reporting shall be kept current with the City. Failure to keep contact information current shall constitute a violation of this chapter.
- O.** Licensees may not advertise a vacation rental for a higher occupancy than the maximum allowable number of overnight occupants listed on the license.
- P.** Vacation rentals shall comply with the standards in this section, whether or not the vacation rental is occupied by a renter, owner, or other person.
- Q.** Inspection License and Annual Fee.
 - 8.** The City shall prepare an application form for a vacation rental license. Prior to issuance of a vacation rental license, the City will inspect the subject property to determine occupancy capacity, parking and access compliance. Upon receipt of the completed application, the annual license fee, inspection and attestation that the licensing standards have been met, the City shall issue a license to the applicant (not the dwelling) for a period of one year. The license may be renewed annually if all standards are met. If a license is renewed annually until at least five (5) consecutive years have elapsed, the City will re-inspect before issuing a license for the sixth (6th) year. The City retains the right to re-inspect the property at any time. Complaints received by the City may trigger a re-inspection. An inspection fee will be assessed for the initial inspection, for additional inspections undertaken due to complaints, and for each five (5) year inspection completed by the City. A vacation rental licensee shall not be required to pay a business occupation license fee in addition to the annual license fee. The annual license and inspection fees shall be set by resolution of the City Council. All fees are non-refundable.
 - 9.** All licenses shall be obtained prior to any rental of the property. The required application and license fee are due on January 1 of each year for the fiscal year commencing with that date and are delinquent on February 1. The delinquency fee will be set by resolution.
- R.** Complaints. All complaints shall be in writing on a form provided by the City and signed by the complainant. The complainant must show or attest that they have made a timely attempt to resolve the issue with the person representatively responsible for management of the property. The complainant is expected to initiate the process while

the out of compliance incident is occurring or when they first become aware that a property is not in compliance with the regulations. All complaints filed with the City shall be verified by the City for validity.

- 10.** When a complaint is filed that is verified by the City to be valid, the owner and local contact person will be notified in writing by mail or email, and provided with a copy of the complaint. Either the owner or the local contact person will be required to meet with a City representative to discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time, City staff will prepare a report for City Council action.
- 11.** Upon a second complaint that is verified by the City to be valid, the owner and local contact person will again be notified in writing by mail or email and provided with a copy of the complaint. Either the owner or local contact person will again be required to meet with a City representative to further discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time, the City Recorder will prepare a report for City Council action.
- 12.** Upon a third complaint within a ninety (90) day period that is verified by the City to be valid, the owner and agent, if any, will be notified in writing by mail or email and provided with a copy of the complaint.
 - a) City staff may schedule a hearing and prepare a report for City Council action.
 - b) The City Council may schedule a hearing.
 - c) Either the City Manager or City Council may, without a hearing, revoke the license immediately.
 - d) In the event that a license is revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the Council shall be filed with the City within fifteen (15) days of the notice of revocation.
- 13.** Standards of judging complaints shall include, but are not limited to, the following:
 - a) Monopoly of on-street parking;
 - b) Noncompliance with vacation rental license standards as stated in Section 2.3.180;
 - c) Other offensive activities not in harmony with the residential neighborhood such as trespass, excessive noise or pets running loose.
- 14.** The City Council, upon hearing the evidence, may: (1) approve the license as it exists; (2) revoke the license; (3) impose appropriate restrictions on the operation of the license.

Chapter 2.4 – Overlay Zones

Sections:

- 2.4.010 **Open Space - Steep Slopes**
- 2.4.020 **Flood Area - Open Space**
- 2.4.030 **Special Historic**
- 2.4.040 **Natural Constraints - Soil Stability**

2.4.010 Open Space - Steep Slopes.

- A. In an O-S zone the following uses and their accessory uses are permitted outright:
 - 1. Forest management.
 - 2. Farm use in accordance with the City's animal ordinance.
 - 3. Fish and wildlife management.
 - 4. The development of water impoundments and canals.
 - 5. Public and privately owned parks, playgrounds, campgrounds, boating facilities, lodges, camps and other such recreational facilities.
 - 6. Fire prevention, detection and suppression facilities.
 - 7. Nursery for the growing, sale and display of trees, shrubs, and flowers.
 - 8. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and churches.
 - 9. Single family dwellings customarily provided in conjunction with a use permitted in this classification, providing residence for the landowner, immediate family members, or an employee, providing that: a minimum average density of 3 acres per dwelling shall be maintained.

2.4.020 Flood Area - Open Space

- A. **Statutory Authorization.** The legislature of the state of Oregon has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

B. Findings of Fact.

1. The flood hazard areas of Elkton are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. Statement of Purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

E. General provisions.

1. **Lands to Which This Chapter Applies.** This chapter shall apply to all areas of special flood hazard within the Elkton city limits.
2. **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Emergency Management Administration in a scientific and engineering report entitled "*The Flood Insurance Study - Douglas County, Oregon and Incorporated Areas Vol 1 and 2*" dated February 17, 2010, and as amended, with accompanying flood insurance maps, as amended, are hereby adopted by reference and declared to be a part of this chapter.
3. **Penalties for Noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$250.00. Each day that a violation of this chapter continues shall be considered a separate offense and in addition, the violator shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Elkton from taking such other lawful action as is necessary to prevent or remedy any violation.
4. **Abrogation and Greater Restrictions.** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
5. **Interpretation.** In the interpretation and application of this chapter, all provisions shall be:
 - a) Considered as minimum requirements;
 - b) Liberally construed in favor of the governing body; and

- c) Deemed neither to limit or repeal any other powers granted under state statutes.

6. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Elkton, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

F. Establishment of Development Permit.

1. **Development Permit Required.** A development permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be for all structures including manufactured homes, and for all development including fill and other activities.
2. **Application for Development Permit.** Application for a development permit shall be made on forms furnished by Elkton and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
3. Specifically, the following information is required:
 - a) a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
 - b) Elevation in relation to mean sea level to which any structure has been floodproofed;
 - c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the minimum floodproofing criteria; and
 - d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

G. Designation of the Responsible Local Administrator. The Planning Official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

H. Duties and Responsibilities of the Local Administrator. Duties of the Planning Official or designee shall include, but not be limited to:

1. Permit Review.

- a) Review all development permit applications to determine that the permit

requirements of this chapter have been satisfied;

- b) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required;
- c) Review all development permit applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of this chapter are met.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided, the Planning Official or designee shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Subsection (1)(2), Specific Standards, and (3), Floodways.

3. Information to Be Obtained and Maintained.

- a) Where base flood elevation data is provided through the flood insurance study, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed structures:
 - i. Verify and record the actual elevation (in relation to mean sea level);
 - ii. Maintain the floodproofing certifications required in subsection (A)(2)(c) of this section; and
 - iii. Maintain for public inspection all records pertaining to the provisions of this chapter.

4. Alteration of Watercourses.

- a) Notify adjacent communities and the Department of Land Conservation and Development and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.

I. Provisions for flood hazard reduction.

1. General Standards. In all areas of special flood hazard, the flooding standards are required:

- a) **Anchoring.**
 - iv. All new construction and substantial improvements shall be anchored to

- prevent flotation, collapse, or lateral movement of the structure.
- v. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's Manufactured Home Installation in Flood Hazard Areas guidebook for additional techniques).
- b) **Construction Materials and Methods.**
- vi. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - vii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - viii. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- c) **Utilities.**
- ix. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - x. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
 - xi. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- d) **Subdivision Proposals.**
- i. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - iv. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).
- e) **Review of Development Permits.** Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for development permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

2. Specific Standards. In all areas of special flood hazard where base flood elevation

data has been provided, the following provisions are required:

a) **Residential Construction.**

- i. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
- ii. Fully enclosed areas below the lowest floor, including crawlspaces, are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - The bottom of all openings shall be no higher than one foot above grade.
 - Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
 - The structure must be adequately anchored to resist flotation, collapse, and lateral movements of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - Portions of the building below an elevation equal to the base flood elevation (BFE) must be constructed by methods and practices that minimize flood damages.
 - That electrical, heating, ventilation, plumbing and air conditioning equipment and other building utility systems within areas below the lowest floor must be elevated above base flood elevation (BFE) so that floodwaters cannot enter or accumulate within the system components during flood conditions and must comply with FEMA standards for utility systems in crawlspaces.
 - If a crawlspace foundation is used, anticipated floodwater velocities should not exceed five feet per second. For velocities in excess of five feet per second, other foundation types should be used.
- iii. A below-grade crawlspace may be constructed, provided the following provisions are met, in addition to the minimum criteria set forth in subsection (B)(1)(b) of this section:
 - That the interior grade of the crawlspace is no lower than two feet below the lowest adjacent grade;
 - That the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the crawlspace foundation does not exceed four feet at any point;
 - There must be an adequate drainage system that removes floodwaters

from the interior of the crawlspace within a time after a flood event.

- b) **Nonresidential Construction.** New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
- i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Planning Official.
 - iv. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor.
 - v. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).
 - vi. Applicants shall supply a comprehensive maintenance plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.
 - vii. Applicants shall supply an emergency action plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.
- c) **Manufactured Homes.**
- i. All manufactured homes to be placed or substantially improved within zones A1 – A30, AH, and AE on the community’s FIRM shall be elevated on a permanent foundation such that the bottom of the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement, on sites:
 - Outside of a manufactured home park or subdivision;
 - In a new manufactured home park or subdivision;
 - In an expansion to an existing manufactured home park or subdivision; or

- In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood.
- ii. Manufactured homes to be placed or substantially improved on site in an existing manufactured home park or subdivision within zones A1 – A30, AH, and AE on the community’s FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:
 - The bottom of the lowest floor of the manufactured home is elevated one foot above the base flood elevation; or
 - The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.
- d) **Recreational Vehicles.** Recreational vehicles placed on sites within zones A1 – A30, AH, and AE on the community’s FIRM shall either:
 - i. a. Be on the site for fewer than 180 consecutive days;
 - ii. b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - iii. c. Meet the requirements of subsection (B)(3) of this section and the elevation and anchoring requirements for manufactured homes.
- e) **Small Accessory Structures.** Relief from elevation or floodproofing as required in subsection (B)(1) or (B)(2) of this section may be granted for small accessory structures that are:
 - i. Less than 200 square feet and do not exceed one story;
 - ii. Not temperature controlled;
 - iii. Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;
 - iv. Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with this title or stored at least one foot above base flood elevation;
 - v. Located and constructed to have low damage potential;
 - vi. Constructed with materials resistant to flood damage;
 - vii. Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
 - viii. Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional

engineer or architect or:

- Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
 - Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.
- ix. Constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- f) **Below-Grade Crawlspace.** Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:
- i. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in subsection (B) of this section. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
 - ii. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.
 - iii. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
 - iv. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
 - v. The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.
 - vi. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point. The height limitation is the maximum

allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

- vii. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
- viii. The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

For more detailed information refer to FEMA Technical Bulletin 20-07.

- 3. Floodways.** Located within areas of special flood hazard established in JCMC 17.80.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - b) If subsection (3)(a) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
 - c) Projects for stream habitat restoration may be permitted in the floodway provided:
 - i. The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and
 - ii. A qualified professional (a registered professional engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and
 - iii. No structures would be impacted by a potential rise in flood elevation; and
 - iv. An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.
 - d) Temporary structures placed in the floodway: Relief from no-rise evaluation, elevation or dry floodproofing standards may be granted for a nonresidential

structure placed during the dry season (June through October) and for a period of less than 90 days. A plan for the removal of the temporary structure after the dry season or when a flood event threatens shall be provided. The plan shall include disconnecting and protecting from water infiltration and damage all utilities servicing the temporary structure.

- e) Temporary storage of goods and materials, not including hazardous materials, is allowed in the floodway for a period of less than 90 days within the dry season (June through October).

4. Encroachments. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

5. Standards for Shallow Flooding Areas (AO Zones). Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

- a) 1. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).
- b) 2. New construction and substantial improvements of nonresidential structures with AO zones shall either:
 - i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 - ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.
- c) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- d) Recreational vehicles placed on sites within AO zones on the community's FIRM shall either:
 - iii. Be on the site for fewer than 180 consecutive days;
 - iv. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

- v. Meet the requirements of this subsection and the elevation and anchoring requirements for manufactured homes.
- 6. Critical Facility.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

2.4.030 Special Historic (SH)

- A. Purpose.** To maintain recognized historic areas and preserve their character.
- B. Designation.** Areas, sites, structures or objects eligible for this designation must have local, regional, statewide, or national historical significance.
- C. Procedure.** No building or structure which is designated Special Historic Overlay shall be erected, altered, removed, demolished, or moved without first obtaining specific approval of the City Council. Review shall include uses, buildings, site layout, signs and exteriors of all buildings. The City Council at a public hearing may approve, approve with conditions or deny the proposed action. Such decision by the Council shall take effect thirty (30) days from the date of the hearing and shall be conveyed to the applicant in writing.
- D. Criteria.** In reviewing such proposals the following shall be considered:
 - 1. Compatibility of the proposed alterations or uses with the nature of the historic site and surrounding area.
 - 2. Degree of retention of the distinguishing qualities of the site or building.
 - 3. Maintaining architectural features by repairing existing features or replacing with similar features.
- E. State and National Sites.** Prior to demolition or remodeling of any historical sites or structures identified through the State of Oregon Inventory of Historical Sites and Buildings or on the National Register, the City Council will be provided at least thirty (30) days notice to poll community attitudes and pursue potential funding for restoration or purchase of the structure

2.4.040 Natural Constraints - Soil Stability (NC-1)

- A. Intent.** This zone is an overlay zone to provide protection to persons and property from hazards due to landslides, earthquakes, and weak foundation soils. The requirements of this zone apply in addition to those of the underlying zoning district. If there are any conflicts, the requirements of the NC-1 zone supersede the requirements of the underlying district.
- B. Allowed Uses.** Any use allowed in the zone with which the NC-1 zone is combined, subject to the additional requirements specified herein:
1. On property of 15% or greater slope, the proponent of a development shall supply to the Douglas County Building Department a report prepared by an engineering geologist, soil engineer, or structural engineer, presenting data necessary to determine if the site is capable of supporting the proposed structure, and if so, by what method. Engineering calculations and assumptions shall be submitted with the report.
 2. In addition, the proponent of any land partition or subdivision shall show proposed building sites and proposed access roads to each building site and provide a report prepared by an engineering geologist, soil engineer or structural engineer presenting data necessary to determine if the site is capable of supporting buildings allowed in the zone and the proposed access roads, or presenting structural design to ensure the site is capable of supporting the buildings and access roads.

Article 3 - Community Design Standards

Chapters:

1. Design Standards Administration
2. Building Orientation and Design
3. Access and Circulation
4. Landscaping, Fences, and Walls
5. Parking and Loading
6. Public Facilities
7. Signs

Chapter 3.1 - Design Standards Administration

Sections:

3.1.010 Purpose
3.1.020 Applicability

3.1.010 Purpose

Article 3 contains design standards for the built environment. The standards are intended to protect the public health, safety, and welfare through multimodal accessibility and interconnectivity, and through the provision of parking, landscaping, and adequate public facilities.

3.1.020 Applicability

The provisions Article 3 apply to permits and approvals granted under this Code, and other City actions, as summarized in Table 3.1.020.

Table 3.1.020 Applicability of Design Standards to Approvals and Permits						
Approvals*	3.2 Building Design	3.3 Access Circ.	3.4 Land- scapes & Screening	3.5 Parking & Load- ing	3.6 Public Facili- ties	3.7 Signs
Zoning Checklist Review	Review and determine whether land use application is required.					
Access or Approach Permit	N	Y	N	Y	Y	N
Adjustment	Individual chapters may apply, depending on the adjustment request.					
Annexation	N	N	N	N	Y	N
Building Permit	The City reviews building plan proposals through a Type I procedure and determine which standards apply.					
Code Interpretation	Standards are subject to City interpretation under Chapter 1.5.					
Code Text Amendment	Chapters apply where amendment affects design standards.					
Comprehensive Plan Map Amendment	N	N	N	N	Y	N
Conditional Use Permit	Y	Y	Y	Y	Y	Y

Home Occupation	N	N	N	N	N	Y
Legal Lot Determination	N	Y	N	N	Y	N
Modification to Approval or Condition of Approval	Individual chapters may apply, depending on the modification request.					
Non-Conforming Use or Structure, Expansion of	Y	Y	Y	Y	Y	Y
Partition or Re-plat of 2-3 lots(See also, Chapter 4.3)	Y (if bldg exist s)	Y	Y (if bldg exist s)	Y (if bldg exist s)	Y	N
Property Line Adjustments, including Lot Consolidations(See also, Chapter 4.3)	Y (if bldg exist s)	Y	Y (if bldg exist s)	Y (if bldg exist s)	Y	N
Site Plan Review (See also, Chapter 4.2)	Y	Y	Y	Y	Y	Y
Subdivision or Replat of >3 lots(See also, Chapter 4.3)	Y (if bldg exist s)	Y	Y (if bldg exist s)	Y (if bldg exist s)	Y	N
Adjustments	Individual chapters may apply, depending on the variance request.					
Zoning District Map Change	N	N	N	N	Y	N

* The applicant may be required to comply with the design standards of other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this Code.

Chapter 3.2 – Building Orientation and Design

Sections:

3.2.010	Purpose
3.2.020	Applicability
3.2.030	Residential Buildings
3.2.040	Non-Residential Buildings
3.2.050	Drive-Up and Drive-Through Uses and Facilities

3.2.010 Purpose

Chapter 3.2 regulates the placement, orientation, and design of buildings. The regulations are intended to protect public health, safety, and welfare through clear and objective standards that promote land use compatibility and livability, while protecting property values and ensuring predictability in the development process. In summary, Chapter 3.2 is intended to create and maintain a built environment that:

- A.** is conducive to walking and bicycling;
- B.** provides natural surveillance of public spaces, or “eyes on the street,” for crime prevention and security;
- C.** reduces dependency on the automobile for short trips, thereby conserving energy and reducing unwanted congestion;
- D.** encourages the use of water-conserving landscaping;
- E.** allows for the integration of surface water management facilities within parking lots and landscape areas;
- F.** supports small-scale energy generation, through the use of solar, wind, and renewable sources; and
- G.** creates a sense of place that is consistent with the character of the community, including historical development patterns and the community vision.

3.2.020 Applicability

Chapter 3.2 applies to all new buildings, and exterior alterations to existing buildings.

3.2.030 Residential Buildings

- A. Purpose.** The following requirements are intended to create and maintain a built environment that is conducive to walking; reduces dependency on the automobile for short trips; provides natural surveillance of public spaces; addresses the orientation

and design of garages; creates a human-scale design, e.g., with buildings placed close to streets or other public ways and large building walls divided into smaller planes with detailing; and maintains the historic integrity of the community.

B. Building Orientation. Residential buildings that are subject to the provisions of this chapter, pursuant to Section 3.2.020, shall conform to all of the following standards:

- 1. Building Orientation to Street.** Except as provided below, dwelling units shall orient toward a street, have a primary entrance opening toward the street, and be connected to the right-of-way with an approved walkway or residential front yard.
 - a) A dwelling may have its primary entrance oriented to a yard other than the front or street yard where the only permitted access to the property is from a shared driveway or flag lot drive and orienting the dwelling entrance to the street is not practical due to the layout of the lot and driveway.
 - b) Where there is no adjacent street to which a dwelling may be oriented, or it is not practical to orient a dwelling to an adjacent street due to lot layout, topographic, or other characteristics of the site, the dwelling may orient to a walkway, courtyard, open space, common area, lobby, or breezeway (i.e., for multiple family buildings).
 - c) Where a flag lot is permitted, building orientation shall conform to the provisions for flag lots under Chapter 4.3.
- 2. Limitation on Parking Between Primary Entrance and Street.** Off-street parking is not allowed between a primary building entrance and the street to which it is oriented, except that assisted living facilities, group care facilities, and similar institutional-residential uses serving clients with disabilities may have one driveway located between the primary building entrance and an adjacent street as required to serve as a drop-off or loading zone, provided the primary building entrance shall connect to an adjacent street by a pedestrian walkway that conforms to the standards of Section 3.3.030. The intent of this exception is to provide for one drop-off or loading zone while maintaining a direct, convenient, and safe pedestrian access to a primary building entrance.
- 3. Build-to Line.** Where a new building is proposed in a zone that requires a build-to line per Section 2.2.040, the building shall comply with the build-to line standard and the development shall meet the standards for pedestrian access under Section 3.3.030.

C. Garages. The following standards apply to all types of vehicle storage, including, but not limited to, buildings, carports, canopies, and other permanent and temporary structures. The standards are intended to balance residents' desire for a convenient, safe, and private vehicle access to their homes with the public interest in maintaining safe and aesthetically pleasing streetscapes. The standards therefore promote pedestrian safety and visibility of public ways, while addressing aesthetic concerns associated with street-facing garages.

1. **Alleys and Shared Drives.** Where a dwelling abuts a rear or side alley, or a shared driveway, including flag lot drives, the garage or carport opening(s) for that dwelling shall orient to the alley or shared drive, as applicable, and not a street.
2. **Setback for Garage Opening Facing Street.** No garage or carport opening shall be placed closer than 20 feet to a street right-of-way; except where the City approves a reduced setback and parking in front of garages is restricted.

