

**ORDINANCE NO. 1283**

**AN ORDINANCE AMENDING SELECTED SECTIONS OF ORDINANCE NO. 979,  
COMMONLY REFERRED TO AS THE TILLAMOOK CITY ZONING ORDINANCE**

**WHEREAS**, the Planning Commission held a public hearing on August 15, 2013, ensuring that sections of Tillamook City Zoning Ordinance are updated and meet the public necessity and convenience and the general welfare; and

**WHEREAS**, the Tillamook City Zoning Ordinance may be amended by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment, such a change may be proposed by motion of the Planning Commission; and

**WHEREAS**, the Tillamook City Planning Commission recommended approval of the proposed Tillamook City Zoning Ordinance section text amendments described in the attached "Exhibit A"; and

**WHEREAS**, the City Council held a public hearing for the amended sections of the Tillamook City Zoning Ordinance on October 21, 2013, to review and consider these Zoning Ordinance text changes; and

**WHEREAS**, the City Council reached consensus approve the section text changes and amend Ordinance No. 979 at the October 21, 2013 hearing; and

**NOW THEREFORE**, the Tillamook City Council hereby ordains that:

Ordinance No. 979 shall be reorganized to consolidate certain sections, amended as outlined in the attached "Exhibit A", to include: Section 1, Title, Purpose and Compliance; Section 2, Establishment of Zone Districts and Maps; Section 3, Definitions; Section 4, Application Procedures and Fees; Section 21, Interpretations and Exceptions; Section 27, Conditional Use Permits; Section 28, Amendments; Section 29, Land Divisions: Partitions, Subdivisions; Section 30, Site Plan Review; Section 31, Non-Conforming Uses; Section 32, Variances; Section 33, Appeals; Section 34, Revocation; and Section 35, Enforcement. Exhibit "A" shall amend Zoning Ordinance No. 979 and be hereby incorporated by reference.

**PASSED FIRST READING** by the Council this 4<sup>th</sup> day of November, 2013.

**PASSED SECOND READING** by the Council this 2<sup>nd</sup> day of December, 2013.

**APPROVED** by the Mayor this 2<sup>nd</sup> day of December, 2013.

  
Suzanne Weber, Mayor

ATTEST:

  
Abigail Donowho, City Recorder

SECTION 1 – TITLE, SECTION 2 – PURPOSE & SECTION 3 - COMPLIANCE

1. Title.

This Ordinance shall be known as the "Zoning Ordinance" of the City of Tillamook, Oregon. *It is part of the City Development Code.*

2. Purpose.

~~The purpose of this Ordinance is: to encourage the orderly development of the City; to promote appropriate uses of land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate light and air; to lessen congestion; to prevent undue concentration of population; to facilitate adequate provisions for community facilities such as water supply and sewerage; to protect and enhance the appearance of the countryside; and in general to promote the public health, safety, convenience, and general welfare.~~

*The purpose of this Ordinance is to further the objectives and goals of the Comprehensive Plan and to provide for the public health, safety and general welfare of the citizens of Tillamook through orderly community development and planning with considerations for: desirable concentrations of population; protection of property values; aesthetics and enhancement of the appearance of the community; limitation of dangerous or offensive trades or industries; maintenance of adequate open space for light and air and emergency access; the provisions for access and privacy; facilitation and the adequate provision of community utilities and facilities such as transportation, power, water, sewage, fire, police, schools, parks and other public requirements.*

3. Compliance with Ordinance Provisions.

~~A lot or parcel may be created or used; and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this Ordinance permits.~~  
*A parcel may be used and a structure or part of a structure constructed, reconstructed, remodeled, occupied or used only as this ordinance permits. Where this ordinance imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this ordinance shall control.*

SECTION 5 2 - ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAPS

1. Classification of Zoning Districts.

For the purposes of this Ordinance, the City is divided into underlying zoning districts designated as follows:

<u>Zoning District</u>	<u>Map Symbol &amp; Abbreviated Designation</u>	<u>Zoning Ordinance Reference Section</u>
Open Space	O	05
Residential - Single Family	R-7.5	06
Residential - Single Family & Duplex	R-5.0	07
Residential - Multiple Use	R-O	08
Commercial - Neighborhood	C-N	09
Commercial - Highway	C-H	10
Commercial - Central	C-C	11
Industrial - Light	I-L	12
Industrial - General	I-G	13
Public & Semi-Public	P&SP	14

Additionally, the City is divided into the following overlay zoning districts:

<u>Overlay Zoning District</u>	<u>Map Symbol &amp; Abbreviated Designation</u>	<u>Zoning Ordinance Reference Section</u>
Airport Overlay	AO	15
Hazard Overlay	HO	16
Town Center Overlay	TC	17
Water Resource Protection Overlay	WRP	18
Estuary/Shoreland Overlay	ESH	19
Flood Hazard Overlay	FHO	20

2. Application of Regulations to Districts Generally

Except as otherwise provided in this Ordinance,

- A. No building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structure or premises be used for any purpose or in any manner other than is included among the uses hereinafter listed as permitted in the district in which such building, land or premises is located.
- B. No building or part thereof or structure shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located.