3.2.040 Non-Residential Buildings

- A. Purpose and Applicability.** The following requirements apply non-residential development, including individual buildings and developments with multiple buildings such as shopping centers, office complexes, mixed-use developments, and institutional campuses. The standards are intended to create and maintain a built environment that is conducive to pedestrian accessibility, reducing dependency on the automobile for short trips, while providing civic space for employees and customers, supporting natural surveillance of public spaces, and creating human-scale design. The standards require buildings placed close to streets, with storefront windows (where applicable), with large building walls divided into smaller planes, and with architectural detailing. The standards are also intended to promote compatibility with the historic development pattern of the community.
- B. Building Orientation.** The following standards apply to new buildings and building additions that are subject to Site Plan Review. The City Council or designee may approve adjustments to the standards as part of a Site Plan Review approval, pursuant to Chapter 4.2 and Chapter 4.7, respectively.
 1. Except as provided in subsections 3.2.040.C(5)-(6), below, all buildings shall have at least one primary entrance (i.e., tenant entrance, lobby entrance, breezeway entrance, or courtyard entrance) facing an abutting street (i.e., within 45 degrees of the street property line); or if the building entrance must be turned more than 45 degrees from the street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk in conformance with Section 3.3.030.
 2. Off-street parking, trash storage facilities, and ground-level utilities (e.g., utility vaults), and similar obstructions shall not be placed between building entrances and the street(s) to which they are oriented. To the extent practicable, such facilities shall be oriented internally to the block and accessed by alleys or driveways.
 3. Off-street parking shall be oriented internally to the site to the extent practicable, and shall meet the Access and Circulation requirements of Chapter 3.3, the Landscape and Screening requirements of Chapter 3.4, and the Parking and Loading requirements of Chapter 3.5.

4. Where a development contains multiple buildings and there is insufficient street frontage to meet the above building orientation standards for all buildings on the subject site, a building's primary entrance may orient to plaza, courtyard, or similar pedestrian space containing pedestrian amenities and meeting the requirements under Section 2.3.090, subject to Site Plan Review approval. When oriented this way, the primary entrance(s), plaza, or courtyard shall be connected to the street by a pedestrian walkway conforming to Section 3.3.030.

C. Primary Entrances and Windows. The following standards apply to new buildings and building additions that are subject to Site Design Review. The City Council may approve adjustments to the standards as part of a Site Plan Review approval, pursuant to Chapter 4.2 and Chapter 4.7, respectively.

1. **All Elevations of Building.** Architectural designs shall address all elevations of a building. Building forms, detailing, materials, textures, and color shall contribute to a unified design with architectural integrity. Materials used on the front façade must turn the building corners and include at least a portion of the side elevations, consistent with the building's overall composition and design integrity.
2. **Pedestrian Entrances.** Ground level entrances oriented to a street shall be at least partly transparent for natural surveillance and to encourage an inviting and successful business environment. This standard may be met by providing a door with a window(s), a transom window above the door, or sidelights beside the door. Where ATMs or other kiosks are proposed on any street-facing elevation, they shall be visible from the street for security and have a canopy, awning, or other weather protection shelter.
3. **Street Level Entrances.** All primary building entrances shall open to the sidewalk and shall conform to Americans with Disabilities Act (ADA) requirements, as applicable. Primary entrances above or below grade may be allowed where ADA accessibility is provided.
4. **Windows – General.** Except as approved for parking structures or accessory structures, the front/street-facing elevations of buildings shall provide display windows, windowed doors, and where applicable, transom windows to express a storefront character.
5. **Storefront Windows.** Storefront windows shall consist of framed picture or bay windows, which may be recessed. The ground floor, street-facing elevation(s) of all buildings shall comprise at least 50 percent transparent windows, measured as a section extending the width of the street-facing elevation between the building base and a plane 72 inches above the sidewalk grade.
6. **Exceptions.** The City Council may approve an exception to the above standards

where existing topography makes compliance impractical. Where an exception to the window transparency requirement is made for parking garages or similar structures, the building design must incorporate openings or other detailing that resembles the window patterns (rhythm and scale).

D. Mechanical Equipment

- 1. Building Walls.** Where mechanical equipment, such as utility vaults, air compressors, generators, antennae, satellite dishes, or similar equipment, is permitted on a building wall that abuts a public right-of-way or civic space, it shall be screened pursuant to Chapter 3.4. Standpipes, meters, vaults, and similar equipment need not be screened but shall not be placed on a front elevation when other practical alternatives exist; such equipment shall be placed on a side or rear elevation where practical.
- 2. Rooftops.** Except as provided below, rooftop mechanical units shall be setback or screened behind a parapet wall so that they are not visible from any public right-of-way or civic space. Where such placement and screening is not practicable, the City Council or designee may approve painting of mechanical units in lieu of screening; such painting may consist of muted, earth-tone colors that make the equipment visually subordinate to the building and adjacent buildings, if any.
- 3. Ground-Mounted Mechanical Equipment.** Ground-mounted equipment, such as generators, air compressors, trash compactors, and similar equipment, shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings. Hedges, trellises, and similar plantings may also be used as screens where there is adequate air circulation and sunlight, and irrigation is provided. The City may require additional setbacks and noise attenuating equipment for compatibility with adjacent uses.

3.2.050 Drive-up and Drive-through Uses and Facilities

- A. Purpose.** Where drive-up or drive-through uses and facilities are allowed, they shall conform to all of the following standards, which are intended to calm traffic, provide for adequate vehicle queuing space, prevent automobile turning movement conflicts, and provide for pedestrian comfort and safety.
- B. Standards.** Drive-up and drive-through facilities (i.e., driveway queuing areas, customer service windows, teller machines, kiosks, drop-boxes, or similar facilities) shall meet all of the following standards:
 - 1.** The drive-up or drive-through facility shall orient to and receive access from a driveway that is internal to the development and not a street, as generally illustrated.

2. Drive-up and drive-through queuing areas shall be designed so that vehicles will not obstruct any street, fire lane, walkway, bike lane, or sidewalk.

Chapter 3.3 - Access and Circulation

Sections:

3.3.010	Purpose
3.3.020	Applicability
3.3.030	Vehicular Access and Circulation
3.3.040	Pedestrian Access and Circulation

3.3.010 Purpose

Chapter 3.3 contains standards for vehicular and pedestrian access, circulation, and connectivity. The standards promote safe, reasonably direct, and convenient options for walking and bicycling, while accommodating vehicle access to individual properties, as needed.

3.3.020 Applicability

Chapter 3.3 applies to new development and changes in land use necessitating a new or modified street or highway connection. Except where the standards of a roadway authority other than the City supersede City standards, Chapter 3.3 applies to all connections to a street or highway, and to driveways and walkways. The City Council, through a Type-II procedure, may grant adjustments to Chapter 3.2, pursuant to the criteria of Chapter 4.7 Adjustments and Variances. For street improvement requirements, refer to Section 3.6.020.

3.3.030 Vehicular Access and Circulation

- A. Purpose and Intent.** Section 3.3.030 serves as the street access management policy of the City of Elkton until such time as the City adopts a Transportation System Plan. It is intended to promote safe vehicle access and egress to properties, while maintaining traffic operations in conformance with adopted standards. "Safety," for the purposes of this chapter, extends to all modes of transportation.
- B. Permit Required.** Vehicular access to a public street (e.g., a new or modified driveway connection to a street or highway) requires an approach permit approved by the applicable roadway authority. The Planning Official reviews permit requests for connections to City streets through the Site Plan Review Type I procedure.
- C. Traffic Study Requirements.** The City, in reviewing a development proposal or other action requiring an approach permit, may require a traffic impact analysis, pursuant to Section 3.6.020, to determine compliance with this code.
- D. Approach and Driveway Development Standards.** Approaches and driveways shall conform to all of the following development standards:

1. The number of approaches on higher classification streets (e.g., collector and arterial streets) shall be minimized; where practicable, access shall be taken first from a lower classification street.
2. Approaches shall conform to the spacing standards of subsections E and F, below, and shall conform to minimum sight distance and channelization standards of the roadway authority.
3. Driveways shall meet applicable Public Works construction standards. Where permeable paving surfaces are allowed or required, such surfaces shall conform to applicable Engineering Design Standards.
4. The City Council may limit the number or location of connections to a street, or limit directional travel at an approach to one-way, right-turn only, or other restrictions, where the roadway authority requires mitigation to alleviate safety or traffic operations concerns.
5. Where the spacing standards of the roadway authority limit the number or location of connections to a street or highway, the City Council may require a driveway extend to one or more edges of a parcel and be designed to allow for future extension and inter-parcel circulation as adjacent properties develop. The City Council may also require the owner(s) of the subject site to record an access easement for future joint use of the approach and driveway as the adjacent property(ies) develop(s).
6. Where applicable codes require emergency vehicle access, approaches and driveways shall be designed and constructed to accommodate emergency vehicle apparatus and shall conform to applicable fire protection requirements. The City Council may restrict parking, require signage, or require other public safety improvements pursuant to the recommendations of an emergency service provider.
7. As applicable, approaches and driveways shall be designed and constructed to accommodate truck/trailer-turning movements.
8. Except where the City Council and/or ODOT, as applicable, permit an open access with perpendicular or angled parking (See Section 3.3.030.J), driveways shall accommodate all projected vehicular traffic on-site without vehicles stacking or backing up onto a street.
9. Driveways shall be designed so that vehicle areas, including, but not limited to, drive-up and drive-through facilities and vehicle storage and service areas, do not obstruct any public right-of-way.
10. Approaches and driveways shall not be wider than necessary to safely accommodate projected peak hour trips and turning movements, and shall be

designed to minimize crossing distances for pedestrians.

- 11.** As it deems necessary for pedestrian safety, the City Council, in consultation with ODOT, as applicable, may require that traffic-calming features, such as speed tables, textured driveway surfaces (e.g., pavers or similar devices), curb extensions, signage or traffic control devices, or other features, be installed on or in the vicinity of a site as a condition of development approval.
- 12.** Construction of approaches along acceleration or deceleration lanes, and along tapered (reduced width) portions of a roadway, shall be avoided; except where no reasonable alternative exists and the approach does not create safety or traffic operations concern.
- 13.** Approaches and driveways shall be located and designed to allow for safe maneuvering in and around loading areas, while avoiding conflicts with pedestrians, parking, landscaping, and buildings.
- 14.** Where sidewalks or walkways occur adjacent to a roadway, driveway aprons constructed of concrete shall be installed between the driveway and roadway edge. The roadway authority may require the driveway apron be installed outside the required sidewalk or walkway surface, consistent with Americans with Disabilities Act (ADA) requirements, and to manage surface water runoff and protect the roadway surface.
- 15.** Where an accessible route is required pursuant to ADA, approaches and driveways shall meet accessibility requirements where they coincide with an accessible route.
- 16.** The Public Works Director or designee may require changes to the proposed configuration and design of an approach, including the number of drive aisles or lanes, surfacing, traffic-calming features, allowable turning movements, and other changes or mitigation, to ensure traffic safety and operations.
- 17.** Where a new approach onto a state highway or a change of use adjacent to a state highway requires ODOT approval, the applicant is responsible for obtaining ODOT approval. The City Council may approve a development conditionally, requiring the applicant first obtain required ODOT permit(s) before commencing development, in which case the City will work cooperatively with the applicant and ODOT to avoid unnecessary delays.
- 18.** Where an approach or driveway crosses a drainage ditch, canal, railroad, or other feature that is under the jurisdiction of another agency, the applicant is responsible for obtaining all required approvals and permits from that agency prior to commencing development.

19. Where a proposed driveway crosses a culvert or drainage ditch, the City Council may require the developer to install a culvert extending under and beyond the edges of the driveway on both sides of it, pursuant to applicable Public Works Design Standards and/or Oregon Standard Specifications for Construction.

20. Except as otherwise required by the applicable roadway authority or waived by the Public Works Director, temporary driveways providing access to a construction site or staging area shall be paved or graveled to prevent tracking of debris onto adjacent paved streets.

E. Approach Separation from Street Intersections. Except as provided by Section 3.3.030.H, the following minimum distances shall be maintained between approaches and street intersections, where distance is measured from the edge of an approach surface to the edge of the roadway at its ultimate designated width:

1. On an arterial street: 75 feet, except as required by ODOT, pursuant to Oregon Administrative Rule (OAR) 734-051, for state highways
2. On a collector street: 50 feet
3. On a local street: 25 feet

F. Approach Spacing. Except as provided by Section 3.3.030.H or as required to maintain street operations and safety, the following minimum distances shall be maintained between approaches, where distance is measured from the edge of one approach to the edge of another:

1. On an arterial street: 150-300 feet based on speed limit or posted speed, as applicable, except as otherwise required by ODOT for a state highway, pursuant to Oregon Administrative Rules (OAR) 734-051
2. On a collector street: 50 feet
3. On a local street: 20 feet. The City Council may approve closer spacing where necessary to provide for on-street parking (e.g., between paired approaches)

G. Vision Clearance. No visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) between three (3) feet and eight (8) feet in height shall be placed in "vision clearance areas" at street intersections. Vision Clearance Area shall be defined as the triangular area measuring 15 feet from the apex of the adjoining right-of-way in each direction. The minimum vision clearance area may be modified by the Planning Official through a Type I procedure, upon finding that more or less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). Placement of light poles, utility poles, and tree trunks should be avoided within vision clearance areas.

- H. Exceptions and Adjustments.** The Public Works Director or designee may approve adjustments to the spacing standards of subsections E and F, above, where an existing connection to a City street does not meet the standards of the roadway authority and the proposed development moves in the direction of code compliance. The City Council through a Type II procedure may also approve a deviation to the spacing standards on City streets where it finds that mitigation measures, such as consolidated access (removal of one access), joint use driveways (more than one property uses same access), directional limitations (e.g., one-way), turning restrictions (e.g., right-in/right-out only), or other mitigation alleviate all traffic operations and safety concerns.
- I. Joint Use Access Easement and Maintenance Agreement.** Where the City approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the City for its records, but the City is not responsible for maintaining the driveway or resolving any dispute between property owners.

3.3.040 Pedestrian Access and Circulation

- A. Purpose and Intent.** Section 3.3.040 serves as the pedestrian access and circulation policy of the City of Elkton until such time as the City adopts a Transportation System Plan. It is intended to provide for safe, reasonably direct, and convenient pedestrian access and circulation.
- B. Standards.** Developments shall conform to all of the following standards for pedestrian access and circulation:
- 1. Continuous Walkway System.** A pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any, and to all future phases of the development, as applicable.
 - 2. Safe, Direct, and Convenient.** Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas, playgrounds, and public rights-of-way conforming to the following standards:
 - a) The walkway is reasonably direct. A walkway is reasonably direct when it follows a route that does not deviate unnecessarily from a straight line or it does not involve a significant amount of out-of-direction travel.
 - b) The walkway is designed primarily for pedestrian safety and convenience, meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The Planning Official or Designee may require landscape buffering between

walkways and adjacent parking lots or driveways to mitigate safety concerns.

- c) The walkway network connects to all primary building entrances, consistent with the building design standards of Chapter 3.2 and, where required, Americans with Disabilities Act (ADA) requirements.

- 3. Vehicle/Walkway Separation.** Except as required for crosswalks, per subsection 4, below, where a walkway abuts a driveway or street it shall be raised six (6) inches and curbed along the edge of the driveway or street. Alternatively, the Public Works Director may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is physically separated from all vehicle-maneuvering areas. An example of such separation is a row of bollards (designed for use in parking areas) with adequate minimum spacing between them to prevent vehicles from entering the walkway.
- 4. Crosswalks.** Where a walkway crosses a parking area or driveway (“crosswalk”), it shall be clearly marked with contrasting paving materials (e.g., pavers, light-color concrete inlay between asphalt, or similar contrasting material). The crosswalk may be part of a speed table to improve driver-visibility of pedestrians.
- 5. Walkway Width and Surface.** Walkways, including access ways required for subdivisions pursuant to Chapter 4.3, shall be constructed of concrete, asphalt, brick or masonry pavers, or other durable surface, as approved by the Public Works Director, and not less than 5 feet wide. Multi-use paths (i.e., designed for shared use by bicyclists and pedestrians) shall be concrete or asphalt and shall conform to the transportation standards of Section 3.6.020.
- 6. Walkway Construction.** Walkway surfaces may be concrete, asphalt, brick or masonry pavers, or other City-approved durable surface meeting ADA requirements. Walkways shall be not less than four (4) feet in width, except that concrete walkways a minimum of six (6) feet in width are required in commercial developments and where access ways are required for subdivisions under Chapter 4. The City Council may also require six (6) foot wide, or wider, concrete sidewalks in other developments where pedestrian traffic warrants walkways wider than four (4) feet.

Chapter 3.4 - Landscaping, Fences, Walls & Outdoor Lighting

Sections:

3.4.010	Purpose
3.4.020	Applicability
3.4.030	Landscaping and Screening
3.4.040	Fences and Walls
3.5.050	Outdoor Lighting

3.4.010 Purpose

Chapter 3.4 contains standards for landscaping and screening, fences, and accessory walls. The regulations are intended to protect public health, safety, and welfare by reducing development impacts (e.g., glare, noise, and visual impacts) on adjacent uses; minimizing erosion; slowing the rate of surface water runoff, thereby reducing infrastructure costs; buffering pedestrians from vehicle maneuvering areas; cooling buildings and parking lots in summer months with shade; and enhancing the city's appearance.

3.4.020 Applicability

- A.** Section 3.4.030 establishes design standards for landscaping and screening. Projects requiring Site Design Review or Land Division approval shall meet the landscape standards of the applicable zone, including the standards in Table 2.2.040 and any Special Use requirements under Chapter 2.4, and the requirements of Section 3.4.030. Property owners are required to maintain landscaping and screening pursuant to subsection 3.4.030.G.
- B.** Section 3.4.040 establishes design standards for when a fence or a wall not attached to a building is to be erected, extended, or otherwise altered. It also applies to situations where this code requires screening or buffering (e.g., outdoor or unenclosed storage uses). The standards of Section 3.4.040 supplement the development standards in Table 2.2.040 and any applicable Special Use requirements under Chapter 2.4.

3.4.030 Landscaping and Screening

- A. General Landscape Standard.** All portions of a lot not otherwise developed with buildings, accessory structures, vehicle maneuvering areas, or parking shall be landscaped.
- B. Minimum Landscape Area.** All new development shall conform to the minimum landscape area standards of the applicable zoning district, as contained in Table 2.2.040. The City Council or designee, consistent with the purposes in Section 3.4.010, may allow credit toward the minimum landscape area for existing vegetation that is

retained in the development.

C. Plant Selection. A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions, among other factors. When new vegetation is planted, soils shall be amended and irrigation shall be provided, as necessary, to allow for healthy plant growth. The selection of plants shall be based on all of the following standards and guidelines:

1. At the time of planting, trees shall be planted a minimum of two inches (DBH) in caliper and shrubbery a minimum of 24 inches in height. Bark mulch, rocks and similar non-plant material may be used to complement the cover requirement, but shall not be considered a sole substitute for the vegetative ground cover requirement
2. Bark dust, chips, aggregate, or other non-plant ground covers may be used, but shall cover not more than 20 percent of any landscape area. Non-plant ground covers cannot be a substitute for required ground cover plants.
3. Where plants are used to screen outdoor storage or mechanical equipment, the selected plants shall have growth characteristics that are compatible with such features.
4. Landscape plans shall provide for both temporary and permanent erosion control measures, which shall include plantings where cuts or fills, including berms, swales, storm water detention facilities, and similar grading, is proposed.
5. The use of native and/or drought-tolerant landscaping is encouraged. All commercial landscaping shall be irrigated with a permanent irrigation system unless a licensed landscape architect submits written verification that the proposed plant materials do not require irrigation. The property owner shall maintain all landscaping.

D. Parking Lot Landscaping. All of the following standards shall be met for parking lots. If a development contains multiple parking lots, then the standards shall be evaluated separately for each parking lot.

1. If four or more off-street parking spaces are required under this code, then off-street parking and maneuvering areas adjacent to public streets and drives shall provide a minimum of two square feet of landscaping for each lineal foot of street and/or drive frontage. Such landscaping shall consist of landscaped berms or evergreen shrubbery at least two feet in height upon maturity, which shall be parallel to and adjacent to the street frontage and drive as much as practical. Additionally, one tree, which will provide a canopy of at least 300 square feet upon maturity, shall be provided for each 30 lineal feet of street frontage or fraction thereof. Said landscaping shall be provided with irrigation facilities and protective

curbs or raised wood headers.

2. Parking lots with 20 or more spaces shall comply with the following interior landscaping standards:
 - a) A minimum of 10 percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of evenly distributed shade trees with shrubs and/or ground cover plants. There shall be one planter island for every 10 parking spaces. Planter islands shall be a minimum of eight feet in width (exclusive of the curb) and a full parking space in length and contain one deciduous shade tree (a minimum two inches in caliper at planting). The parking islands shall be fully landscaped with shrubs and ground cover, which will not exceed three feet in height at maturity. Bark mulch shall not be an acceptable substitute for vegetation.
 - b) A minimum six-foot-wide planter area shall separate and visually screen parking from building facades with living area windows. The planting area shall include a mix of ground cover, shrub, and/or tree species of appropriate size and growth habit. At least one small tree or large shrub with mature canopy no larger than 10 feet in diameter shall be provided for each 50 lineal feet of building.
 - c) Where a parking, maneuvering area, or driveway is adjacent to a commercial building, the area shall be separated from the building by a curb and a raised walkway, plaza or landscaped buffer not less than five feet in width. Raised curbs, bollards, wheel stops, or other design features shall be used to protect pedestrians, landscaping, and buildings from being damaged by vehicles.
 - d) The property owner shall be responsible for maintaining the landscaped areas to the specified standards.

E. Screening Requirements. Screening is required for outdoor storage areas, unenclosed uses, and parkinglots, and may be required in other situations as determined by the City Council or designee. Landscaping shall be provided pursuant to the standards of subsections 1-3, below:

1. **Outdoor Storage and Unenclosed Uses.** All areas of a site containing or proposed to contain outdoor storage of goods, materials, equipment, and vehicles (other than required parking lots and service and delivery areas, per Site Plan Review), and areas containing junk, salvage materials, or similar contents, shall be screened from view from adjacent rights-of-way and residential uses by a sight-obscuring fence, wall, landscape screen, or combination of screening methods. See also Section 3.4.040 for related fence and wall standards.
2. **Parking Lots.** The edges of parking lots shall be screened to minimize vehicle headlights shining into adjacent rights-of-way and residential yards. Parking lots abutting a sidewalk or walkway shall be screened using a low-growing hedge or low garden wall to a height of two (2) feet.

3. Other Uses Requiring Screening. The City Council may require screening in other situations as authorized by this Code, including, but not limited to, outdoor storage areas, blank walls, Special Uses pursuant to Chapter 2.4, Flag Lots, and as mitigation where an applicant has requested an adjustment pursuant to Chapter 4.7.

F. Maintenance. All landscaping shall be maintained in good condition, or otherwise replaced by the property owner.

3.4.040 Fences and Walls

A. Purpose. This section provides general development standards for fences, and walls that are not part of a building, such as screening walls and retaining walls.

B. Applicability. Section 3.4.040 applies to all fences, and walls that are not part of a building, including modifications to existing fences and walls. This section supplements the development standards of Table 2.2.040.

C. Height.

- 1. Residential Zones.** Fences and freestanding walls (i.e., exclusive of building walls) for residential uses shall not exceed the following heights above grade, where grade is measured from the base of the subject fence or wall:
 - a. Within Front or Street-Side Yard Setback: 3 feet; except the following additional height is allowed:
 - i. A fence may be constructed to a maximum height of six (6) feet where it is located on a street-side yard and is setback not less than ten (10) feet from the street-side property line behind a landscaped area.
 - b. Within an Interior Side or Rear Yard Setback: Six (6) feet; except the fence or wall height, as applicable, shall not exceed the distance from the fence or wall line to the nearest primary structure on an adjacent property.
- 2. Non-Residential Zones.** Fences and freestanding walls (i.e., exclusive of building walls) for non-residential uses shall not exceed the following height above grade, where grade is measured from the base of the subject fence or wall:
 - a. Within Front or Street-Side Yard Setback: Three (3) feet
 - b. Within an Interior Side or Rear Yard Setback: Six (6) feet
- 3. All Zones.** Fences and walls shall comply with the vision clearance standards of Section 3.3.020. Other provisions of this Code, or the requirements of the roadway authority, may limit allowable height of a fence or wall below the height limits of this

section.

D. Materials.

1. Permitted fence and wall materials include wood; metal (e.g., chain link, wrought iron, and similar fences); bricks, stone, masonry block, formed-in-place concrete, or similar masonry; vinyl and composite (e.g., recycled) materials designed for use as fencing; and similar materials as determined by the Planning Official.
2. Prohibited fence and wall materials include straw bales, tarps, barbed or razor wire; scrap lumber, corrugated metal, sheet metal, scrap materials; and materials similar to those listed herein.

3.4.050 Outdoor Lighting

A. Purpose. This section contains regulations requiring adequate levels of outdoor lighting while minimizing negative impacts of light pollution.

B. Applicability. All outdoor lighting shall comply with the standards of this section.

C. Lighting. Adequate exterior lighting shall be provided to promote public safety and shall be directed onto and confined to the property from which it is generated. All outdoor lighting fixtures used for general illumination or advertisement are subject to the following standards, unless exempted by 3.4.050(D) below:

1. All on-site lighting shall be designed as a full cut-off fixture or have a shielding method to direct light emissions down onto the site and not shine direct illumination, glare, or cast a shadow onto adjacent properties or the public right-of-way. A full cut-off fixture is a fixture designed and constructed so that the projected light is downward facing and not light is projected above the horizontal plane.
2. The use of laser light, high intensity lighting, searchlight, or similar upward directed lighting is prohibited.

D. Exceptions. Low intensity lighting intended to highlight part of a building, sign, flag, or landscaping may be permitted, provided that the light distribution from the fixture is effectively constrained by an overhanging architectural element or landscaping element and does not shine beyond the intended target into the night sky. Containment elements may include but are not limited to awnings, shrubs, or dense tree canopies that limit sky illumination.

Chapter 3.5 - Parking and Loading

Sections:

3.5.010 Purpose

3.5.020 Applicability General Regulations

3.5.030 Automobile Parking

3.5.040 Bicycle Parking

3.5.050 Loading Areas

3.5.010 Purpose

Chapter 3.5 contains requirements for automobile and bicycle parking. The code is intended to be flexible in requiring adequate parking, rather than a minimum number of parking spaces, for each use. It provides standards for the location, size, and design of parking areas to ensure such areas can be accessed safely and efficiently. The code also encourages non-motorized transportation by requiring bicycle parking for some uses.

3.5.020 Applicability and General Regulations

- A. Where the Regulations Apply.** The regulations of this chapter apply to all parking areas in all zones, at all times, whether parking is required by this Code or put in for the convenience of property owners or users.
- B. Occupancy.** All required parking areas must be developed in accordance with the requirements of this code prior to occupancy of any structure on the subject site. Where landscaping, screening or other improvements are required pursuant to this Code, all such improvements must be installed and approved by the Planning Official prior to occupancy.
- C. Calculations of Amounts of Required and Allowed Parking.**
 - 1. When computing parking spaces based on floor area, parking structures and non-leasable floor spaces, such as storage closets, mechanical equipment rooms, and similar spaces, are not counted.
 - 2. The number of parking spaces is computed based on the primary uses on the site except as stated in subsection 3, below. When there are two or more separate primary uses on a site, the minimum and maximum parking for the site is the sum of the required or allowed parking for the individual primary uses. For shared parking, see Section 3.5.030.D below.
- D. Use of Required Parking Spaces.** Except as otherwise provided by this section, required parking spaces must be available for residents, customers, or employees of the use. Fees may be charged for the use of required parking spaces. Required parking spaces may not be assigned in any way to a use on another site, except for

shared parking pursuant to Section 3.5.030.D.

E. Proximity of Parking to Use. Required parking spaces for residential uses must be located on the site of the use or on a parcel or tract owned in common by all the owners of the properties that will use the parking area. Required parking spaces for nonresidential uses must be located on the site of the use or in a parking area that has its closest pedestrian access point within 400 feet of the site.

3.5.030 Automobile Parking

A. Minimum Number of Off-Street Automobile Parking Spaces. Except as provided by subsection 3.5.030.A, or as required for Americans with Disabilities Act compliance under subsection 3.5.030.G, off-street parking shall be provided pursuant to one of the following three standards:

1. The standards in Table 3.5.030.A;
 - a) A standard from Table 3.5.030.A for a use that the Planning Official determines is similar to the proposed use; or
 - b) Subsection 3.5.030.B Exceptions, which includes a Parking Demand Analysis option.

Table 3.5.030.A – Automobile Parking Spaces by Use	
Use Categories (Chapter 5 contains examples of uses and definitions.)	Minimum Parking per Land Use (Fractions are rounded down to the closest whole number.)
Residential Categories	
Single-Family Dwelling, including manufactured homes on lots	two spaces per dwelling
Duplex	two spaces per duplex (one space per dwelling unit)
Accessory Dwelling (second dwelling on a single-family lot)	two spaces total for primary dwelling and accessory dwelling
Townhome, Attached Single-Family Dwelling	one space per dwelling unit

Multifamily	two spaces per dwelling unit
Group Living, such as nursing or convalescent homes, rest homes, assisted living, congregate care, and similar special needs housing	0.5 space per four bedrooms
Commercial Categories	
Commercial Outdoor Recreation	per Conditional Use Permit review (Chapter 4.4)
Bed and Breakfast Inn	two spaces per use, plus one space for each bedroom offered as lodging
Educational Services, not a school (e.g., tutoring or similar services)	one space per 300 sq. ft. floor area
Entertainment, Major Event	per Conditional Use Permit review (Chapter 4.4)
Hotels, Motels, and similar uses	0.75 space per guest room. See also, parking requirements for associated uses, such as restaurants, entertainment uses, drinking establishments, assembly facilities.
Mortuary or Funeral Home	one space per 300 sq. ft. floor area
Offices	General Office: one space per 500 sq. ft. floor area
	Medical or Dental Office: one space per 500 sq. ft. floor area
Outdoor Recreation, Commercial	per Conditional Use Permit review (Chapter 4.4)
Surface Parking Lot, when not accessory to a permitted use	per Conditional Use Permit review (Chapter 4.4)
Quick Vehicle Servicing or Vehicle Repair	two spaces, excluding vehicle service or queuing area, or per Conditional Use Permit review (Chapter 4.4)
Retail Sales and Commercial Service	<u>Bank</u> : one space per 300 sq. ft. floor area
	<u>Retail</u> : one space per 400 sq. ft. floor area, except one space per 1,000 sq. ft. for bulk retail (e.g., auto sales, nurseries, lumber and construction materials, furniture, appliances, and similar sales)
	<u>Restaurants and Bars</u> : one space per 300 sq. ft. floor area
	<u>Health Clubs, Gyms, Continuous Entertainment (e.g., bowling alleys)</u> : one space per 300 sq. ft.
	<u>Theaters and Cinemas</u> : one space per six seats

Self-Service Storage	two spaces, plus adequate space for loading and unloading
Industrial Categories	
Industrial Service	one space per 1,000 sq. ft. of floor area
Manufacturing and Production	one space per 1,000 sq. ft. of floor area; or as required by Conditional Use Permit review (Chapter 4.4)
Warehouse and Freight Movement	0.5 space per 1,000 sq. ft. of floor area; or as required by Conditional Use Permit review (Chapter 4.4)
Waste-Related	per Conditional Use Permit review (Chapter 4.4)
Wholesale Sales, e.g., Building Materials, Heavy Equipment, Agricultural Supplies, etc.	one space per 1,000 sq. ft.
Institutional Categories	
Basic Utilities	Parking based on applicant's projected parking demand, subject to City approval
Community Service, including Government Offices and Services	Parking based on applicant's projected parking demand, subject to City approval, except as specifically required elsewhere in this table for individual uses (See public assembly, office, retail, housing, etc.)
Daycare	Family Daycare: 1 space, plus required parking for dwelling
	Daycare Center: 1 space per 400 sq. ft. of floor area
Medical Center or Hospital	one space per 300 sq. ft. floor area
Parks and Open Space	Parking based on projected parking demand for planned uses
Public Assembly	one space per 75 sq. ft. of public assembly area; or as required by Conditional Use Permit (Chapter 4.4)
Religious Institutions and Houses of Worship	one space per 75 sq. ft. of main assembly area; or as required by Conditional Use Permit (Chapter 4.4)
Schools	Pre-School through Middle-School: one space per classroom
	High Schools: seven spaces per classroom
	Colleges: one space per 400 sq. ft. of floor area exclusive of dormitories, plus one space per two dorm rooms
Other Categories	

Accessory Uses	Parking standards for accessory uses are the same as for primary uses, but are pro rated based on the percentage of estimated overall parking demand, subject to City review and approval.
Agriculture	None, except as required for accessory uses
Radio Frequency Transmission Facilities	None, except as required by Conditional Use Permit (Chapter 4.4)
Temporary Uses	Parking standards for temporary uses are the same as for primary uses, except that the City council or designee may reduce or waive certain development and design standards for temporary uses.
Transportation Facilities (operation, maintenance, preservation, and construction)	None, except for park-and-ride facilities; and where temporary parking is required for construction staging areas

A.

B. Exceptions and Reductions to Off-Street Parking.

1. The applicant may propose a parking standard that is different than the standard under subsections 3.5.030.A(1) and (2), above, for review and action by the City Council through a Type II procedure. The applicant's proposal shall consist of a written request and a parking analysis prepared by a qualified professional. The parking analysis, at a minimum, shall assess the average parking demand and available supply for existing and proposed uses on the subject site; opportunities for shared parking with other uses in the vicinity; existing public parking in the vicinity; transportation options existing or planned near the site, such as frequent bus service, carpools, or private shuttles; and other relevant factors. City Council

through a Type III procedure may reduce the off-street parking standards of Table 3.5.030.A for sites with one or more of the following features:

- a) Site has dedicated parking spaces for carpool or vanpool vehicles: Allow up to a five (5) percent reduction to the standard number of automobile parking spaces;
- b) Site has dedicated parking spaces for motorcycles, scooters, or electric carts: Allow reductions to the standard dimensions for parking spaces;
- c) Site has more than the minimum number of required bicycle parking spaces:

Table 3.5.040.A Minimum Required Bicycle Parking Spaces	
Use	Minimum Number of Spaces
Multifamily Residential (not required for parcels with fewer than 4 dwelling units)	2 bike spaces per 4 dwelling units
Commercial	2 bike spaces per primary use or 1 per 5 vehicle spaces, whichever is greater
Industrial	2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater
Community Service	2 bike spaces
Parks (active recreation areas only)	4 bike spaces
Schools (all types)	2 bike spaces per classroom
Institutional Uses and Places of Worship	2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater
Other Uses	2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater

Allow up to a five (5) percent reduction to the number of automobile parking spaces.

2. The number of required off-street parking spaces may be reduced through the

provision of shared parking, pursuant to Section 3.5.030.D.

C. Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature; weekday uses versus weekend uses), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use. Shared parking requests shall be subject to review and approval through Site Plan Review.

D. Parking Stall Design and Minimum Dimensions. Where a new off-street parking area is proposed, or an existing off-street parking area is proposed for expansion, the entire parking area shall be improved in conformance with this Code. At a minimum the parking spaces and drive aisles shall be paved with asphalt, concrete, or other City-approved materials, provided the Americans with Disabilities Act requirements are met, and shall conform to the minimum dimensions in Table 3.5.030.E and the figures below. All off-street parking areas shall contain wheel stops, perimeter curbing, bollards, or other edging as required to prevent vehicles from damaging buildings or encroaching into walkways, landscapes, or the public right-of-way. Parking areas shall also provide for surface water management, pursuant to Section 3.6.050.

Table 3.5.030.E - Parking Area Minimum Dimensions*					
PARKING ANGLE < °	CURB LENGTH	STALL DEPTH		AISLE WIDTH	
		SINGLED	DOUBLED	ONE WAY	TWO WAY
90°	9'	18'	36'	20'	24'
60°	10'	20'	40'	17'	18'
45°	12'	18'-6"	37'	13'	18'
30°	17'	16'-6"	33'	12'	18'
0°	22'	8'-6"	17'	12'	18'

*See also, Chapter 3.2 Building Orientation and Design for parking location requirements for some types of development; Chapter 3.3 Access and Circulation for driveway standards; and Chapter 3.4 for requirements related to Landscaping, Screening, Fences, Walls, and Outdoor Lighting.

- E. Adjustments to Parking Area Dimensions.** The dimensions in subsection 3.5.030.E are minimum standards. The City Council, through a Type II / III procedure, may adjust the dimensions based on evidence that a particular use will require more or less maneuvering area.
- F. Americans with Disabilities Act (ADA).** Parking shall be provided consistent with ADA requirements, including, but not limited to, the minimum number of spaces for automobiles, van-accessible spaces, location of spaces relative to building entrances, accessible routes between parking areas and building entrances, identification signs, lighting, and other design and construction requirements.

3.5.040 Bicycle Parking

- A. Standards.** Bicycle parking spaces shall be provided with new development and, where a change of use occurs, at a minimum, shall follow the standards in Table 3.5.040.A. Where an application is subject to Conditional Use Permit approval or the applicant has requested a reduction to an automobile-parking standard, pursuant to subsection 3.5.030.B, the City Council may require bicycle parking spaces in addition to those in Table 3.5.040.A.
- B. Design.** Bicycle parking shall consist of staple-design steel racks or other City-approved racks, lockers, or storage lids providing a safe and secure means of storing a bicycle.
- C. Exemptions.** This section does not apply to single-family, duplex, and townhome housing, home occupations, and agricultural uses. The City Council or designee may exempt other uses upon finding that, due to the nature of the use or its location, it is unlikely to have any patrons or employees arriving by bicycle.

3.5.050 Loading Areas

- A. Purpose.** The purpose of Section 3.5.050 is to provide adequate loading areas for commercial and industrial uses that do not interfere with the operation of adjacent streets.
- B. Applicability.** Section 3.5.050 applies to uses that are expected to have service or delivery truck visits. The Planning Official shall determine through Site Plan Review the number, size, and location of required loading areas, if any.

- C. Standard.** Where an off-street loading space is required, it shall be large enough to accommodate the largest vehicle that is expected to serve the use without obstructing vehicles or pedestrian traffic on adjacent streets and driveways. The City Council may restrict the use of other public rights-of-way, so applicants are advised to provide complete and accurate information about the potential need for loading spaces.
- D. Placement, Setbacks, and Landscaping.** Loading areas shall conform to the Building Orientation and Design standards of Chapter 3.2, the Access and Circulation standards of Chapter 3.3, and the Landscaping and Screening standards of Chapter 3.4. Where parking areas are prohibited between a building and the street, loading areas are also prohibited.
- E. Exceptions and Adjustments.** The Planning Official, through Site Plan Review, may approve a loading area adjacent to or within a street right-of-way where it finds that loading and unloading operations are short in duration (i.e., less than one hour), infrequent, do not obstruct traffic during peak traffic hours, do not interfere with emergency response services, and are acceptable to the applicable roadway authority.

Chapter 3.6 - Public Facilities

Sections:

3.6.010	Purpose and Applicability
3.6.020	Transportation Standards
3.6.030	Public Use Areas
3.6.040	Sanitary Sewer and Water Service Improvements
3.6.050	Storm Drainage and Surface Water Management Facilities
3.6.060	Utilities
3.6.070	Easements
3.6.080	Construction Plan Approval
3.6.090	Facility Installation
3.6.100	Performance Guarantee and Warranty

3.6.010 Purpose and Applicability

- A. Purpose.** The standards of Chapter 3.6 implement the public facility policies of the City of Elkton Comprehensive Plan and adopted City master plans.
- B. Applicability.** Chapter 3.6 applies to all new development, including projects subject to Land Division (Subdivision or Partition) approval and developments subject to Site Plan Review where public facility improvements are required. All public facility improvements within the city shall occur in accordance with the standards and procedures of this chapter. When a question arises as to the intent or application of any standard, the Planning Official or designee shall interpret the Code pursuant to Chapter 1.5.
- C. [Public Works / Engineering] Design Standards.** All public facility improvements, including, but not limited to, sanitary sewer, water, and transportation, surface water and storm drainage, and parks projects, whether required as a condition of development or provided voluntarily, shall conform to the City of Elkton Public Works Design Manual or Oregon Standard Specifications for Construction (OSSC). Where a conflict occurs between this Code and the Manual/OSSC, the provisions of the Manual or OSSC shall govern.
- D. Public Improvement Requirement.** No building permit may be issued until all required public facility improvements are in place and approved by the Public Works Director, or otherwise bonded, in conformance with the provisions of this Code and the Design Manual. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.

3.6.020 Transportation Standards

A. General Requirements.

1. Except as provided by subsection 5, below, existing substandard streets and planned streets within or abutting a proposed development shall be improved in accordance with the standards of Chapter 3.6 as a condition of development approval.
2. All street improvements, including the extension or widening of existing streets and public access ways, shall conform to Section 3.6.020, and shall be constructed consistent with the City of Elkton Public Works Design Standards Manual.
3. All new streets shall be contained within a public right-of-way. Public access ways (e.g., pedestrian ways) may be contained within a right-of-way or a public access easement, subject to review and approval of the City Council.
4. The purpose of this subsection is coordinate the review of land use applications with roadway authorities and to implement Section 660-012-0045(2)(e) of the state Transportation Planning Rule, which requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a Traffic Impact Analysis; and who is qualified to prepare the analysis.
 - a) When a Traffic Impact Analysis is Required. The City or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:
 - i. A change in zoning or a plan amendment designation;
 - ii. Operational or safety concerns documented in writing by a road authority;
 - iii. An increase in site traffic volume generation by 400 Average Daily Trips (ADT) or more;
 - iv. An increase in peak hour volume of a particular movement to and from a street or highway by 20 percent or more;
 - v. An increase in the use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day;
 - vi. Existing or proposed approaches or access connections that do not meet

minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;

vii. A change in internal traffic patterns that may cause safety concerns; or
viii. A TIA required by ODOT pursuant to OAR 734-051.

b) Traffic Impact Analysis Preparation. A professional engineer registered by the State of Oregon, in accordance with the requirements of the road authority, shall prepare the Traffic Impact Analysis.

5. The Public Works Director or designee may waive or allow deferral of standard street improvements, including sidewalk, roadway, bicycle lane, undergrounding of utilities, and landscaping, as applicable, where one or more of the following conditions in (a) through (d) is met. Where the Public Works Director or designee agrees to defer a street improvement, it shall do so only where the property owner agrees not to remonstrate against the formation of a local improvement district in the future.
 - a. The standard improvement conflicts with an adopted capital improvement plan.
 - b. The standard improvement would create a safety hazard.
 - c. It is unlikely due to the developed condition of adjacent property that the subject improvement would be extended in the foreseeable future, and the improvement under consideration does not by itself significantly improve transportation operations or safety.

B. Street Location, Alignment, Extension, and Grades.

1. All new streets, to the extent practicable, shall connect to the existing street network and allow for the continuation of an interconnected street network, consistent with adopted public facility plans and pursuant to subsection 3.6.020.D Transportation Connectivity and Future Street Plans.
2. Specific street locations and alignments shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets.
3. New streets and street extensions exceeding a grade of 15 percent over a distance more than 200 feet, to the extent practicable, shall be avoided. Where such grades are unavoidable, the Public Works Director or designee may approve an exception to the 200-foot standard and require mitigation, such as a secondary access for the subdivision, installation of fire protection sprinkler systems in dwellings, or other mitigation to protect public health and safety.
6. Where required local street connections are not shown on an adopted City street

plan, or the adopted street plan does not designate future streets with sufficient specificity, the development shall provide for the reasonable continuation and connection of existing streets to adjacent developable properties, conforming to the standards of this Code.

7. Existing street-ends that abut a proposed development site shall be extended with the development, unless prevented by environmental or topographical constraints, existing development patterns, or compliance with other standards in this Code. In such situations, the applicant must provide evidence that the environmental or topographic constraint precludes reasonable street connection.
8. Proposed streets and any street extensions required pursuant to this section shall be located, designed, and constructed to allow continuity in street alignments and to facilitate future development of vacant or redevelopable lands.
9. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights and in such cases may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the City under conditions approved by the City Council.