SECTION 5 2 - ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAPS

- C. No building or part thereof or structure shall be erected, nor shall any existing building be altered, enlarged or rebuilt or moved into any district, nor shall any open space be encroached upon or reduced in any manner, except in conformity with the yard, setback, building location, site area and coverage requirements hereinafter prescribed with the district in which such building or open space is located.
- D. No yard or other open space provided about any building or on any building lot for the purpose of complying with the provisions of this Ordinance shall be considered as providing a yard or other open space for any other building or any other building lot.
- E. The requirements of an overlay district shall apply to those areas of the underlying zoning district that are located in an overlay district.***

3. Zoning Map

- A. The location and boundaries of zones designated in this section are hereby established as shown on the map entitled "Zoning Map of the City of Tillamook City" dated with the effective date of this Ordinance, and reflect revised Flood Hazard Overlay Zones as designated by the U.S. Department of Housing and Urban Development, Federal Insurance Administration, and signed by the Mayor and City Recorder, and hereinafter referred to as the "Zoning Map."
- B. The signed copy of said zoning map ***shall be the "official map" of the city of Tillamook zoning districts and*** maintained on file in the office of the Recorder and is hereby made a part of this Ordinance. Any revisions or replacements of said map, when duly entered, signed and filed with the City Recorder as authorized by this section are a part of this Ordinance.
- C. When the zoning of any area is changed by the City Council in the manner prescribed by this Ordinance, the City Manager shall cause the official zoning map to be revised so that it accurately portrays said change, provided that failure to so revise the said map shall not affect the validity of any zone change. The Council may from time to time direct the City Manager to replace the official zoning map, or a portion thereof, with a map, which includes all lawful changes of zone and city boundaries to date. Such map, or portion thereof, filed as a replacement, shall bear the number of the ordinance authorizing same and shall bear dated, authenticating signatures of the Mayor and City Recorder. Any map or portion thereof thereby replaced shall be retained in a separate file by the City Recorder.

4. Interpretation of District Boundaries.

In making a determination where uncertainty exists as to boundaries of any of the aforesaid districts as shown on said zoning map, the following rules shall apply:

SECTION 5 2 - ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAPS

- A. District boundaries *shall* follow *the outside boundaries of* streets, alleys, or highways.
- B. Vacation of public ways: Whenever any street, alley or other public way is vacated in the manner authorized by law, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of the former right-of-way and all of the area included in the vacation shall then and henceforth be subject to all regulation of the extended districts.
- C. Where boundaries approximately follow *property* lines: Where district boundaries are indicated as approximately following *property* lines, such *property* lines at the date of adoption of this Ordinance shall be construed to be said boundaries. If a district boundary divides a platted lot into two or more districts, the entire lot shall be placed in the district that accounts for the greater area of the lot by the adjustment of the district boundary, provided that the boundary adjustment is for a distance of less than 20 feet. If an adjustment of more than 20 feet is required, the change in the district boundary shall be treated as a change of zone.

5. Zoning of Annexed Areas

- A. *City Zoning regulations and Zoning Districts shall apply to all of the area within the City Urban Growth Boundary.*

## SECTION 3 - DEFINITIONS

As used in this Ordinance, the masculine includes the feminine and the singular includes the plural. Unless the context of the Ordinance otherwise requires, the following definitions of words and phrases shall be used in the interpretation and construction of this Ordinance.

**Abutting**: adjoining with a common boundary line; except that where two or more lots adjoin only at a corner or corners, they shall be considered as abutting if the common property line between the two parcels measures a minimum of eight (8) feet in a single direction.

**Access**: *a legally and physically defined area available and practical for ~~motor vehicle~~ ingress and egress to a parcel or lot. In determining practicality, the topography, drainage, potential for erosion, and other factors may be considered.*

**Access Easement, or Access Way**: the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use, ***and the right to cross between public and private property***, as required by this Ordinance.

**Access Management**: *the control of street (or highway) access for the purpose of improving the efficiency, safety, and/or operation of the roadway for vehicles; may include prohibiting, closing, or limiting direct vehicle access to a roadway from abutting properties.*

**Accessory Dwelling Unit (ADU)**: *a subordinate dwelling unit which provides complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, cooking, eating and sanitation on the same lot or parcel as the primary dwelling unit and which is incidental to the main use of the property. In no case shall the accessory dwelling unit exceed in area, extent or purpose, the principal lawful use of the main structure or land or the area established in the zone district.*

**Accessory building, structure, or use**: *a building, structure, or use which is necessary for the operation or enjoyment of a lawful use, and appropriate and subordinate to such lawful use. A use which involves an increase in the number of dwelling units in a building, or on a lot, beyond that which is permitted outright in the district, or which constitutes, in effect, the conversion of a use to one not permitted in the district, shall not be considered an accessory use. Accessory Structures in a residential district include detached garages, sheds, workshops, greenhouses, and similar structures.*

**Adjacent**: *next to, touching or contiguous, including sites, structures and parcels which are directly across and on the opposite side of a public street right-of-way.*

**Adjoin**: the same as "Abutting".

**Administrative**: a discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal.

**Administrative Decision**: *a decision made by the Planning Director or designated staff with public notice and an opportunity for a public hearing. The appeal of an administrative decision is heard by the Planning Commission. See also 'Ministerial'.*

## SECTION 3 - DEFINITIONS

Adult Business: any person, group, firm, business, or organization (except non-profit corporations which are not open to the general public) which prohibits admission to all or portions of the premises to any persons younger than 18 years of age in which an adult use is conducted.