C. Rights-of-Way and Street Section Widths. The standards contained in Table 3.6.020.C are intended: to provide for streets of suitable location, width, and design to accommodate expected vehicle, pedestrian, and bicycle traffic; to afford satisfactory access to law enforcement, fire protection, sanitation, and road maintenance equipment; and to provide a convenient and accessible network of streets, avoiding undue hardships to adjoining properties. Where a range of street width or improvement options is indicated, the City Council shall determine requirements based on the advice of a qualified professional and all of the following factors:

1. Street classification and requirements of the roadway authority, if different than the City's street classifications and requirements;
2. Existing and projected street operations relative to applicable standards;
3. Safety of motorists, pedestrians, and bicyclists, including consideration of accident history;
4. Convenience and comfort for pedestrians and bicyclists;
5. Provision of on-street parking;
6. Placement of utilities;
7. Street lighting;

8. Slope stability, erosion control, and minimizing cuts and fills;
9. Surface water management and storm drainage requirements;
10. Emergency vehicles or apparatus and emergency access, including evacuation needs;
11. Transitions between varying street widths (i.e., existing streets and new streets); and
12. Other factors related to public health, safety, and welfare.

Table 3.6.020.C Street, Sidewalk, and Bikeway Standards*

Street Type	Right-of-Way Width	Curb-to-Curb Paved Width	Within Curb-to-Curb Area			Sidewalks
			Motor Vehicle Travel Lanes	Bike Lanes	On-Street Parking	
<u>Arterials</u>	80'-120'	36'-52'	12'	6'	9'	6.5'
<u>Collectors</u>	60'-80'	36'-48'	12'	5.5'	8'	5.5'
<u>Continuous Local</u>	56'-60'	36'	10'	—	8'	5.5'
<i>Unextendable Local less than 2,400 feet long</i>	50'	26'	12'	—	—	5.5'
<i>Cul-Du-Sac</i>	50'	40'	12'	—	—	5.5'
<i>Alley</i>	20'	20'	10'	—	—	—

- D. Intersection angles.** Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 80 degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line. Ordinarily, the intersection of more than two streets at any one point will not be approved.
- E. Existing streets.** Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division.
- F. Half street.** Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the City Council finds it will be practical to require the dedication of the other half when the adjoining property is divided. A half street shall not be allowed as the primary access to a subdivision. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.
- G. Cul-de-sac.** A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a circular turn-around.
- H. Street names.** Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the City Council.
- I. Grades and curves.** Grades shall not exceed six percent on arterials, ten percent on collector streets, or 12 percent on other streets. Center line radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even ten feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the City Council may accept steeper grades and sharper curves, provided soil characteristics are taken into account. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 percent.
- J. Marginal access streets.** Where a land division abuts or contains an existing or proposed arterial street or highway, the City Council may require marginal access

streets, reverse frontage lots with suitable depth, screen planting contained in a non-access easement strip along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

K. Alleys. Alleys shall be provided in commercial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the City Council. The corners of alley intersections shall have a radius of not less than 12 feet.

L. Creation of a Public Street Outside a Subdivision. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivision except, however, the City Council shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided the following condition exists:

1. The establishment of the public street is initiated by the City Council or Board of County Commissioners and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
2. In those cases where approval of a public street is to be without full compliance with the regulations applicable to subdivision, a copy of a tentative plan and the proposed deed shall be submitted to the City Recorder at least five days prior to the City Council meeting at which consideration is desired. The plan, deed, and such information as may be submitted shall be reviewed by the City Council and, if not in conflict with the standards of this Chapter, shall be approved with conditions necessary to preserve these standards.

M. Mail Boxes. Mailboxes shall conform to the requirements of the United States Postal Service and the State of Oregon Structural Specialty Code.

3.6.030 Public Use Areas

A. Dedication of Public Use Areas.

1. Where a proposed park, playground, or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require the dedication or reservation of this area on the final plat for the subdivision, provided that the impact of the development on the City park system is roughly proportionate to the dedication or reservation being made.
2. The City may purchase or accept voluntary dedication or reservation of areas within the subdivision that are suitable for the development of parks and other public

uses; however, the City is under no obligation to accept such areas offered for dedication or sale.

- B. System Development Charge Credit.** Dedication of land to the City for public use areas, voluntary or otherwise, shall be eligible as a credit toward any required system development charge for parks.

3.6.040 Sanitary Sewer and Water Service Improvements.

- A. Sewers and Water Mains Required.** All new development is required to connect to City water and sanitary sewer systems. Sanitary sewer and water system improvements shall be installed to serve each new development and to connect developments to existing mains in accordance with the adopted facility master plans, applicable Public Works Design Standards, and/or Oregon Standard Specifications for Construction. Where streets are required to be stubbed to the edge of the subdivision, sewer and water system improvements and other utilities shall also be stubbed with the streets, except as may be waived by the City Council or designee where alternate alignment(s) are provided.
- B. Sewer and Water Plan Approval.** Development permits for sewer and water improvements shall not be issued until the Public Works Director has approved all sanitary sewer and water plans in conformance with City standards.
- C. Over-Sizing.** The City may require as a condition of development approval that sewer and water lines serving new development be sized to accommodate future development within the area as projected by the applicable facility master plans, and the City may authorize other cost-recovery or cost-sharing methods as provided under state law.
- D. Inadequate Facilities.** Development permits may be restricted or rationed by the City Council where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which, if not rectified, will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems. The City Council may require water booster pumps, sanitary sewer lift stations, and other critical facilities be installed with backup power

3.6.050 Storm Drainage and Surface Water Management Facilities

- A. General Provisions.** The City shall issue a development permit only where adequate provisions for stormwater runoff have been made in conformance with City standards.
- B. Accommodation of Upstream Drainage.** Culverts and other drainage facilities shall be large enough to accommodate existing and potential future runoff from the entire

upstream drainage area, whether inside or outside the development. Such facilities shall be subject to review and approval by the City Engineer.

- C. Effect on Downstream Drainage.** Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with City standards.
- D. Over-Sizing.** The City may require as a condition of development approval that sewer, water, or storm drainage systems serving new development be sized to accommodate future development within the area as projected by the applicable facility master plan, provided that the City may grant the developer credit toward any required system development charge for the same pursuant to the System Development Charge.
- E. Existing Watercourse.** Where a proposed development is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance to protect the public health and safety.

3.6.060 Utilities

The following standards apply to new development where extension of electric power or communication lines is required:

- A. General Provision.** The developer of a property is responsible for coordinating the development plan with the applicable utility providers and paying for the extension and installation of utilities not otherwise available to the subject property.
- B. Underground Utilities.**
 - 1. General Requirement.** The requirements of the utility service provider shall be met. All utility lines in new subdivisions, including, but not limited to, those required for electric, communication, and lighting, and related facilities, shall be placed underground, except where the City Council determines that placing utilities underground would adversely impact adjacent land uses. The Council may require screening and buffering of above ground facilities to protect the public health, safety, or welfare.
 - 2. Subdivisions.** In order to facilitate underground placement of utilities, the following additional standards apply to all new subdivisions:
 - c)** The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that no above

ground equipment obstructs vision clearance areas for vehicular traffic, per Chapter 3.3 Access and Circulation.

- d) The Public Works Director reserves the right to approve the location of all surface-mounted facilities.
- e) All underground utilities installed in streets must be constructed and approved by the applicable utility provider prior to the surfacing of the streets.
- f) Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

C. Exception to Undergrounding Requirement. The Public Works Director may grant exceptions to the undergrounding standard where existing physical constraints, such as geologic conditions, streams, or existing development conditions make underground placement impractical.

3.6.070 Easements

A. Provision. The developer shall make arrangements with the City and applicable utility providers for each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development.

B. Standard. Utility easements shall conform to the requirements of the utility service provider. All other easements shall conform to the City of Elkton Public Works Design Standards.

C. Recordation. All easements for sewers, storm drainage and water quality facilities, water mains, electric lines, or other utilities shall be recorded and referenced on a survey or final plat, as applicable. See Chapter 4.2 Site Plan Review, and Chapter 4.3, Land Divisions.

3.6.080 Construction Plan Approval

No development, including sanitary sewers, water, streets, parking areas, buildings, or other development, shall be undertaken without plans having been approved by the City of Elkton permit fees paid, and permits issued. Permit fees are required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. Permit fees are as set by City Council resolution.

3.6.090 Facility Installation

A. Conformance Required. Improvements installed by the developer, either as a requirement of these regulations or at the developer's option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the City.

- B. Adopted Installation Standards.** The City of Elkton has adopted Public Works Design Standards for public improvements and private utility installation within the public right-of-way. Where City of Elkton Standards do not adequately address proposed installations, the most recent Oregon Standard Specifications for Construction shall govern.
- C. Commencement.** Work in a public right-of-way shall not begin until all applicable agency permits have been approved and issued.
- D. Resumption.** If work is discontinued for more than six (6) months, it shall not be resumed until the Public Works Director is notified in writing and grants approval of an extension.
- E. City Inspection.** Improvements shall be constructed under the inspection of the Public Works Director]. The Public Works Director may approve minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest, except that substantive changes to the approved design shall be subject to review under Chapter 4.6, Modifications to Approved Plans and Conditions of Approval. Any survey monuments that are disturbed before all improvements are completed by the developer or subdivider shall be replaced prior to final acceptance of the improvements.
- F. Engineer's Certification and As-Built Plans.** A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City's acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide three (3) sets of "as-built" plans for permanent filing with the City. If required by the City, the developer or subdivider shall provide a warranty bond pursuant to Section 3.6.100.

3.6.100 Performance Guarantee and Warranty

- A. Performance Guarantee Required.** The City at its discretion may approve a final plat or building permit when it determines that at least 75 percent of the public improvements required for the site development or land division, or phase thereof, are complete and the applicant has an acceptable assurance for the balance of said improvements. The applicant shall provide a bond issued by a surety authorized to do business in the state of Oregon, irrevocable letter of credit from a surety or financial institution acceptable to the City, cash, or other form of security acceptable to the City.
- B. Determination of Sum.** The assurance of performance shall be for a sum determined by the City Engineer as required to cover the cost of the improvements and repairs,

including related engineering and incidental expenses, plus reasonable inflationary costs. The assurance shall not be less than 100 percent of the estimated improvement costs.

C. Itemized Improvement Estimate. The applicant shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.

D. Agreement. A written agreement between the City and applicant shall be signed and recorded. The agreement may include a provision for the construction of the improvements in stages and for the extension of time under specific conditions. The agreement shall contain all of the following:

1. The period within which all required improvements and repairs shall be completed;
2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
3. The required improvement fees and deposits.

E. When Applicant Fails to Perform. In the event the applicant fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit, or letter of credit for reimbursement.

F. Termination of Performance Guarantee. The applicant shall not cause termination, nor allow expiration, of the guarantee without first securing written authorization from the City.

G. Warranty Bond. A warranty bond good for two (2) years is required on all public improvements and landscaping when installed in the public right-of-way. The warranty bond shall equal 10 percent of the total cost of improvements and begin upon acceptance of said improvements by the City.

Chapter 3.7 – Signs

Sections:

3.7.010	Purpose
3.7.020	Definitions
3.7.030	Prohibited Signs
3.7.040	Exempt Signs
3.7.050	Sign Permits
3.7.060	Non-Conforming Signs
3.7.070	Residential Signs
3.7.080	Commercial Signs

3.7.010 Purpose

The City recognizes the importance of an aesthetically pleasing community, to the continued welfare of its population, and to the economic development of the City. The regulation of the quantity, size and type of signs within the city provides equity among users and insulates neighbors from adverse effects of signs. This chapter does not regulate the content of any sign. Rather, this chapter has the following specific objectives:

- A.** To ensure that signs are designed, constructed, installed and maintained so that public safety and traffic safety are not compromised;
- B.** To allow and promote positive conditions for meeting sign users' needs, while at the same time avoiding nuisances to nearby properties and promoting a pleasing environment;
- C.** To reflect and support the permitted uses found throughout the various zoning districts;
- D.** To allow for adequate and effective signage for all industrial and commercial zoning districts, while preventing signs from dominating the visual appearance of the area;
- E.** To maintain and protect the City's architectural and natural heritage in accordance with the goals established by the Comprehensive Plan and this development code;
- F.** To provide regulations that can be administered to allow sign owners and sign users the opportunity to realize the value of their investment and make as many of their own choices as possible while protecting the needs of the public; and
- G.** To protect residential neighborhoods from the adverse impact that signs may have on the residential atmosphere.

3.7.020 Definitions

Abandoned Sign. Those signs not used in conjunction with a business for more than 90 days.

Alteration. Any change excluding content or copy, and including but not limited to the size, shape, method of illumination, position, location, materials, construction, or supporting structure of a sign.

Automatic Changing Sign. An electronically or electrically controlled time, temperature and date sign, message center or reader board where different copy changes are shown on the same location.

Awning. A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for supporting framework. The area of the awning that contains sign copy shall be considered a wall sign.

Banner. A sign made of any lightweight, non-rigid material such as plastic, fabric or other flexible material with no enclosing framework.

Beacon Light. Any light with one or more beams, capable of being directed in any direction or directions or capable of being revolved automatically.

Bench Sign. A sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

Billboard Sign. An off-premise sign that advertises a business, organization, event, person, place or thing not located upon the premises where such sign is located.

Bulletin Board or Reader Board. A sign of permanent nature, but which accommodates changeable copy, indicating the names of persons associated with, events conducted upon, or products or services offered upon, the premises upon which the sign is located.

Canopy. A permanent roofed structure that may be free-standing or partially attached to a building for the purpose of providing shelter to patrons in automobiles or on foot, but shall not mean a completely enclosed structure. Also called a “marquee”.

Change of Copy. The change of logo and/or message upon the face or faces of a legal sign.

Construction Sign. Any sign giving the name or names of principal contractors, architects, and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.

Directional Sign. An on-premise sign designed to be read by a person already on the premises and used only to identify and locate an office, entrance, exit, telephone or similar place, service or route, including signs limited to directional messages, such as “One Way,” “Entrance” or “Exit.”

Directory Sign. A sign on which the names and location of occupants or the use of a building is given. This shall include office buildings and church directories.

Double Faced Sign. Signs which are counted as one sign; however, the sign area shall be the sum of the two faces for the purposes of this chapter.

Erect. To construct, paint, place, affix or otherwise bring into being.

Exempt. Signs listed in Section 14.38.250 are exempted from normal permit requirements; however, still subject to the restrictions of this chapter.

Flashing Signs. An artificially illuminated sign that sends out or reflects sudden and brief blazes of light at predetermined and/or random intervals of time.

Frontage. A single wall surface of a building facing a given direction.

Free-Standing Sign. Any ground mounted, pole or monument sign supported by one or more uprights or braces placed upon the ground, and not attached to any building.

Grade. The lowest elevation point of the finished ground surface directly below or at the sign location, and any point within 5 feet from the sign location. If the sign or any projection is within 5 feet of a public sidewalk, alley or other public way, the grade will be the elevation of the sidewalk, alley or public way.

Ground and/or Pole Sign. Any sign that is supported by structures or supports in or upon the ground and independent of support from any building.

Identification Sign. A sign that is limited to the name, address and number of a building, institution or person and to the activity carried on in the building, or institution, or the occupancy.

Illegal Sign. A sign that is erected in violation of the City of Elkton Land Development and Division Ordinance.

Illuminated Sign. Any sign which has characters, letters, figures or designs artificially illuminated in any manner, including internally mounted fluorescent lights, light emitting diodes (“LEDs”), or luminous tubes.

Marquee Sign. Any sign attached to and made a part of a marquee. A marquee (or canopy) is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building’s wall and generally designed and constructed to provide protection against the weather.

Monument Sign. A sign that is affixed to a base that is no more than 30 inches above the nearest ground surface.

Mural. A large picture painted or affixed on a wall that does not advertise a business name,

consumer product, commercial/professional service, or sales promotion.

Nonconforming Sign. An existing sign, lawful at the time of enactment of this ordinance, which does not conform to the requirements of this code.

Off-Premise Sign. A sign that contains a message unrelated to a business or profession conducted upon the premises where such sign is located.

Pennant. A tapering flag or strip of small flags.

Permanent Sign. Any legally placed sign which is intended to be and is so constructed as to be of a lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear) and position, and in a permanent manner affixed to the ground, wall or building.

Political Sign. Any sign advocating for the election of a candidate or the passage or defeat of a ballot measure. Political signs shall be considered temporary in nature.

Portable Sign. Any temporary sign that is capable of being moved easily and is not affixed to the ground or a structure.

Projecting Sign. Any sign, other than a wall sign that projects 12 inches or more beyond such building or wall.

Real Estate Sign. Any sign used to offer for sale, lease, or rent the property upon which the sign is placed.

Roof Sign. Any sign erected or constructed upon and over the roof of any building.

Sign. Any fabricated emblem or display, including its structure, consisting of any letter(s), character, design, figure, line, logo, mark, picture, plane, point, poster, stripe, stroke, trademark, reading matter or illuminating device which is constructed, attached, erected, fastened, or manufactured in any manner whatsoever to attract the public in any manner for recognized purpose to any place, subject, person, firm, corporation, public performance, Chapter, machine or merchandise display.

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

Sign Height. The vertical distance from the lowest point of the adjacent grade below the sign to the highest part of the sign.

Subdivision Sign. Signs advertising land subdivisions involving more than three continuous

lots.

Temporary Sign. Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other like materials, with or without frames, and any other type sign not permanently attached to the ground or a structure, intended to be displayed for a short period of time only.

Wall Sign. Any sign attached to, erected against or painted on a wall of a building or structure with the exposed face of the sign in a plane approximately parallel to the plane of said wall and not projecting more than 12 inches.

Window Sign. Any sign affixed to or upon a window facing the outside and which is intended to be seen from the exterior and advertises a business name, consumer products, commercial/promotional services and sales promotions. (Ord. 2959 §5(Exh. A (part)), 2007. Formerly 3.8.150)

3.7.030 Prohibited Signs

The following signs are not permitted on any premises in any zone district outside a building or structure. Signs listed in this section may be permitted subject to a variance:

- A.** Illegal signs, i.e. signs installed without required permits, inspection approvals, or those improperly constructed;
- B.** Rotating or flashing signs;
- C.** Advertisement flags, pennants, banners, pinwheels, or similar signs or items;
- D.** Signs extending more than thirty feet in height above grade;
- E.** Any portable sign, except as permitted under the provisions of this chapter;
- F.** Signs in the public right of way not authorized by a government agency;
- G.** Signs illuminated or which use lighting where such lighting is directed at any portion of a traveled street or onto adjacent residential private property, or impair the vision of a driver of a motor vehicle.

3.7.040 Exempt Signs

The following signs shall be allowed in all land use districts (or as specified below) and are exempt from permits but may be subject to regulations. These exemptions shall not relieve the sign owner of the responsibilities of sign placement and maintenance, or from other provisions of this ordinance or any other law or ordinance regulating the same.

- A. Governmental Signs** for control of traffic and other regulatory purposes, official notices, street signs, danger signs, railroad crossing signs, and signs of public service

companies indicating danger and aids to service or safety which are erected by or on the order of, a public officer in the performance of his public duty.

- B. Directional Signs** which provide direction or instruction and are located entirely on the property to which they pertain and do not in any way advertise a business and do not exceed 6 square feet in area; signs identifying rest rooms, public telephones, walkways, or signs providing direction such as parking lot entrance and exit signs and signs meant to serve public safety or convenience such as “office” signs and “parking” signs. No sign shall be located in a vision clearance area.
- C. Interior-Only Signs** located in the interior of any building or within an enclosed lobby or court or premises or any building or group of buildings, which are designed and located to be viewed exclusively by patrons using the interior of such premises, court yards or building.
- D. No Trespassing Signs** or other such signs regulating the use of a property, such as not hunting, no fishing, etc., of no more than 2 square feet in area.
- E. Memorial Signs** or tablets, names of buildings, and date of erection when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other non-combustible material.
- F. Notice Bulletin Boards** not over 24 square feet in area for medical, public, non-profit, charitable or religious institutions where the same are located on the premises of said institution.
- G. Flags**, emblems, or insignia of any nation or political subdivision.
- H. Murals** as defined in this chapter; EXCEPT where subject to design review within the Downtown Historic District.
- I. Window Signs** or merchandise, pictures or models or products or services in a window display that generally advertise financial, commercial and professional services.
- J. Temporary Banners or Signs.** Total time for a temporary banner or sign to be displayed shall not exceed 14 calendar days unless otherwise specified. Exceptions to this time limit are business closure (Going out of business) and Christmas season signage, which may be displayed for 30 days prior to the event and shall be removed the day after the event. No extensions of these times shall be permitted. Temporary signs shall not be displayed in the public right of way and shall have the permission of the property owner on which they are displayed. Such signs shall not be illuminated.
- K. Garage Sale Signs.** One temporary sign advertising a garage sale posted on the premises from which the garage sale is to be held. Such signs shall be either a wall sign or a free standing sign limited in size to 16 square feet in area and a height of 6

feet. In addition, one off-premise directional sign limited in size to 4 square feet and a height of 30 inches. All such signs must be removed immediately at the close of the sale.

L. Political Signs. Temporary political signs shall not exceed 6 square feet in area for each candidate or ballot measure and not more than 1 sign may be placed on any single parcel of property. Such signs may be placed on private property only. Such signs shall not be erected more than 60 days prior to the election date and shall be removed within 10 days after the election date for which they were erected.

M. Construction Project Signs. After appropriate building permits have been obtained, signs may be erected in conjunction with construction projects and used for the purpose of publicizing the architects, engineers and construction organization participating in the project. No such signs shall exceed 32 square feet in area; no free standing sign shall exceed 8 feet in height. All such signs shall be removed 5 days after completion and prior to occupancy.

N. Real Estate Signs. One real estate sign advertising the sale, rental or lease of the premises on which displayed is not to exceed the following area and height requirements:

1. Residential zone: 6 square feet per side in surface area with a maximum height of 6 feet above grade.
2. Commercial zone: 32 square feet and 10 feet above grade.
3. Industrial zone: 32 square feet and 8 feet above grade.
4. Real estate subdivision signs (subdivision signs are defined as signs advertising land subdivisions involving more than 3 continuous lots): 32 square feet and 8 feet above grade. Real estate signs may be single or double-faced, may be flat-wall signs or pole mounted.

O. Temporary Sandwich Board Signs in Commercial or Industrial Districts:

Commercial businesses may have one temporary portable sandwich board (A-frame) sign per business or in the public right-of-way adjoining the lot provided the sign area does not exceed 15 square feet total, is only in view of the public when the business is open (e.g. taken in at night), and is located out of the ADA pedestrian corridor, away from fire exits or hydrants, and out of any vision clearance area.

P. Drive Up Menu Boards. Menu boards placed in a driveway specified for drive up transactions shall be used solely for vehicular and pedestrian product purchasing or transaction information. This sign shall be located out of the front yard setback and will be located where the primary viewing is to the drive up customers. Maximum height of this sign shall be 8 feet and maximum size shall be 40 square feet. Each drive up will

be limited to 2 menu boards through exempt status. Additional menu boards will be counted as a sign towards the permitted allowable signs for the district (i.e. counted as 1) wall sign if placed on the structure). These signs shall be used only for providing product or transaction information necessary for utilizing the drive up.

3.7.050 Sign Permits

- A. Sign Permits Required.** To ensure compliance with the regulations of this chapter, a Sign Permit shall be required for the following:
1. All new signs;
 2. Alteration of existing signs;
 3. Any relocation of a sign; and
 4. Works of art, graphics and murals on a building within the Downtown Historic District.
- B. Sign Permit Procedures.** No sign shall be installed, altered or relocated without an approved sign permit. Sign permits shall be processed as a Type I application. Approval of a sign permit shall be granted based on compliance with the criteria in this chapter. Upon approval of a sign permit, a building permit and/or electrical permit for the construction of the approved sign may be granted.

3.7.060 Non-Conforming Signs

For the purposes of the section, a non-conforming sign shall be defined as an existing sign, lawful at the time of enactment of this ordinance, which does not conform to the requirements of this code.

- A. Compliance.** All on-site, nonconforming signs prohibited in this code shall be removed when the current business ceases to operate.
- B. Damaged Non-Conforming Signs.** Should any non-conforming sign be damaged by any means to the extent of more than 60 percent of its replacement cost or sign area at the time of damage, it shall be reconstructed in conformance with this code.
- C. Enlarging Non-Conforming Signs.** No non-conforming sign may be enlarged or altered in a way that would increase its nonconformity.
- D. Abandoned Non-Conforming Signs.** Any non-conforming sign or sign structure that remains empty for a period of 90 days shall be considered an abandoned sign. Any non-conforming sign and/or sign structure located on property previously used by a business that ceases operation shall be removed.

- E. Existing Non-Conforming Signs.** When an application is made for new signs on property that has existing non-conforming signs, permits may be issued provided the proposed signs together with the existing signs do not exceed the allowable number and types of permitted signs.
- F. Modification of Non-Conforming Signs.** An owner of a non-conforming sign, who wishes to bring the sign closer into conformance with this code, may petition for a Type II review from the need to bring the sign into total compliance. If in the opinion of the Planning Official, the improvement is appropriate, a variance may be granted.
- G. Exemption from Non-conforming Status.** An owner of a nonconforming sign may apply for a determination that the sign qualifies as a historic or significant sign. The City Council can grant this exemption through a Type III process, upon finding that the following criteria have been met:
1. The sign does not constitute a significant safety hazard due to structural inadequacies or the impact on traffic.
 2. Due to age, relation to a historic event, or general recognition, the sign has become a recognized landmark.
 3. For an historic sign exemption, the sign is:
 - g) Attached to a primary or secondary structure as recognized on the City's historic inventory; The Sign adds to the architectural and historic significance of the premises, taking into account the size, location, construction and lighting of the sign; and
 - h) A recommendation is received from the Oregon State Historic Preservation Office giving its recommendation on (a) and (b) above.
 4. For significant signs, the sign is:
 - a) Maintained essentially as originally constructed, with sufficient remaining original workmanship and material to serve as instruction in period fabrication; and
 - b) The sign is associated with significant past trends in structure, materials, and design and is in conformance with generally accepted principles of good design, architecture and maintenance.

3.7.070 Residential Signs

The following sign standards have been established for the residential district:

- A. Home Occupation & Cottage Industry.** Each dwelling unit that has received Planning approval for a home occupation shall be allowed 1 non-illuminated sign of not more than 2 square feet of surface area per side, not to exceed a total of 4 square feet.

- B. Multi-Family, Mobile Home Parks, Day Care Facilities, Subdivisions and Group Living Facilities.** Each group living situation, multiple family dwelling complex, daycare facility, subdivision, and mobile home park shall be allowed 1 wall sign or free standing sign at each public vehicular entrance of not more than 8 square feet for 1 face, or 16 square feet for 2 or more faces. The maximum height for free standing signs shall be 5 feet above grade. The maximum height for wall signs shall be 20 feet above grade, provided that in no case shall a wall sign extend above the building wall. Internally illuminated signs shall be prohibited.
- C. Bed and Breakfast Inns.** Bed & Breakfast Inns shall be allowed 1 sign per street frontage, not to exceed a total of 4 square feet of surface area per sign.
- D. Non-residential Professional Offices or Retail Uses.** Each approved development area shall be limited to 1 free-standing sign and 1 wall sign. The free standing sign shall be a maximum of 16 square feet for 1 face and 32 square feet for 2 or more faces. The wall sign shall be a maximum of 16 square feet. Free-standing signs shall not be more than 6 feet above grade. Each detached building shall be permitted 1 additional wall sign not to exceed 8 feet square feet. Neon signs are prohibited.

3.7.080 Commercial Signs

The following sign standards have been established for the commercial district:

- A. Single Business.** Each business shall be permitted 1 wall or projecting sign per building wall fronting a public street of 2 square feet per lineal foot of building wall facing the principal street. Maximum size of any sign shall be 40 square feet for 1 side or 80 square feet for 2 or more sides.
- B. Second Story Businesses.** Second story businesses facing a public street shall be permitted signage of 1 square feet per lineal foot of building wall.
- C. Free Standing Signs.** Each building shall be permitted 1 free standing sign which shall be limited to a maximum area of 40 square feet for one side or 80 square feet for two (2) or more sides. The maximum height for free standing signs shall be 20 feet above grade.
- D. Business Identification.** In addition to the signage allowed above, each business may have 1 unlighted sign not exceeding 1 square foot in area per tenant and bearing only property numbers, postbox numbers, names of occupants, or occupation of occupant of the premises.
- E. Encroachment.** The minimum height for all signs encroaching in the public right of way shall be 8 feet above grade. The maximum encroachment into the public right of way shall be 6 feet, provided that no sign shall encroach within 2 feet of any curb or driveway line.

Article 4 – Application Review Procedures and Approval Criteria

Chapters:

1. General Review Procedures and Zoning Checklist
2. Site Plan Review
3. Land Divisions and Property Line Adjustments
4. Conditional Use Permits
5. Modifications to Approved Plans
6. Amendments to the Zoning Map or Code
7. Adjustments and Variances

Chapter 4.1 – General Review Procedures

Sections:

4.1.010	Purpose and Applicability
4.1.020	Type I Procedure (Ministerial/Staff Review)
4.1.030	Type II Procedure (Administrative Review)
4.1.040	Type III Procedure (Quasi-Judicial Review - Public Hearing)
4.1.050	Type IV Procedure (Legislative Review)
4.1.060	Time Limit, Consolidated Review, and City Planning Official's Duties

4.1.010 Purpose and Applicability

- A. Purpose.** The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 4.1.010 provides a key for determining the review procedure and the decision-making body for particular approvals.
- B. Applicability of Review Procedures.** All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures as described in subsections 1-4 below. Table 4.1.010 lists the City’s land use and development approvals and corresponding review procedure(s).
- 1. Type I Procedure (Staff Review – Zoning Checklist).** Type I decisions are made by the City Planning Official, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards).
 - 2. Type II Procedure (Administrative/Staff Review with Notice).** Type II decisions are made by the City Planning Official, with public notice and an opportunity for appeal to the City Council. Alternatively the City Planning Official may refer a Type II application to the City Council for its review and decision in a public meeting.
 - 3. Type III Procedure (Quasi-Judicial Review – Public Hearing).** Type III decisions are made by the City Council after a public hearing, with an opportunity for appeal. Quasi-Judicial decisions involve discretion but implement established policy.
 - 4. Type IV Procedure (Legislative Review).** The Type IV procedure applies to the creation or revision, or large-scale implementation, of public policy (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments).

Type IV reviews are considered by the Planning Official, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

Table 4.1.010 – Summary of Approvals by Type of Review Procedure		
Approvals*	Review Procedures	Applicable Regulations
Access to a Street	Type I	Chapter 3.3 and the standards of the applicable roadway authority (City/County/ODOT)
Adjustment	Type II	Chapter 4.7
Annexation	Type IV	See Oregon Revised Statute 222
Code Interpretation	Type II or III	Chapter 1.5. Routine interpretations that do not involve discretion do not require a permit.
Code Text Amendment	Type IV	Chapter 4.6
Comprehensive Plan Amendment	Type IV	Chapter 4.6
Conditional Use Permit	Type III	Chapter 4.4
Home Occupation	No permit, except when required by Chapter 4.7.	
Legal Lot Determination	Type I	Chapter 1.3
Modification to Approval or Condition of Approval	Type I, II or III	Chapter 4.5
Non-Conforming Use or Structure, Expansion of	Type I, II or III	Chapter 1.4
Partition or Re-plat of 2-3 lots Preliminary Plat Final Plat	Type III Type I	Chapter 4.3 Chapter 4.3
Property Line Adjustments, including Lot Consolidations	Type I	Chapter 4.3

Site Plan Review	Type I or II	Chapter 4.2
Subdivision or Replat of >3 lots Preliminary Plat Final Plat	Type III Type I	Chapter 4.3 Chapter 4.3
Variance Zoning District Map Change	Type III Type IV	Chapter 4.7 Chapter 4.6

* The applicant may be required to obtain building permits and other approvals from other agencies, such as a ODOT, Douglas County, FEMA, or regulatory agencies. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this Code.

4.1.020 Type I Procedure (Administrative Review)

B. Type 1 Procedure (Staff Review). The City Planning Official, or his or her designee, without public notice and without a public hearing, makes ministerial decisions through the Type I procedure. Ministerial decisions are those where City standards and criteria do not require the exercise of discretion (i.e., there are clear and objective standards).

C. Completeness. The City Planning Official reviews proposals requiring a Type I review through completeness review. The completeness review is a preliminary review that is intended to ensure a project proposal meets the basic requirements of Article 2 (Zoning) before final decisions are rendered and before the City authorizes the Building Official to issue a building permit.

1. Application Requirements.

- a) **Application Forms.** Approvals requiring Type-I review, including completeness review, shall be made on forms provided by the City.
- b) **Application Requirements.** When a Type-I is required, it shall:
 - i. Include the information requested on the application form;
 - ii. Address the criteria in sufficient detail for review and action; and
 - iii. Be filed with the required fee.

2. Requirements. The City shall not act upon an application for land use approval, and a building permit shall not be issued, until the City Planning Official has issued a completeness notification for the proposed project.

3. Criteria and Decision. The City Planning Official's completeness review of an application is intended to determine whether minimum code requirements are met

and whether any other land use permit or approval is required prior to issuance of a building permit.

4. **Effective Date.** A Completeness Review decision is final on the date it is signed by the City Planning Official. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the state Land Use Board of Appeals. See also, Section 1.2.090, Completeness Review and Building Permits.

D. Administrative Decision.

1. This type of decision does not require interpretation or legal judgment in reviewing the proposed land use. Approval of a Type I application is not a land use decision as defined by ORS 197.015.
2. A public hearing or notice of action is not required. However, the applicant shall receive notice of the final decision.
3. The applicant may appeal a Type I decision in accordance with the requirements of this Chapter.
4. **Type I Administrator's Decisions.** Actions that are processed by the city administrator or their designee as a Type I procedure include but are not limited to decisions related to:
 - a) Determination of the completeness of applications;
 - b) Determination of the appropriate procedure for any application;
 - c) Building permits for outright permitted uses requiring no City Council action;
 - d) Building permits after discretionary approvals become final;
 - e) Minor modifications to nonconforming uses;
 - f) Access permits as described in Chapter 3.3 for uses not requiring site plan review or when issued in conformance with an approved site plan;
 - g) Development permits for property located partially or wholly within a flood hazard zone; and,
 - h) Lot line adjustments
5. **Type I City Council Decisions.** Actions that are processed by the City Council as Type I procedures include but are not limited to:
 - a) Final subdivision plan and final partition plan plat approval; and
 - b) Similar decisions that result in or are the final opportunity for review before a change in ownership of any real property subject to review under this title.

4.1.030 Type II Procedure (Administrative Review With Notice)

The City Planning Official, or his or her designee, performs Administrative Staff Reviews through the Type II procedure. Type II decisions are made by the City Planning Official with public notice and an opportunity for appeal to the City Council. Alternatively, the City Planning Official may refer a Type II application to the City Council for its review and decision in a public meeting.

A. Application Requirements.

1. **Application Forms.** Applications for projects requiring Administrative Review shall be made on forms provided by the City Planning Official.
2. **Submittal Information.** The City Planning Official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
 - a) The information requested on the application form;
 - b) Plans and exhibits required for the specific approval(s) being sought (For example, requirements for property line adjustments are in Chapter 4.3.);
 - c) A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
 - d) Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
 - e) The required fee.

B. Procedure.

1. The City Planning Official shall mail notice of a pending Type II decision to the following individuals and agencies no fewer than 14 days prior to making the Type II decision.
2. The purpose of the Administrative decision notice is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the Planning Official issues the decision. The intent is to invite people to participate early in the decision-making process. Therefore all of the following individuals and agencies shall be notified:
 - a) All owners of record of real property within a minimum of 100 feet of the subject site;
 - b) Any person who submits a written request to receive a notice; and
 - c) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
3. The notice of pending Administrative Decision, at a minimum, shall contain all of the following information:
 - a) The deadline for submitting written comments, which must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled City Council meeting date where an application is referred to the Council for review;
 - b) A summary of the proposal and the relevant approval criteria in sufficient detail to help the public identify and locate applicable code requirements;
 - c) The address and City contact person for submitting written comments; and the date, time, and location the City Planning Official or City Council, as applicable,

- is scheduled to make a decision on the application;
- d)** The street address or other easily understandable reference to the location of the proposed use or development;
 - e)** Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
 - f)** Statement that all evidence relied upon by the City Planning Official or City Council, as applicable, to make its decision is in the public record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the City; and
 - g)** Statement that after the comment period closes, the City will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
- 4.** At the conclusion of the comment period, the City Planning Official shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Code criteria. Alternatively, the City Planning Official may transmit all written comments received, if any, along with a copy of the application to the City Council for review and decision at its next regularly scheduled meeting.
- 5.** Where the City Planning Official refers an application subject to Administrative Review to the City Council, the City Council shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Code criteria. The City Council may continue its review to the next meeting to allow the applicant time to respond to questions, provided that the Council makes a final decision within the 120-day period prescribed under state law (ORS 227.178) and as described in Section 4.1.060 of this Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the 120-day timeframe and the Council may decide to accept oral and written testimony in a public hearing review of the application, pursuant to Section 4.1.040; in which case, a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.
- 6.** Within seven days of a Type II (Administrative) decision, the City Planning Official shall proceed to prepare a notice of decision and mail it to the applicant, property owner (if different), the Building Official, those who provided written comments on the proposal, and those who requested a copy of the decision. The City Planning Official shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

7. The Administrative Notice of Decision shall contain all of the following information:
 - a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);
 - c) A statement of where the City's decision can be obtained;
 - d) The date the decision shall become final, unless appealed; and
 - e) A statement that all persons entitled to notice may appeal the decision to City Council pursuant to subsection 4.1.030.D.

C. Effective Date of Decision. Unless the conditions of approval specify otherwise, an Administrative Decision becomes effective 12 days after the City mails the decision notice, unless the decision is appealed pursuant to subsection 4.1.030.D.

D. Appeal of Type II (Administrative) Decision. A Type II Administrative Decision made by the City Planning Official may be appealed to the City Council as applicable, pursuant to the following:

1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:

- a) The applicant or owner of the subject property;
- b) Any person who was entitled to written notice of the Type II decision; and
- c) Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.

2. Appeal filing procedure.

- a) Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures.
- b) Time for filing. A Notice of Appeal shall be filed with the City Planning Official within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.
- c) Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - i. An identification of the decision being appealed, including the date of the decision;
 - ii. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - iii. A statement explaining the specific issues being raised on appeal; and
 - iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

3. Scope of appeal. The appeal of a Type II Administrative Decision shall be a

hearing de novo before the City Council, where the Planning Official made the contested decision. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Administrative Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any relevant standard, criterion, condition, or issue.

4. **Appeal Hearing Procedure.** Hearings on appeals of Type II decisions shall follow the same procedure used for public hearings on Type III reviews under Section 4.1.040. Section 4.1.040 contains requirements for public hearing notices, conduct of hearings, and decision-making procedures.

4.1.040 Type III Procedure (Quasi-Judicial Review – Public Hearing)

A. Application Requirements.

1. **Application Forms.** Applications requiring Quasi-Judicial review shall be made on forms provided by the City Planning Official.
2. **Submittal Information.** The City Planning Official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
 - a) The information requested on the application form;
 - b) Plans and exhibits required for the specific approval(s) being sought;
 - c) A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
 - d) Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
 - e) The required fee

B. Procedure.

1. **Mailed and Posted Notice.**
 - a) The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Planning Official shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
 - i. All owners of record of real property located within a minimum of 300 feet of the subject site;
 - ii. Any person who submits a written request to receive a notice; and
 - iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. The failure of another agency to respond with written

comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.

- b) At least 14 days before the first hearing, the City Planning Official or designee shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City Planning Official.
- c) At least 14 days before the first hearing, the City shall publish notice of the hearing on the City website, and/or have said notice published in a newspaper with local circulation.

2. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:

- a) A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;
- b) The date, time, and location of the scheduled hearing;
- c) The street address or other clear reference to the location of the proposed use or development;
- d) A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
- e) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Planning Official, and that copies shall be provided at a reasonable cost;
- f) A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- g) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- h) A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

C. Conduct of the Public Hearing.

1. At the commencement of the hearing, the Chairperson of the Council or Mayor, as applicable, or his or her designee, shall state to those in attendance all of the following information and instructions:

- a) The applicable approval criteria by Code chapter that apply to the application;
- b) Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

- c) Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude appeal to the state Land Use Board of Appeals on that issue;
 - d) At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See subsection 'E' Record of the Public Hearing; and
 - e) Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing as provided in paragraph 5 of this subsection, or leave the record open for additional written evidence or testimony as provided paragraph 6 of this subsection.
- 2. The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.
- 3. Presenting and receiving evidence.
 - a) The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;
 - b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and
 - c) Members of the hearing body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
- 4. The hearing body, in making its decision, shall consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.

5. If the hearing body decides to continue the hearing, the hearing shall be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the hearing body may limit additional testimony to arguments and not accept additional evidence.
6. If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the hearing body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the hearing body shall reopen the record, as follows:
 - a) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
 - b) An extension of the hearing or record granted pursuant to this section is subject to the limitations of Section 4.1.060 (ORS 227.178 - 120-day rule), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and
 - c) If requested by the applicant, the hearing body shall grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.
7. The Notice of Quasi-Judicial Decision shall contain all of the following information:
 - a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);
 - c) A statement of where the City's decision can be obtained;
 - d) The date the decision shall become final, unless appealed; and
 - e) A statement that all persons entitled to notice may appeal the City Council's decision to the state Land Use Board of Appeals, as applicable.

C. Effective Date of Decision. Unless the conditions of approval specify otherwise, a Quasi-Judicial Decision becomes effective 10 days after the City mails the decision notice, unless the decision is appealed pursuant to subsection 4.1.040.D.

D. Appeal of City Council Decision. The City Council's decision may be appealed as

follows:

1. **Who may appeal.** The following people have legal standing to appeal:
 - a) The applicant or owner of the subject property; and
 - b) Any other person who testified orally or in writing during the subject public hearing before the close of the public record.

2. **Appeal filing procedure.**
 - a) Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
 - b) Time for filing. A Notice of Appeal shall be filed with the City Planning Official within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.
 - c) Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - i. An identification of the decision being appealed, including the date of the decision;
 - ii. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - iii. A statement explaining the specific issues being raised on appeal; and
 - iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

3. **Scope of appeal.** The appeal of a Type III Quasi-Judicial Decision shall be a hearing de novo before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

E. Record of the Public Hearing.

1. The official public hearing record shall include all of the following information:
 - a) All materials considered by the hearings body;
 - b) All materials submitted by the City Planning Official to the hearings body regarding the application;
 - c) The minutes of the hearing;
 - d) The final written decision; and
 - e) Copies of all notices given as required by this chapter, and correspondence regarding the application that the City mailed or received.

2. The meeting minutes shall be filed in hardcopy form with the City Planning Official. The minutes and other evidence presented as a part of the hearing shall be part of

the record.

3. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

F. Effective Date and Appeals to State Land Use Board of Appeals. A Quasi-Judicial Decision or Appeal Decision, as applicable, is effective the date the City mails the decision notice. Appeals of City Council decisions under this chapter shall be filed with the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

4.1.050 Type IV (Legislative Decisions)

A. Timing of Requests. The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.

B. Application Requirements.

1. **Application forms.** Legislative applications shall be made on forms provided by the City Planning Official.
2. **Submittal Information.** The application shall contain all of the following information:
 - a) The information requested on the application form;
 - b) A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c) The required fee, except when City of Elkton initiates request; and,
 - d) One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

C. Procedure. Hearings on Legislative Land Use requests are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:

1. The City Planning Official shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.
2. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a) Each owner whose property would be directly affected by the proposal (e.g.,

rezoning or a change from one Comprehensive Plan land use designation to another), see ORS 227.186 for instructions;

- b) Any affected governmental agency;
 - c) Any person who requests notice in writing; and
 - d) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
3. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.
4. For each mailing and publication of notice, the City Planning Official shall keep an affidavit of mailing/publication in the record.

D. Final Decision and Effective Date. A Legislative Land Use decision, if approved, shall take effect and shall become final as specified in the enacting ordinance or, if not approved, upon mailing of the notice of decision to the applicant. Notice of a Legislative Land Use decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within 20 business days after the City Council decision is filed with the City Planning Official. The City shall also provide notice to all persons as required by other applicable laws.

4.1.060 Time Limit, Consolidated Review, and City Planning Official's Duties

- A. Time Limit - 120-day Rule.** The City shall take final action on Administrative and Quasi-Judicial land use applications, pursuant to this chapter, including resolution of all appeals, within 120 days from the date the City Planning Official deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120-day rule does not apply to Legislative Land Use decisions.)
- B. Time Periods.** In computing time periods prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.
- C. Consolidated Review of Applications.** When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.
- D. City Planning Official's Duties.** The City Planning Official, or his or her designee, shall perform all of the following duties with regard to administration of this Code:

1. Prepare application forms based on the provisions of this Code and applicable state law;
2. Prepare required notices and process applications for review and action;
3. Assist the City Council in administering the hearings process;
4. Answer questions from the public regarding the City's land use regulations;
5. Prepare staff reports summarizing pending applications, including applicable decision criteria;
6. Prepare findings consistent with City decisions on land use and development applications;
7. Prepare notices of final decisions, file the notices in the City's records, and mail a copy of the notices to all parties entitled to notice under this Code; and
8. Maintain and preserve the file and public record for each application.

Chapter 4.2 - Site Plan Review

Sections:

- 4.2.010 Purpose
- 4.2.020 Applicability
- 4.2.030 Review Procedure
- 4.2.040 Application Submission Requirements
- 4.2.050 Approval Criteria and Adjustments
- 4.2.060 Assurances
- 4.2.070 Compliance with Conditions, Permit Expiration, and Modifications

4.2.010 Purpose

The purpose of this chapter is to advance all of the following objectives in the public interest:

- A. Carry out the development pattern and plan of the City and its comprehensive plan policies through efficient and effective review of site development proposals;
- B. Promote the public health, safety, and general welfare;
- C. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and
- D. Encourage efficient use of land resources and public services, and the provision of transportation options.

4.2.020 Applicability

Site Plan Review approval is required for new development. Site Plan Review approval is also required to expand a non-conforming use or development. Except as specified by a condition of approval of a prior City decision, or as required for uses subject to Conditional Use Permit approval, Site Plan Review is not required for the following:

- A. Change in occupancy from one type of land use to a different land use resulting in no increase in vehicular traffic or development;
- B. Single-family detached dwelling on its own lot, except as required for designated historic landmarks or properties within a designated overlay zone;
- C. Non-residential building addition of up to 400 square feet;
- D. Home occupation, except for uses requiring a Conditional Use Permit;
- E. Development and land uses that are already approved as part of a Site Plan Review or Conditional Use Permit application, provided that modifications to such plans may require Site Plan Review, pursuant to Chapter 4.7;

- F. Public improvements required by City standards or as stipulated by a condition of land use approval (e.g., transportation facilities and improvements, parks, trails, utilities, and similar improvements), as determined by the City Planning Official, except where a condition of approval requires Site Plan Review; and
- G. Regular maintenance, repair, and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair.

4.2.030 Review Procedure

Site Plan Review shall be conducted using the Type I Administrative Review procedure in Section 4.1.030, except that proposals exceeding any one of the thresholds below shall be reviewed using either the Type II or Type III procedures:

- A. The proposed use's estimated vehicle trip generation exceeds 400 average daily trips, based on the latest edition of the Institute of Transportation Engineers (ITE) Manual.
- B. The use exceeds 5,000 square feet of gross floor area; or the project involves more than one acre total site area;
- C. The proposal involves a Conditional Use (new or expanded);
- D. The proposal involves a variance under Chapter 4.7;
- E. The proposal involves expansion of a non-conforming use; or
- F. The City Planning Official determines that, due to the nature of the proposal, a public hearing is the most effective way to solicit public input in reviewing the application.

4.2.040 Application Submission Requirements

All of the following information is required for Site Plan Review application submittal, except where the City Planning Official determines that some information is not pertinent and therefore is not required.

A. General Submission Requirements

1. Information required for Type I, II or III review, as applicable (see Chapter 4.1).
2. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study. The study shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system; water system; and sewer system. For each system and type of impact, the burden of proof shall propose

improvements necessary to meet City requirements. The City may require a Traffic Impact Analysis pursuant to Section 3.6.020.A(5).

B. Site Plan Review Information. In addition to the general submission requirements, an applicant for Site Plan Review shall provide the following information, as deemed applicable by the City Planning Official. The City Planning Official may request any information that he or she needs to review the proposal and prepare a complete staff report, decision, and/or recommendation to the approval body.

- 1. Site analysis map.** The site analysis map shall contain all the following information, as the City Planning Official deems applicable:
 - a) The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the city, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;
 - b) Topographic contour lines at two-foot intervals for slopes, except where the Public Works Director determines that larger intervals will be adequate for steeper slopes;
 - c) Identification of slopes greater than 15 percent, with slope categories identified in 5 percent increments (e.g., 0%-5%, >5%-10%, >10%-15%, >15%-20%, and so forth);
 - d) The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
 - e) Potential natural hazard areas, including, as applicable, the base flood elevation identified on FEMA Flood Insurance Rate Maps or as otherwise determined through site specific survey, areas subject to high water table, and areas designated by the City, county, or state as having a potential for geologic hazards;
 - f) Areas subject to overlay zones;
 - g) Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals, and ditches;
 - h) The location, size, and species of trees and other vegetation (outside proposed building envelope) having a caliper (diameter) of 6 inches greater at 4 feet above grade;
 - i) North arrow, scale, and the names and addresses of all persons listed as owners of the subject property on the most recently recorded deed; and,
 - j) Name and address of project designer, engineer, surveyor, and/or planner, if applicable.

- 2. Proposed site plan.** The site plan shall contain all the following information:
 - a) The proposed development site, including boundaries, dimensions, and gross area;
 - b) Features identified on the existing site analysis maps that are proposed to remain on the site;

- c) Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
- d) The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
- e) The location and dimensions of all existing and proposed structures, utilities, pavement, and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
- f) The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
- g) The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);
- h) Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
- i) Loading and service areas for waste disposal, loading, and delivery;
- j) Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
- k) Location, type, and height of outdoor lighting;
- l) Location of mail boxes, if known;
- m) Locations, sizes, and types of signs.

3. Architectural drawings. Architectural drawings shall include, as applicable:

- a) Building elevations with dimensions;
- b) Building materials, colors, and type; and
- c) Name and contact information of the architect or designer.

4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for development sites one-half acre or larger, or where otherwise required by the City. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Section 3.6.040.

5. Landscape plan. Where a landscape plan is required, it shall show the following, pursuant to Chapter 3.4:

- a) The location and height of existing and proposed fences, buffering, or screening materials;
- b) The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
- c) The location, size, and species of the existing and proposed plant materials (at time of planting);
- d) Existing and proposed building and pavement outlines;
- e) Specifications for soil at time of planting, irrigation if plantings are not drought tolerant (may be automatic or other approved method of irrigation), and anticipated planting schedule; and

- f) Other information as deemed appropriate by the City Planning Official. An arborist's report may be required for sites with mature trees that are to be retained and protected.
- 6. **Deed restrictions.** Copies of all existing and proposed restrictions or covenants, including those for roadway access control.
- 7. **Narrative.** Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 4.2.050.
- 8. **Traffic Impact Analysis,** when required by Section 3.6.020.A(5).
- 9. **Other information** determined by the City Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal's conformance with this Code.

4.2.050 Approval Criteria

An application for Site Design Review shall be approved if the proposal meets all of the following criteria. The City, in approving the application, may impose reasonable conditions of approval, consistent with the applicable criteria. Note: Compliance with other City, County, and/or State requirements may be required prior to issuance of building permits.

- A. The application is complete, in accordance with Section 4.2.040, above;
- B. The application complies with all of the applicable provisions of the underlying Land Use District (Article 2), including, but not limited to, building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards;
- C. The proposal includes required upgrades, if any, to existing development that does not comply with the applicable land use district standards, pursuant to Chapter 1.4 Non-Conforming Uses and Development;
- D. The proposal complies with all of the Development and Design Standards of Article 3, as applicable, including, but not limited to:
 - 1. Chapter 3.3 Access and Circulation;
 - 2. Chapter 3.4 Landscaping and Fences
 - 3. Chapter 3.5 Parking and Loading; and,
 - 4. Chapter 3.6 Public Facilities
- E. For non-residential uses, all adverse impacts to adjacent properties, such as light,

glare, noise, odor, vibration, smoke, dust, or visual impact, are avoided; or where impacts cannot be avoided, they are minimized; and

- F. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.

4.2.060 Assurances

Public improvement required as part of a Site Design Review approval shall be subject to the performance guarantee and warranty bond provisions of Section 3.6.090, as applicable.

4.2.070 Compliance With Conditions, Permit Expiration, and Modifications

Development shall not commence until the applicant has received all applicable land use and development approvals. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require bonding or other assurances for improvements. Site Design Review approvals are subject to all of the following standards and limitations:

- A. Approval Period.** Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:
 - 1. A public improvement plan or building permit application for the project has not been submitted within one year of approval; or
 - 2. Construction on the site is in violation of the approved plan.
- B. Extension.** The City Planning Official, upon written request by the applicant, may grant a written extension of the approval period not to exceed one year; provided that:
 - 1. No changes are made on the original approved plan;
 - 2. The applicant can show intent of initiating construction on the site within the one-year extension period;
 - 3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the subject plan does not comply with those changes, then the extension shall not be granted; in this case, a new Site Design Review shall be required; and
 - 4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.
- C. Modifications to Approved Plans and Developments.** Modifications to approved plans are subject to City review and approval under Chapter 4.5.

Chapter 4.3 - Land Divisions and Property Line Adjustments

Sections:

4.3.010	Purpose
4.3.020	General Requirements
4.3.030	Approval Process
4.3.040	Flag Lots
4.3.050	Preliminary Plat Submission Requirements
4.3.060	Preliminary Plat Approval Criteria
4.3.070	Land-Division-Related Variances
4.3.080	Final Plat Submission Requirements and Approval Criteria
4.3.090	Filing and Recording
4.3.100	Re-platting and Vacation of Plats
4.3.110	Property Line Adjustments

4.3.010 Purpose

The purpose of this chapter is to implement the objectives in subsections A-E, below:

- A.** Provide rules, regulations, and standards governing the approval of subdivisions, partitions, and property line adjustments as follows:
 - 1.** Subdivisions are the creation of four or more lots from one parent lot, parcel, or tract, within one (1) calendar year.
 - 2.** Partitions are the creation of three or fewer lots from one parent lot, parcel, or tract within one calendar year.
 - 3.** Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B.** Carry out the City's development pattern, as envisioned by the City's comprehensive plan.
- C.** Encourage efficient use of land resources and public services, and to provide transportation options.
- D.** Promote the public health, safety, and general welfare through orderly and efficient urbanization.
- E.** Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards.

4.3.020 General Requirements

A. Subdivision and Partition Approval Through Two-Step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:

1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
2. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

Note: Property line adjustments and lot consolidation requests (i.e., no new lot is created) are subject to Section 4.3.110; they are not subject to 4.3.020 through 4.3.100.

B. Compliance With Oregon Revised Statutes (ORS) Chapter 92. All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92 Subdivisions and Partitions.

C. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than threetimes or 300 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The applicant shall submit a future re-division plan, or shadow plan, indicating how re-division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future.

D. Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant to Chapter 3.6. These systems shall be located and constructed underground where feasible.

E. Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant to Chapter 3.6.

F. Adequate Access. All lots created or reconfigured shall have adequate vehicle access and parking, as maybe required, pursuant to Chapter 3.3.

G. Street Trees. In all subdivisions, the subdivider shall plant, maintain until the lot is sold, or include in the subdivision agreement and security, one street tree per lot. The location of the tree shall be behind the street right-of-way line, and 10 feet from any sewer or water line. The trees shall be a minimum of 2 inch caliper and be approved by the City Council to insure the trees are compatible with the area and will not disturb curbs, gutters, sidewalks, or utility lines.

H. Preservation of Natural Features. In order to preserve the natural amenities of the City, land clearing and grading operations should, as much as feasible, retain existing trees. In addition, riparian vegetation located along water courses and in the 100-year floodplain should, as much as feasible, be retained to protect the stability of the stream banks and to enhance and preserve the natural attributes of the area. Stream setbacks of 50 feet from the Umpqua River and Elk Creek, and 25 feet from other perennial watercourses, are prescribed in Part I of this ordinance.

I. Land for Public Purposes. If the City has an interest in acquiring a portion of a proposed subdivision for a public purpose, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the City Council may require that those portions of the subdivision be reserved for public acquisition, for a period not to exceed one year, at a cost not to exceed the value of the land prior to subdivision.

4.3.030 Preliminary Plat Approval Process

A. Review of Preliminary Plat. Preliminary plats shall be processed using the Type III procedure under Section 4.1.040. All preliminary plats, including partitions and subdivisions, are subject to the approval criteria in Section 4.3.060.

B. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant to Section 4.3.080, within the two-year period. The City Council may approve phased subdivisions, pursuant to subsection 4.3.030.D, with an overall time frame of more than two years between preliminary and final plat approvals.

C. Modifications and Extensions. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.5. The City Council may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period not to exceed one year per extension, provided that all of the following criteria are met:

3. Any changes to the preliminary plat follow the procedures in Chapter 4.5;
4. The applicant has submitted written intent to file a final plat within the one-year extension period;
5. An extension of time will not prevent the lawful development of abutting properties;
6. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and

7. The extension request is made before expiration of the original approved plan.

D. Phased Subdivision. The City Council may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant's proposal meets all of the following criteria:

8. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than one year;

9. Public facilities shall be constructed in conjunction with or prior to each phase;

10. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;

11. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and

12. Council approval is required for modifications to phasing plans.

4.3.040 Flag Lots (Panhandle Lots)

A. Panhandle lot configurations shall not be utilized in new subdivisions.

B. The City Council may authorize exceptions from frontage requirements for panhandle lots in the R1 Zone only in established neighborhoods; provided, that the following standards, applicable to all panhandle lots, are met:

1. Minimum lot sizes for panhandle lots shall be as follows:

a) All parcels in an R1 zone must be at least 6,000 square feet, exclusive of the panhandle

2. Minimum panhandle width shall be as follows, whether or not the panhandle is used for access:

a) One rear parcel: 15 feet;

b) Two or Three rear parcels: 25 feet;

3. Minimum access paving width of the panhandle or abutting driveway used for access shall be as follows:

a) One or two rear parcel(s): 15 feet;

b) Three rear lots or parcels: 20 feet (to preserve existing natural features, paving width may be reduced to 22 feet, except for the first 25 feet back from the sidewalk, with the approval of the City Council if both sides of the driveway are landscaped in accordance with an approved landscape plan);

4. Driveways (which may or may not be the panhandle) and parking areas shall have

a durable, dust-free surfacing of asphalt concrete, portland cement concrete or other approved material;

5. Use of a panhandle for access shall be permitted only if creation of a public street, including a future public street, is not possible because:
 - a) Physical conditions preclude development of a public street. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers or lakes, or a resource on the National Wetland Inventory or under protection by state or federal law;
 - b) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment in the planning period;
6. A maximum of three (3) rear lots or parcels may be assigned to a single panhandle;
7. Vehicular access from public streets to the rear lots or parcels may be obtained one of three ways:
 - a) Via a panhandle driveway;
 - b) Via an existing alley;
 - c) Via an abutting property's driveway;
8. If an abutting property's access driveway is used:
 - a) An access easement maintenance agreement shall be required and shall be recorded in the Douglas County office of deeds and records;
 - b) There shall be adequate room elsewhere on the abutting property to meet off-street parking requirements for that property;
9. When the panhandle is used for access and the abutting property owner requests a visual buffer at the time of land division review, that buffer shall consist of the following:
 - a) A minimum five-foot-high site-obscuring fence or wall; or
 - b) Landscaping that will be five feet high and 75 percent site-obscuring within five years;
10. If access is provided via an existing unimproved alley, the property owner filing for the land division shall improve the alley to city standards. The alley must be able to provide automobile and emergency vehicle access to a public street;
11. Whether or not the panhandle is used for access, it shall remain free of structures and be available for possible future access to a public street;
12. Each rear lot or parcel shall have two parking spaces and shall have sufficient turnaround area to eliminate the necessity for a vehicle to back out onto the street. The two spaces shall not be located in the panhandle portion of driveways;

13. The building official shall not issue a certificate of occupancy until the project is completed in accordance with the relevant standards and associated approval conditions.
14. Except as provided herein, the design and development standards of the zone district in which the panhandle lots or parcels are located shall apply.

4.3.050 Preliminary Plat Submission Requirements

Applications for Preliminary Plat approval shall contain all of the following information:

A. General Submission Requirements.

1. Information required for a Type II/III review (see Section 4.1.040); and
2. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study, which shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system; water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City standards under adopted ordinances and facility master plans. The City may require a Traffic Impact Analysis pursuant to Section 3.6.020.A(5).

B. Preliminary Plat Information. In addition to the general information described in subsection A, above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide all of the following information, in quantities determined by City Planning Official:

1. General information:
 - c) Name of subdivision (partitions are named by year and file number), which shall not duplicate the name of another land division in Douglas County (check with County Surveyor);
 - d) Date, north arrow, and scale of drawing;
 - e) Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
 - f) Zoning of parcel to be divided, including any overlay zones;
 - g) A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
 - h) Identification of the drawing as a "preliminary plat."
2. **Existing Conditions.** Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions of the site:

- a) Streets: Location, name, and present width of all streets, alleys, and rights-of-way on and abutting the site;
- b) Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c) Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- d) Ground elevations shown by contour lines at two-foot vertical intervals. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the City Council may waive this standard for partitions when grades, on average, are less than 6 percent;
- e) The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- f) The Base Flood Elevation, per FEMA Flood Insurance Rate Maps, as applicable;
- g) North arrow and scale; and
- h) Other information, as deemed necessary by the City Planning Official for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed Development. Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:

- a) Proposed lots, streets, tracts, open space, and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
- b) Easements: location, width and purpose of all proposed easements;
- c) Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
- d) Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
- e) Proposed public street improvements, pursuant to Chapter 3.6;
- f) On slopes exceeding an average grade of 10 percent, as determined by the City Engineer, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;
- g) Preliminary design for extending City water and sewer service to each lot, per Chapter 3.6;
- h) Proposed method of storm water drainage and treatment, if required, pursuant to Chapter 3.6;
- i) The approximate location and identity of other utilities, including the locations of

- street lighting fixtures, as applicable;
- j) Evidence of compliance with applicable overlay zones, including but not limited to City of Elkton Flood Hazard Overlay; and
- k) Evidence of contact with the applicable road authority for proposed new street connections.

4.3.060 Preliminary Plat Approval Criteria

- A. Approval Criteria.** The City Council may approve, approve with conditions, or deny a preliminary plat. The City Council decision shall be based on findings of compliance with all of the following approval criteria:
1. The land division application shall conform to the requirements of Chapter 4.3;
 2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Article 2 (Zoning);
 3. Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer, and streets, shall conform to Article 3 (Development and Design Standards);
 4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
 5. The proposed streets, utilities, and surface water drainage facilities conform to City of Elkton adopted master plans and applicable engineering standards, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
 6. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;
 7. Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and
 8. Evidence that improvements or conditions required by the City, road authority, Douglas County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met.
- B. Conditions of Approval.** The City Council may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.

4.3.070 Land Division-Related Variances

Variations shall be processed in accordance with Chapter 4.7. Applications for variations shall be submitted at the same time an application for land division or lot line adjustment is submitted; when practical, the applications shall be reviewed concurrently.

4.3.080 Final Plat Submission Requirements and Approval Criteria

Final plats require review and approval by the City Council prior to recording with Douglas County. The final plat submission requirements, approval criteria, and procedure are as follows:

- A. Submission Requirements.** The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by Section 4.3.060. The format of the plat shall conform to ORS 92.
- B. Approval Process and Criteria.** By means of a Type II Review, the City Council shall review and approve or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria:
 - 1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, rights-of- way) with the approved preliminary plat, and all conditions of approval have been satisfied;
 - 2. All public improvements required by the preliminary plat have been installed and approved by the City or applicable service provider if different than the City of Elkton (e.g., road authority), or otherwise bonded in conformance with Section 3.6.090;
 - 3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
 - 4. All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;
 - 5. The plat and deed contain a dedication to the public of all public improvements, including, but not limited to, streets, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;
 - 6. As applicable, the applicant has furnished acceptable copies of Covenants, Conditions, and Restrictions (CC&R's); easements; maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat;
 - 7. Verification by the City that water and sanitary sewer service is available to every lot depicted on the plat; and

8. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of each monument and its reference to some corner approved by the Douglas County Surveyor for purposes of identifying its location.

4.3.090 Filing and Recording

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat is recorded for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat ("lot of record") shall follow the procedures set forth in ORS 92.010 to 92.190. The final plat filing and recording requirements are as follows:

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

4.3.100 Re-platting and Vacation of Plats

Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plate or vacate a plat. Street vacations are subject to ORS Chapter 271. A re-plate or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable City standards.

4.3.110 Property Line Adjustments

A Property Line Adjustment is the modification of a lot boundary when no lot is created. The City Planning Official reviews applications for Property Line Adjustments pursuant to the Type I procedure under Section 4.1.020. The application submission and approval process for Property Line Adjustments is as follows:

- A. Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I review, pursuant to Section 4.1.020. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions, footprints and dimensions of existing structures (including accessory structures), location and dimensions of driveways and public and private streets within or abutting the subject lots, location of lands subject to the City of Elkton Flood Area Overlay, existing fences and walls, and any other information deemed necessary by the City Council for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.
- B. Approval Criteria.** The City Planning Official shall approve or deny a request for a property line adjustment in writing, based on all of the following criteria:

 - 1. Parcel Creation.** No additional parcel or lot is created by the lot line adjustment;
 - 2. Lot standards.** All lots and parcels conform to the applicable lot standards of the zoning district (Article 2) including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform the City of Elkton Flood Hazard Overlay; and,
 - 3. Access and Road authority Standards.** All lots and parcels conform to the standards or requirements of Chapter 3.3 Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made less conforming by the property line adjustment.
- C. Recording Property Line Adjustments**

 - 1. Recording.** Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment documents with Douglas County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.
 - 2. Time limit.** The applicant shall submit a copy of the recorded property line adjustment survey map to the City within 15 days of recording and prior to any application being filed for a building permit on there-configured lots.

Chapter 4.4 - Conditional Use Permits

Sections:

4.4.010	Purpose
4.4.020	Approvals Process
4.4.030	Application Submission Requirements
4.4.040	Criteria, Standards, and Conditions of Approval
4.4.050	Supplemental Development Standards

4.4.010 Purpose

There are certain uses which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. Conditional uses are identified in Chapter 2.2 Zoning District Regulations. The purpose of this chapter is to provide procedures and standards for permitting conditional uses.

4.4.020 Approvals Process

The City Council or designee using a Type III procedure, per Section 4.1.040, reviews conditional use applications. The City Council or designee may require annual, or less frequent, renewal of conditional use permits. Modifications to conditional use permits are subject to Chapter 4.5 Modifications.

4.4.030 Application Submission Requirements

In addition to the submission requirements for a Type III review under Section 4.1.040, applications for conditional use permits shall include a description of existing conditions, a site plan, and information on any existing and any proposed restrictions or covenants. (For a more detailed description of each item, please refer to Section 4.2.040 Site Plan Review Application Submission Requirements.) An application for a Conditional Use Permit shall also contain a narrative report or letter responding to the applicable approval criteria in Section 4.4.040.

4.4.040 Criteria, Standards, and Conditions of Approval

The City Council or designee shall approve, approve with conditions, or deny an application for a conditional use, including requests to enlarge or alter a conditional use, based on findings of fact with respect to all of the criteria and standards in A. and B., below.

A. Use Criteria

1. The site size, dimensions, location, topography, and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

2. The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval;
3. All required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposal, consistent with City standards; and
4. A conditional use permit shall not allow a use that is prohibited or not expressly allowed under Article 2; nor shall a conditional use permit grant a variance without a variance application being reviewed with the conditional use application.

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

1. Limiting the hours, days, place, and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor, and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building or structure height, size, lot coverage, and/or location on the site;
5. Designating the size, number, location, and/or design of vehicle access points or parking and loading areas;
6. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height, and/or lighting of signs;
9. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening, or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location, and/or materials for fences;

- 12.** Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;
- 13.** Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards; and
- 14.** The City may require review and renewal of conditional use permits annually or in accordance with another timetable as approved pursuant to this chapter. Where applicable, the timetable shall provide for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval; such period review may occur through a Type III review process, except where the City Council delegates authority to the City Planning Official to issue renewals, who shall do so through a Type I or Type II procedure, as applicable (see Chapter 4.1 for review procedures).

Chapter 4.5 - Modifications to Approved Plans and Conditions

Sections:

4.5.010	Purpose
4.5.020	Applicability
4.5.030	Major Modifications
4.5.040	Minor Modifications

4.5.010 Purpose

The purpose of this chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources.

4.5.020 Applicability

This chapter applies when an applicant proposes to modify an approved application or condition of approval.

4.5.030 Major Modifications

- A. Major Modification.** The City Council reviews applications for major modifications through the Quasi-Judicial procedure under Section 4.1.040. Any one of the following changes constitutes a major modification:
1. A change in land use, from a less intensive use to a more intensive use, as evidenced by parking, paved area, an estimated increase in automobile or truck trips (peak and/or average daily trips), an increase in hours of operation, an increased demand for parking, additional paved area, or similar factors, where the increase is 20 percent or more, provided the standards of Article 2 and Article 3 are met;
 2. An increase in floor area in a commercial or industrial development, or an increase in the number of dwelling units in a multifamily development, by 20 percent or more, provided the standards of Article 2 and Article 3 are met;
 3. A reduction in required setbacks, or an increase in lot coverage, by 20 percent or more, provided the standards of Article 2 and Article 3 are met;
 4. A change in the type and/or location of vehicle access points or approaches, driveways, or parking areas affecting off-site traffic when the roadway authority determines the change could cause a significant adverse impact on traffic operations or safety (i.e., requiring mitigation);
 5. A reduction to screening, or a reduction to the area reserved for common open

space or landscaping by 20 percent or more;

6. Change to a condition of approval, or a change similar to items 1-5, above, that could have a detrimental impact on adjoining properties. The City Planning Official shall have discretion in determining detrimental impacts triggering a major modification; or
7. Other changes similar to those in subsections 1-6, above, in scale, magnitude, or impact to adjacent properties, as determined by the City Planning Official.

B. Major Modification Applications; Approval Criteria. Requests for major modifications shall conform to all of the following procedures and criteria:

1. The applicant shall submit an application form, filing fee, letter describing the modification, and site plan using the same plan format as in the original approval. The City may require other relevant information, as necessary, in evaluating the request;
2. The application shall be subject to the same approval criteria used for the initial project approval; except that a modification adding a conditional use to a project approved without a conditional use shall require findings in conformance with Chapter 4.4;
3. The scope of review shall be limited to the modification request. For example, a request to modify a commercial development's parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated access, circulation, etc. Notice shall be provided in accordance with Chapter 4.1; and
4. The City Council shall approve, deny, or approve with conditions an application for major modification based on written findings on the applicable Code criteria (e.g., subdivision, Site Plan Review, conditional use, etc.).

4.5.040 Minor Modifications

A. Minor Modification. The Planning Official through a Type I or II procedure, depending on whether the proposal involves the exercise of discretion, shall review proposals for Minor Modifications. Minor modifications include technical corrections to comply with codes and regulations, and changes that fall below the thresholds in 4.5.030, as determined by the City Planning Official. A minor modification is a change to an approved plan or condition of approval that does not meet any of the thresholds for a major modification listed in Section 4.5.030.A.

B. Minor Modification Applications; Approval Criteria. An application for minor modification shall include an application form, filing fee, letter describing the modification, and site plan using the same plan format as in the original approval. The Planning Official may require other relevant information, as necessary, in evaluating

the request.

- C. Minor Modification Approval Criteria.** The Planning Official shall approve, deny, or approve with conditions an application for minor modification based on findings of compliance or noncompliance with the applicable requirements of the Code and the conditions of approval of the original decision.

Chapter 4.6 – Amendments to Zoning Map or Code

Sections:

4.6.010	Purpose
4.6.020	Procedure
4.6.030	Criteria
4.6.040	Record of Amendments
4.6.050	Transportation Planning Rule Compliance

4.6.010 Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and Zoning Map. Amendments may be necessary from time to time to reflect changing community conditions, to correct mistakes, or to address changes in the law.

4.6.020 Procedure

- A.** Except for corrections, amendments to Development Code text are Legislative (Type IV).
- B.** Amendments to the Zoning Map that affect more than one parcel, or more than one-half of an acre, whichever is greater, are Legislative (Type IV) actions.
- C.** Amendments to the Zoning Map that require an amendment to the Comprehensive Plan are Legislative (Type IV) actions.
- D.** Amendments that do not meet the criteria under subsections 4.6.020.A, 4.6.020.B, or 4.6.020.C may be processed as Quasi-Judicial amendments, pursuant to the Type III procedure.

4.6.030 Criteria

Planning Official review and recommendation, and City Council approval, of an ordinance amending the Zoning Map, Development Code, or Comprehensive Plan shall be based on all of the following criteria:

- A.** If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;
- B.** The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning);

- C. The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or code; and,
- D. The amendment must conform to Section 4.6.050 Transportation Planning Rule Compliance.

4.6.040 Record of Amendments

The City Planning Official shall maintain a record of amendments to the text of this Code and the Zoning Map in a format convenient for public use. In the case of a map amendment, the map shall be made part of the ordinance.

4.6.050 Transportation Planning Rule Compliance

Proposals to amend the Comprehensive Plan or Zoning Map shall be reviewed to determine whether they significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant affect on a transportation facility, the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

Chapter 4.7 - Adjustments and Variances

Sections:

4.7.010	Purpose
4.7.020	General Provisions
4.7.030	Adjustments
4.7.040	Variances
4.7.050	Expiration

4.7.010 Purpose

Chapter 4.7 provides standards and procedures for adjustments and variances, which are modifications to development standards that are not otherwise permitted elsewhere in this Code.

4.7.020 Intent

Adjustments are variances that are intended to provide relief from code standards in specific situations. Both procedures are intended to ensure that the resulting development is compatible with adjacent properties and is consistent with the intent of the Code.

A. Adjustments. Adjustments provide relief from specific code provisions when a code provision has the unintended effect of preventing reasonable development in conformance with all other code requirements. Adjustments are allowed in limited situations pursuant to Section 4.7.030.

B. Variances. Variances provide greater flexibility to code standards than adjustments, where the physical characteristics of a site or its surroundings prevent reasonable development in compliance with a code standard.

4.7.030 Adjustments

Adjustments are minor modifications to Code standards that are intended to provide reasonable flexibility for planned land uses and development. Adjustments are subject to the following standards and procedures. Permitted uses, as provided in Article 2, shall not be adjusted.

A. Applicability. The City Planning Official or City Council, through a Type II procedure, may adjust the following standards:

- 1. Setbacks:** Up to a 10 percent reduction to a minimum setback.
- 2. Lot Coverage:** Up to a 10 percent increase to the maximum lot coverage.
- 3. Lot Dimensions:** Up to a 10 percent decrease to a minimum lot dimension.

4. **Lot Area:** Up to a 10 percent decrease in minimum lot area.
5. **Other Dimensional Standards:** Up to a 10 percent increase or decrease in a quantitative (numerical) standard not listed above. This option is limited to standards in Article 2 (Table 2.2.030 and Chapter 2.3 Special Uses) and Article 3; it does not include building code requirements, engineering design standards, public safety standards, or standards implementing state or federal requirements, as determined by the City Planning Official.

B. Approval criteria. The City may grant an Adjustment only upon finding that all of the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. The Adjustment allows for a building plan that is more compatible with adjacent land uses, or it does not create a conflict with adjacent uses;
2. The Adjustment is necessary to allow for normal interior building functions, such as mechanical equipment/utility closets, heating and ventilation systems, restrooms, stockrooms, shelving, and similar interior building functions;
3. Approval of the Adjustment does not create (a) violation(s) of any other adopted ordinance or code standard, and does not create the need for a Variance;
4. An application for an Adjustment is limited to one lot per application;
5. Requests for more than one Adjustment on the same lot shall be consolidated on one application and reviewed concurrently by the City;
6. Not more than three (3) Adjustments may be approved for one lot or parcel in a continuous 12-month period; and
7. All applicable building code requirements and engineering design standards shall be met.

4.7.040 Variances

A. Applicability. A Variance is a deviation from the requirements of this Chapter that does not otherwise meet the criteria under Section 4.7.030.

B. Approval Criteria. The City Council, through a Type III procedure, may approve a Variance upon finding that it meets all of the following criteria:

1. The Variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance;

2. The Variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;
3. The need for the Variance is not self-imposed by the applicant or property owner. (For example, the Variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant);
4. The Variance does not conflict with other applicable City policies or other applicable regulations;
5. The Variance will result in no foreseeable harm to adjacent property owners or the public; and
6. All applicable building code requirements and engineering design standards shall be met.

C. Authorization to grant or deny minor variances. The Planning Official may grant a minor variance to the requirements of this title where it can be shown that owing to special and unusual circumstances, strict application of this title would cause an undue or unnecessary hardship. In granting a minor variance, conditions may be imposed which are necessary to protect the best interest of the surrounding property or vicinity or otherwise achieve the purpose of this title.

1. **Minor Variances.** One variance involving the following may be granted by the Planning Official after a thorough examination and upon presentation of evidence that the variance requested involves one of the issues listed below:
 - a) Deviation from a minimum property development standard by not more than 10 percent;
 - b) Expansion of a conditional or nonconforming use by not more than 15 percent of the gross building volume; and
 - c) Extension or restoration of a nonconforming structure.
2. **Procedure.** Upon receipt of the application form and payment of 50 percent of the usual application fee for a variance, the Planning Official shall render a decision within five working days, or the decision may be deferred to the City Council. Additional information may be requested to arrive at a decision; and, if so, the decision shall be rendered within five working days following the submission of such information.
3. **Notice.** Should a minor variance be granted by administrative action, a notice of the Variance decision and reasoning shall be mailed to all property owners abutting the subject property, exclusive of any public rights-of-way, soliciting comments or objections. If any written objections to the proposed variance are received within 10 days of the mailing, a public hearing shall be required in accordance with this chapter. If no objections to the variance are received within the 10-day period, the

variance shall become effective at the end of that period.

4.7.050 Expiration

Approvals granted under Chapter 4.7 shall expire if not acted upon by the property owner within one year of the City approving the variance. Where the owner has applied for a building permit or final plat, has made siteimprovements consistent with an approved development plan (e.g., Site Plan Review or preliminary subdivision plan), or provides other evidence of working in good faith toward completing the project, the City Planning Official may extend an approval accordingly.

Article 5 – Definitions

Chapter 5.1 — Definitions

Sections:

- 5.1.010 Purpose
- 5.1.020 Applicability
- 5.1.030 Definitions

5.1.010 Purpose

The purpose of Chapter 5.1 is to define terms that are used in the City of Elkton Development Code and other terms that may arise in interpreting the Code, particularly those that may be uncommon or have more than one meaning.

5.1.020 Applicability

- A. Definitions.** The definitions in Chapter 5.1 apply to all actions and interpretations under the City of Elkton Development Code. The meanings of some terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control.
- B. When a Term is Not Defined.** Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used.
- C. Land Use Categories.** Chapter 5.1 defines the land use categories used in Article 2.
- D. Conflicting Definitions.** Where a term listed in Chapter 5.1 is defined by another section of this Code or by other regulations or statutes referenced by this Code, the term is not redefined herein for purposes of that other code.

5.1.030 Definitions

The following definitions are organized alphabetically.

A

Abutting. Contiguous or adjoining.

Access. A way or means of approach to provide pedestrian, bicycle, and/or motor vehicular entrances or exits to a property.

Access Control. Where the right of access between a property abutting the highway and the highway has been acquired by a roadway authority, or eliminated by law, pursuant to access or approach spacing standards.

Access Easement. An easement conveyed for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a lot or parcel across intervening property under separate ownership from the parcel being provided access. **Cross access easement** is an easement providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites.

Access Management. The systematic control of the location, spacing, design, and operation of driveways, median openings, interchanges, and street connections to a roadway to minimize conflicts between turning and through vehicles, bicyclists, and pedestrians. The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. Public facility measures to support access management include roadway design applications, such as median treatments and auxiliary lanes, and the appropriate spacing of traffic signals. Measures that may be included as conditions of approval for development decisions include, but are not limited to, 1) standards such as minimum spacing of driveways and onsite vehicle storage requirements; 2) mitigations related to site conditions such as right-in-right-out only approaches, medians, dedicated turn lanes, and shared driveways; and 3) provision for future opportunities for mitigation by land dedication or easement.

Access Management Plan. A plan adopted by the City, or jointly by the Oregon Transportation Commission (OTC) in coordination with the City, for managing access on a designated section of an arterial street or highway.

Access Way. A walkway or multi-use path connecting two rights-of-way to one another where no vehicle connection is made.

Alternate Access. The right to access a property by means other than the proposed approach or access connection. It may include an existing public right-of-way, another location on the subject street or highway, an easement across adjoining property, a different street, a service road, a local road, or an alley, and may be in the form of a single or joint approach.

Access, Reasonable. Access that does not require excessive out-of-direction travel or pose a safety hazard.

Access Point. A connection providing for the movement of vehicles between a lot or parcel and a public roadway.

Access Spacing / Intersection Spacing. The minimum required distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge

of the pavement of the connection along the traveledway.

Access Way. A walkway providing a through connection for pedestrians between two streets, between two lots, or between a development and a public right-of-way. It may be an access way for pedestrians and bicyclists (with no vehicle access), or a walkway on public or private property (i.e., with a public access easement); it may also be designed to accommodate emergency vehicles. See also, Walkway.

Accessible. Two meanings are possible depending on the specific code provision. In general, accessible means approachable by pedestrians, vehicles, or other transportation modes, as applicable. Accessible may also mean approachable and useable by people with disabilities, in conformance with the federal Americans with Disabilities Act. Either or both definitions may apply in a particular situation.

Accessory Structure. A structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure. Accessory structures are detached from the primary structure. Examples of accessory structures include, but are not limited to, garages, decks, fences, arbors, gazebos, heat pumps, workshops, and other structures. See also, Primary Structure.

Accessory Use. A use or activity that is a subordinate part of a primary use and that is clearly incidental to a primary use on a site. See also, Primary Use.

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

Alter/Alteration. A change in use or occupancy or physical change to a structure or site. Alteration does not include normal maintenance and repair. Alterations may or may not require land use approval, but property owners should check with the City of Elkton before preparing project plans or commencing development. Alterations include, but are not limited to, the following:

- Changes in use or occupancy;
- Changes to the exterior of a building;
- Changes to the interior of a building;
- Increases or decreases in floor area of a building;
- Changes to other structures on the site, or the development of new structures;
- Changes to exterior improvements;
- Changes to landscaping; and
- Changes in the topography of the site.

Applicant. A person who applies for a permit or approval under this Code. An applicant can be the owner of the property, a contract purchaser, or someone who is legally authorized to represent the owner, such as a builder, developer, or contract purchaser.

B

Bed and Breakfast Inn. Any establishment located in a structure designed for a single-family residence and structures appurtenant thereto, providing limited overnight lodging and meals for guests pursuant to the special use requirements for bed and breakfast inns.

Block. All of the property bounded by streets, rights-of-way (pedestrian or vehicle ways), water features, or any combination thereof, but is not divided or separated in any way by streets or water features.

Block Face / Street Frontage. All of the property fronting on one side of a street that is between intersecting or intercepting streets, or that is between a street and a water feature, or end of a dead end street. An intercepting street determines the boundary of the block frontage only on the side of the street that it intercepts.

Building. See applicable building code.

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

Building/Structure Height. The vertical distance from the grade plane to the average height of the highest roof structure.

Building Line. A line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building on the site, typically used in reference to required setback yards.

Building Official. The person who enforces the building ordinances and regulations for the City, and other ordinances and regulations as assigned.

C

Capacity. Maximum holding or service ability, as used for transportation, utilities, parks, and other public facilities. See also, definition of “Occupancy” in applicable building codes.

Carport. A stationary structure consisting of a roof, its supports, and not more than one wall or storage cabinets substituting for a wall, used to shelter motor vehicles, recreational vehicles, or boats; does not include temporary shelters or canopies not affixed to a permanent foundation per applicable building codes.

Change of Use. Change in the primary type of use on a site.

Child Care Facility. Facilities that provide care and supervision of minor children for periods of less than 24 hours that do not otherwise meet the definition of Family Daycare.

City. The City of Elkton, Oregon.

Clearing (as in clearing and grading). Any activity that removes existing vegetation or strips surface material from any portion of the site and exceeding typical yard maintenance for a single-family dwelling.

Clear and Objective. Decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

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

Commercial. Land use involving buying/selling of goods or services as the primary activity. See also, Retail Sales and Services.

Commercial Outdoor Recreation (Land Use). Includes firing ranges, golf courses, and driving ranges, etc.

Common Area. Land jointly owned to include open space, landscaping, or recreation facilities (e. g., may be managed by a homeowners' association).

Community Services (Land Use). Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community, except for Schools, which are categorized separately. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Private lodges, clubs, and non-profit organizations that have membership provisions may be considered a Community Service. Uses providing mass shelter or short-term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency may also be considered a Community Service. The use may also provide special counseling, education, or training of a public, nonprofit, or charitable nature. See also, Religious Institutions, and Parks and Open Spaces.

Comprehensive Plan. The current adopted Comprehensive Plan of the City of Elkton.

Conditional Use. A use that requires a Conditional Use Permit. See Chapter 4.4.

Condominium. Ownership of a single unit in a multi-unit structure that may contain common areas and facilities; includes both residential and commercial condominiums. See ORS 100 for applicable requirements.

Corner lot. See Lot, Corner lot.

Corner Radius. The radius of a street corner, as measured around the curb or edge of pavement, except as otherwise specified by applicable engineering design standards.

Council/City Council. The City Council of Elkton, Oregon.

County. Douglas County.

D

Days. Calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding federal holidays.

Dedication. The designation of land by its owner for any public use as shown on a subdivision plat or deed.

The term may also be used for dedications to a private homeowners' association.

Density(ies). A measurement of the number of dwelling units in relationship to a specified amount of land based on the minimum lot size per dwelling unit required by the applicable zone.

Develop. To construct or alter a structure or to make a physical change to the land, including excavations, clearing, and fills. See also, Alteration.

Development. All improvements on a site, including alterations to land and new or remodeled structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities.

Discontinued Use. A use that physically left the land it was on, a permitted use that ceased, or a use terminated at the end of a lease or contract. See Chapter 1.4 Non-Conforming Situations.

Discretionary. A permit action or decision that involves substantial judgment or discretion.

Drive-Through/Drive-Up Facility. A facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. Drive-through facilities may serve the primary use of the site or may serve accessory uses. Examples are drive-up windows; automatic teller machines; coffee kiosks and similar vendors; menu boards; order boards or boxes; gas pump islands; car wash facilities; auto service facilities, such as air compressor, water, and windshield washing stations; quick-lube or quick-oil change facilities; and drive-in theaters. All driveways queuing and waiting areas associated with a drive-through/drive-up facility are similarly regulated as part of such facility.

Driveway. The area that provides vehicular access to a site from a street, or the area that provides vehicular circulation on a site.

Driveway Apron. The edge of a driveway where it meets a public right-of-way. Note: The design standards of the applicable roadway authority apply.

Driveway Approach. A driveway connection to a public street or highway where it meets a

public right-of-way. Note: The design standards of the applicable roadway authority apply. See also, Oregon Administrative Rules 734, Division 51, for definitions specific to state highways.

Driveway, Shared. When land uses on two or more lots or parcels share one driveway. An easement or tract(owned in common) must be created and recorded for this purpose.

Dwelling. A structure conforming to the definition of a dwelling under applicable building codes and providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. If the individual units are self-contained, assisted living facilities for the elderly or disabled as defined by the State of Oregon, having common food preparation, dining, social, recreational, and/or housekeeping facilities are included in this definition. Typical accessory uses include: accessory storage buildings; private garage and parking areas; storage of not more than one commercial vehicle per dwelling unit; common area buildings for residents, guest houses, and guest quarters not in the main building, provided such houses and quarters are and remain dependent upon the main building for either kitchen or bathroom facilities, or both, and the guest facilities are used for temporary lodging only and not as a place of residence; and the taking of boarders or leasing of rooms by a resident family, providing the total number of boarders and roomers does not exceed two (2) in any dwelling unit. For the purposes of this Code, the following types of dwelling units are defined:

- **Accessory Dwelling.** A secondary dwelling unit on a lot where the primary use is a single-family dwelling.
- **Attached, Single-Family (Townhome).** A dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units on adjacent lot(s).
- **Duplex Dwelling.** A structure that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.
- **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, as applicable, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar.
- **Manufactured Home.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

- **Mobile Home.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- **Multifamily Development.** A structure or grouping of structures containing three or more dwellings on the same lot.
- **Multifamily Structure.** A structure containing three or more dwelling units. The land underneath the structure is not divided into separate lots.
- **Residential Trailer.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed before January 1, 1962.
- **Recreational Vehicle (RV).** A vehicle, with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes and is further defined by state law and/or administrative rules.
- **Residential Home** is a residential treatment or training or adult foster home licensed by or under the authority of the Department of Human Services, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500, or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. (See also, ORS 197.660.).
- **Residential Facility** is defined under ORS 430.010 (for alcohol and drug abuse programs), ORS 443.400 (for persons with disabilities), and ORS 443.880; residential facilities provide housing and care for 6 to 15 individuals who need not be related. Staff persons required to meet state licensing requirements are not counted in the number of facility residents and need not be related to each other or the residents.
- **Senior Housing.** Housing designated and/or managed for persons over a specified age. Specific age restrictions vary, and uses may include assisted living facilities, retirement homes, convalescent or nursing homes, and similar uses not otherwise classified as Residential Homes or Residential Facilities.
- **Single-Family, Detached Dwelling.** A detached dwelling unit located on its own lot.

E

Easement. A grant of rights by a property owner that allows others to use the owner's land for a specific purpose, such as access, or to locate utilities. Recorded and on record at Douglas County.

Emergency Apparatus Lane or Fire Lane. Unobstructed area or driveway meeting Uniform Fire Code requirements, typically not be used for parking or loading area.

Floodplain/Hazard Area. Area as so indicated by the federal Flood Insurance Rate Map, as amended.

F

Family Daycare. Care for not more than 16 children in a home. See ORS 657A.440(4) for applicable licensing and other requirements.

Final Plat. The diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions, and information concerning a land division, pursuant to ORS 92 and Chapter 4.3 of this Code.

Floor Area. Area of building, which may be described in terms of gross (overall) square feet, or net marketable/leasable space.

G

Garage. A covered permanent structure designed to provide shelter for vehicles, and which is accessory to adwelling or other primary use. Carports are considered garages.

Grade. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building. This is the definition used in the Oregon Structural Specialty Code (the International Building Code as amended by the State of Oregon).

Grading. All cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with development.

Ground Cover. Living or processed plant material (e. g., mulch, bark chips), river rock, and cinders used for aesthetic purposes and to prevent erosion (i.e., cover bare ground) in designated landscape areas. See Chapter 3.4 Landscaping.

Group Living. Group Living is characterized by the long-term (i.e., more than 28 days) residential occupancy of a structure by a group of people. The size of the group typically is larger than the average size of a household. Group Living structures do not include self-

contained units but rather have common facilities for residents, including those for dining, social and recreational activities, and laundry. Group Living is divided into two subcategories based on whether or not residents receive any personal care, training, and/or treatment: Room and board facilities are group living establishments where no personal care, training, and/or treatment is provided. Examples include dormitories, fraternities, sororities, boarding houses, monasteries and convents, residential hotels, lodging houses operated by organizations for members only, and similar uses.

Long-term care facilities are group living establishments where personal care for children, the aged, and special categories of persons with some limits on ability for self-care is provided. In addition to the provision of room and board, services such as supervision; protection; assistance while bathing, dressing, grooming, or eating; management of money; transportation; and recreation are provided. Medical care may or may not be a major element. Examples include hospice, nursing and personal care facilities, homes for the deaf or blind, and similar uses.

H

Hazardous Substances. Any substance, material, or waste listed below:

- Nuclear or radioactive materials or waste
- Chemicals subject to reporting under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, published July 1987, U. S. Environmental Protection Agency
- Hazardous Materials Table, in the Code of Federal Regulations (CFR), Title 49, Part 172.101
- Other substances as determined by applicable state or federal agency

Home Occupation, Home Occupation Site. A business activity that is carried out on the same site as a dwelling unit, and which is accessory to the residential use on the site, subject to the special use provisions of Chapter 2.3.

Hotel/Motel. A building or portion thereof designed and used for occupancy of transient individuals lodged with or without meals for a continuous period not to exceed 29 days. (See ORS 446.310.)

I

Incidental and Subordinate to. Secondary to, and less apparent than, the primary use or other portion of the development.

Intersection. An at-grade connection of a public or private approach road to the highway.

Industrial Service Uses. Industrial Service firms are engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products. Examples include welding shops; machine shops; tool repair; electric motor repair; sales, repair, salvage, or wrecking of heavy machinery, metal, building materials, autos, or trucks (does not include junk yards); towing and temporary vehicle storage; heavy truck servicing and repair;

tire re-treading or recapping; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing, and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; industrial laundry, dry-cleaning, and carpet cleaning plants; photofinishing laboratories; and similar uses.

J

Junk Yard. (1) Any property or establishment on which one or more persons are engaged in breaking up, dismantling, sorting, storing, distributing, buying, or selling scrap or waste materials. (2) Any establishment or place of business on which two or more inoperable motor vehicles or an equivalent volume of waste or refuse are maintained, stored, bought, or sold. Includes wrecking yards, automobile graveyards, garbage dumps, and scrap metal processing facilities.

K

Kennel. Any lot or premises where three or more dogs or cats aged six months or older are boarded or bred for compensation. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels.

L

Land Division. The process of dividing land to create parcels or lots. See Chapter 4.3.

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

Land Use. The activity or activities that occur on a piece of land. Activities may be individually identified as primary or accessory uses.

Land Use Decision. A final decision or determination made by the City of Elkton (or other agency with jurisdiction) that concerns the adoption, amendment, or application of the Statewide Planning Goals, the Comprehensive Plan, or any land use regulation (i.e., this Code) where the decision requires the interpretation or exercise of policy or legal judgment (ORS 197.015). Note: All decisions requiring Quasi-Judicial review by the City of Elkton are Land Use Decisions. Decisions subject to Administrative review are considered Limited Land Use Decisions, pursuant to ORS 197.015.

Legislative. A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e. g., adoption of, or amendment to, a comprehensive plan or development regulation). See also, Section 4.1.050.

Level of Service ("LOS"). A quantitative standard for transportation facilities describing operational conditions.

Loading Area. The area available for the maneuvering and standing of vehicles engaged in delivering and loading goods, freight, or other articles. See also, Chapter 3.5 Parking and Loading.

Lot. A lot is a legally defined piece of land other than a tract that is the result of a land division. The following definitions for "lot" apply to the state definition of both lot (result of subdividing) and parcel (result of partitioning).

- **Corner Lot.** A lot that has frontage on more than one intersecting street. A street that curves with angles of 120 degrees or less, measured from the center line of the street, is considered two intersecting streets for the purpose of evaluating whether a lot is a corner lot.
- **Flag Lot.** A lot with two distinct parts:
 - The flag, which is the only building site and is located behind another lot; and
 - The pole, which connects the flag to the street, provides the only street frontage for the lot, and at any point is less than the minimum lot width for the zone.
- **Through/Reverse Frontage Lot.** A lot that has frontage on two parallel or approximately parallel streets.

Lot Lines / Property Lines. The property lines along the edge of a lot or site. See figures, below.

- **Front Lot Line.** A lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front lot line for the purpose of determining required setbacks. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length.
- **Rear Lot Line.** A lot line that is opposite a front lot line. A triangular lot has two side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all lot lines that are most nearly opposite the front lot line.
- **Side Lot Line.** A lot line that connects front and rear lot lines. On a corner lot, the longer lot line that abuts a street is a side lot line.
- **Side Street Lot Line.** A lot line that is both a side lot line and a street lot line.
- **Street Lot Line.** A lot line, or segment of a lot line, that abuts a street. Street lot line does not include lot lines that abut a dedicated alley. On a corner lot, there are

two (or more) street lot lines. Street lot line can include front lot lines and side lot lines, however, both are considered front yards for the purpose of measuring required setbacks.

Lot, Double-Frontage. See Lot, Through/Reverse Frontage Lot.

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

Lot Consolidation. The reduction in the number of lots, i.e., the creation of one lot from two or more existing lots.

Lot Coverage. The total area of a lot covered by building(s) or impervious surfaces, as provided by the applicable land use district development standards.

Lot Line Adjustment. See Property Line Adjustment.

M

Main/Primary Building Entrance. A main entrance is the entrance to a building that most pedestrians are expected to use. Generally, each building has one main entrance; however, some buildings may have more than one primary entrance or may have entrances that open directly into the building's lobby or principal interior ground level circulation space.

Ground Floor. Building floor closest to street level and within four feet of finished grade.

Major Remodeling. Projects where the floor area or the developed area of the site increases by 15 percent or more.

Maneuvering Area/Aisle. The driving area in a parking lot where motor vehicles are able to turn around and access parking or loading spaces.

Manufactured and Mobile Homes. See definitions under Dwelling.

Manufactured Dwelling and Mobile Home Park (Land Use). Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space, or keep space for rent or lease, to any person for a charge or fee paid, or to be paid, for the rental or lease or use of facilities, or to offer space free in connection with securing the trade or patronage of such person. Manufactured dwelling park does not include a lot or lots located within an approved subdivision being rented or leased for occupancy by one manufactured dwelling per lot. See also, ORS Chapter 446.

Manufacturing and Production (Land Use). Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Examples include processing of food and related products; breweries and distilleries when not

accessory to a commercial use; slaughter houses or meat packing; taxidermist; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; concrete batching and asphalt mixing; production or fabrication of metals or metal products, including enameling and galvanizing; manufacture or assembly of machinery, equipment, vehicles, appliances; sign making; production of prefabricated structures, including mobile homes; and the production of energy.

Mixed-Use. The combination of residential uses with commercial (e.g., office, retail, or services), civic, or light industrial uses on a site.

Multifamily Development and Structure. See definitions under Dwelling.

N

Nonconforming Development. An element of a development, such as lot area, setback, height, lot coverage, landscaping, sidewalk, or parking area, or lack thereof, that was created in conformance with development regulations but which subsequently, due to a change in the zone or applicable Code standards, is no longer in conformance with the current applicable development regulations. See Chapter 1.4.

Nonconforming Situation. A Nonconforming Development or Nonconforming Use. A situation may be nonconforming in more than one aspect. For example, a site may contain a nonconforming use and also have some nonconforming development. See also, Nonconforming Development and Nonconforming Use. See Chapter 1.4.

Nonconforming Use. A use that was allowed by right when established or a use that obtained a required land use approval when established, but that subsequently, due to a change in the zone or zoning regulations, the use or the amount of floor area of the use is now prohibited in the zone. See Chapter 1.4.

O

Office (Land Use). Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.

Off-street Parking. All off-street areas designed, constructed, used, or required, or intended to be used, for the parking of motor vehicles. See Chapter 3.5 for parking standards.

On-street Parking. Parking in the street right-of-way, typically in parking lanes or bays, when allowed by the applicable roadway authority. See Chapter 3.5 for parking standards.

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

Owner. The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the Office of the County Assessor. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the City a copy of a deed or contract of sale signed by the owner of record.

P

Parcel. A legally defined area of land created through a partition.

Parks and Open Space (Land Use). Parks and Open Space Areas are public parks or private common areas consisting mostly of recreational facilities, community gardens, or natural areas.

Parking Area. A parking area is all the area devoted to the standing, maneuvering, and circulation of motor vehicles. Parking areas do not include driveways or areas devoted exclusively to non-passenger loading or fire apparatus lanes.

Parking Lot Perimeter. The boundary of a parking lot area that usually contains a landscaped buffer area.

Parking Space. An improved space designed to provide standing area for a motor vehicle. See Chapter 3.5 for parking space standards.

Parking Versus Storage. Parking is to leave a motor vehicle for a temporary time. Storage is to place or leave in a location for storage, maintenance, repair, future sale, or rental, or future use for an indefinite period of time.

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

Pathway. A walkway, bikeway, or access way conforming to City standards and separated from the street right-of-way, that may or may not be within a public right-of-way.

Planned Road or Street. A highway, road, street, or alley identified in an adopted corridor plan, comprehensive plan or transportation system plan in accordance with administrative procedures of OAR 660-012 and ORS Chapter 197, but that has not been constructed.

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

Plat. Diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions, and information concerning a land division. This term includes the state law definitions of “partition plat” and “subdivision plat.” See also, Chapter 4.3, Land

Divisions.

Posted Speed. The statutory speed established by ORS 811.105 or ORS 811.180, or the designated speed established by ORS 810.180.

Practicable. Capable of being done after taking into consideration reasonable cost, existing technology, and logistics in light of overall project purposes.

Primary Structure. A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, design, appearance, and the orientation of the structures on a site.

Primary Use. An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use.

Project. An existing or proposed use or development subject to one or more land use approvals.

Property Line Adjustment. The relocation of a single common property line between two abutting properties not resulting in an increase in the number of lots, pursuant to Chapter 4.3.

Public Access Easement. A public access easement is an easement granted to the public for vehicular and pedestrian access, or for non-motorized access.

Public Improvements. Development of public infrastructure, as required by the City, a special district, or road authority, as applicable. See Chapter 3.6.

Q

Quasi-judicial. An action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to the facts of a development or land use proposal, and requires a public hearing. See Section 4.1.040.

R

Radio Frequency Transmission Facilities (Land Use). Radio Frequency Transmission Facilities includes all devices, equipment, machinery, structures, or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Towers may be self supporting, guyed, or mounted on poles or buildings.

Recreational Vehicle Park (Land Use). A commercial use providing space and facilities for

motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park, however, the City may establish the maximum length of stay. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as Recreational Vehicle Parks.

Religious Institutions and Places of Worship (Land Use). Uses primarily providing meeting areas for religious activities; may include schools as an accessory use.

Residential Use (Land Use). Long-term (i.e., more than 28 days) occupancy of a dwelling unit, which may be owner-occupied or rented. Occupancy of a dwelling unit for shorter periods of time is considered an overnight accommodation.

Retail Sales and Service Uses (Land Use). Retail Sales and Service uses sell, lease, or rent new or used products, goods, or services. They include services such as barber/salon, accountant, restaurant, bar, repair service, and similar uses. See also, Vehicle Servicing.

Right-Of-Way. Real property or an interest in real property owned by a roadway authority for the purpose of constructing, operating, and maintaining public facilities.

Roadway. The portion of a right-of-way that is improved for motor vehicle and bicycle travel, subject to applicable state motor vehicle licensing requirements. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.

Road/Roadway Authority. The City or other agency (e. g., Oregon Department of Transportation, City of Elkton, or Douglas County) with jurisdiction over a road or street.

S

Schools (Land Use). Public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level.

Self-Service Storage. Mini-storage or other storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.

Setback / Setback Yard. The minimum distance required between a specified object, such as a building, and another point, measured from lot lines to a specified object. Typically, a setback refers to the minimum distance (yard dimension) from a building to a specified property line.

Shared Driveway. A driveway used to access two or more parcels.

Shared Parking. Required parking facilities for two or more uses, structures, or lots or parcels, which are satisfied jointly with the same facilities. See Chapter 3.5.

Sidewalk. A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb, drainage facility (e.g., ditch or swale), or planter strip.

Sight Distance. The unobstructed viewing distance measured from one object or location to another object or location, usually required for the purpose of traffic safety (e.g., a length of street or highway that a driver can see with an acceptable level of clarity, pursuant to the standards of the applicable roadway authority).

Sign. Any outdoor device, or device visible from outdoors, providing identification, advertising, or directional information for a specific business, group of businesses, service, product, brand, person, organization, place or building. included in this definition of signs are: graphic devices such as logos and trademarks; attention- attracting objects such as wind-driven spinners, portable sign devices, logo sculptures, banners, balloons, streamers, strobe lights, flags, inflatable structures, projected picture signs, holographic projection signs, and laser projected designs/images/copy; and other attention attracting media and devices.

Site. For land divisions, property line adjustments, and lot consolidations, the site is the lots, lots of record, parcels, or tracts proposed to be divided or reconfigured. For all other purposes, the site is an ownership except as follows:

- If a proposed development includes multiple ownerships, then the site is the combined area of all contiguous ownerships.
- If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.
- If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

Site Frontage. The part of a site that abuts a street. See also, Block/Street Frontage.

Spacing Standards. The minimum distance required between a proposed street or driveway connection, as applicable, and the center of the nearest existing street or driveway connection on the same side of the highway in both directions, as set forth by the standards of the applicable roadway authority. Spacing standards for state highways are contained in OAR 734-051-4020.

Street. A right-of-way that is intended for motor vehicle, pedestrian, or bicycle travel; or for motor vehicle, bicycle, or pedestrian access to abutting property. For the purposes of this Code, street does not include alleys and rail rights-of-way that do not also allow for motor vehicle access, or freeways and their ramps.

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

Street-Facing / Oriented to Street. A wall plane of a structure that faces or is oriented within 45 degrees or less from a street lot line.

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

Structure. Except as provided by applicable building codes, any object constructed in or on the ground.

Structure includes buildings, decks, fences, towers, flag poles, signs, utility vaults, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.

Subdivision. To divide land into four or more lots within a single calendar year. See also, Chapter 4.3 Land Divisions, and ORS 92.010.

T

Through Street. A street that connects to other streets at both ends or is planned to do so in the future, pursuant to a comprehensive plan, transportation system plan, access management plan, or land use approval.

Topographical Constraint. Where existing slopes, landforms (e.g., streams, canals, rock outcropping, etc.) or existing man-made feature (e.g., embankment or berm) make conformance with a Code standard impracticable.

Tract. A piece of land within a platted subdivision reserved for open space, utility corridor, recreation facilities, sensitive lands, or other purpose; may be dedicated to a homeowner's association or other entity for maintenance.

Traffic Impact Analysis. A report prepared by a professional engineer that analyzes existing and future roadway conditions, and which may recommend transportation improvements and mitigation measures.

Turnaround. A vehicle maneuvering area at the end of a dead-end street (e.g., hammerhead, cul-de-sac, or other configuration) that allows for vehicles to turn around.

Travel Trailer. A vacation structure or self-propelled vehicle equipped with wheels for street or highway use; intended for human occupancy; equipped with plumbing, sink, or toilets; used for vacation and recreational purposes; and not used as a residence. See ORS 446.003(5), (24), and Recreational Vehicle.

U

Use (Land Use). The purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.

Utilities. For the purposes of this Code, there are two types of utilities: 1) Private: telephone, electric, telecommunication, and similar franchise facilities; and 2) Public: water and wastewater conveyance and treatment facilities.

Utilities (Land Use). Utilities are infrastructure services, which need to be located in or near the area where the service is provided. Basic Utility uses may or may not have regular employees at the site. Services may be public or privately provided. Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; suspended cable transportation systems; public safety facilities; district heating and cooling systems; solar, wind, or geothermal power generation facilities that are not accessory to a primary use; and emergency communication broadcast facilities. Larger-scale utility facilities, and those that do not conform to the above definition (e.g., biomass power generation), may be classified as Industrial uses or "Other" uses (e.g., Utility Corridor) as applicable.

V

Variance. A City Council decision to lessen or otherwise modify the requirements of this Code. See Chapter 4.7.

Vehicle Areas. All of the areas on a site where vehicles may circulate or park, including parking areas, driveways, drive-through lanes, and loading areas. See also, Driveway and Parking Area.

Vehicle Repair. Repair of passenger vehicles, trucks or other motor vehicles such as motorcycles, boats and recreational vehicles.

Vehicle Servicing. Gas stations, unattended card key stations, car washes, commercial vehicle maintenance and/or oil and lubrication services, and similar uses.

Vision Clearance Area. Areas near intersections of roadways and motor vehicle access points where a clearfield of vision is required for traffic safety and to maintain adequate sight distance. See Chapter 3.3.

W

Walkway. A sidewalk or path, including any access way, improved to City standards, or to other roadway authority standards, as applicable. See also, Access Way, Pathway, and Sidewalk.

Waste/Trash Collection Areas. Waste collection areas include areas set aside or designed to be used for garbage collection and collection of materials for recycling. Waste collection areas include areas occupied by dumpsters and other solid waste receptacles.

Waste-Related Use. Waste-related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material.

Waste-related uses also include uses that receive, store, sort, and distribute post-consumer recyclable materials; and those that receive hazardous wastes from others and are subject to the regulations of OAR340-100-110, Hazardous Waste Management.

Warehouse, Freight Movement and Distribution. The storage or movement of goods, except as accessory to a primary permitted use on the subject site.

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

X [reserved]

Y

Yard. The area defined by setbacks (i.e., between the setback line and nearest property line).

Z [reserved]