Adult Use: a use of whatever character, conducted on the premises of any business, where persons under 18 years of age are prohibited by law in ORS Chapter 167 and as amended.

Adult Business and Adult Uses: those businesses which are not legally open to minors under age 18 as defined by ORS Chapter 167.060 to 167.090 and as amended.

***Adult Day Care: a community-based group program which has been designed to meet the needs of adults who have impairments. Adult day care programs must offer individual plans of care. Nonresidential programs are designed to provide health, social and related support services in a safe and protective setting. Adult day care services can be offered during any part of a day, but for less than 24 hours.***

Adult Foster Home, as defined by OAR 411-5-400(2): a State-Certified dwelling operated in a family-type setting for senior citizens and/or disabled persons over the age of 18 who are in need of help in the provision of shelter, food, medical care and/or other service.

Advertising structure: any notice or advertisement, pictorial or otherwise, and any structure or three dimensional form used as, or for the support of, any notice or advertisement for the purpose of making anything known about goods, services or activities, or for simply attracting visual attention to a business.

Adverse Impact: negative affect of development that can be measured (e.g. noise, air pollution, vibration, dust, etc).

***Aesthetic(s): the perception of design elements or elements in the natural or created environment that are pleasing to the eye.***

***Affordable housing: housing affordable to a certain percentage of the population earning a specified level of income and spending no more than 30% of their income on housing expenses. For more information, refer to the Oregon Department of Housing and Community Services.***

***Aggregate Resources: sand, gravel, rock, stone, loam and dirt.***

Agriculture: the use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce, provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities and provided further that the above uses shall not include the operation of a feedlot or other commercial feeding of animals. This definition is not intended to comply with Oregon State Laws relating to Farm Uses.

## SECTION 3 - DEFINITIONS

Airport Approach Safety Zone: a surface longitudinally centered on the extended runway center line and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of: 1,250 feet for Utility Runway having only visual approaches; 1500 feet for a runway other than a Utility Runway having only visual approaches; 2,000 feet for a Utility Runway having a non-precision instrument approach; 3,500 feet for a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile; 4,000 feet for a non-precision instrument runway having visibility minimums as low as three-fourths statute mile; and 16,000 feet for precision instrument runways. The Airport Approach Safety Zone extends for a horizontal distance for 5,000 feet at a slope of 20 feet outward for each foot upward (20:1) for all utility and visual runways.

Airport Hazard: any structure, tree or use of land which exceeds height limits established by the Airport Imaginary Surfaces.

Airport Imaginary Surfaces: those imaginary areas in space which are defined by the Airport Approach Safety Zone, Transitional Zones, Horizontal Zone, Clear Zone and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.

Alley: a public right of way through a block which affords access to abutting property at the rear or sides thereof. Normally used as secondary access, but primary access may be approved by the Planning Commission after consideration of public safety or improved traffic circulation.

Altered: “Structurally Altered.”

***Alteration***: *the addition to, removal of or from, or physical modification or repair of any exterior part or portion of a site or structure governed by this Title. Sign changes shall be considered a form of alteration.*

***Alterations***: *any change in size, shape, method of illumination, position, location, construction or supporting structure.*

***Ambient***: *something that surrounds, as in the level of light, dust or noise.*

***Amusement, Commercial***: *any amusement enterprise, in an indoor or outdoor setting, offering entertainment or games of skill to the general public, for a fee or charge; this term includes, but is not limited to, a golf driving range, archery range and miniature golf course, bowling alley, movie theater, or pool hall.*

***Ancillary Unit***: *a detached accessory building, or an accessory unit attached to the main structure that is designed, constructed and used to provide long term accommodations. An ancillary unit may contain a kitchen facility, laundry or bathroom and may be rented.*

***An Ancillary Unit is a small building no bigger than 800 sq ft or 50% of the floor area of the dwelling (whichever is the lesser) and must be dependent on the main dwelling.***

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***Ancillary Units are not to be self-contained and must share at least one facility (laundry, bathroom or kitchen) with the main dwelling.***

***The Ancillary Units needs to be a close distance to the dwelling (typically where a garage would be located, a short walk away) and appear as part of the dwelling rather than a separate building.***

***An Ancillary Unit must rely on the main dwelling for services, access and parking facilities. An approximate guide would be a maximum of 30-45 feet away, but applications are assessed on a case by case basis.***

***Ancillary Units are also known as: granny flats, studios, ancillary apartments, sleep out etc.***

Animal Hospital: a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use. See also Section 26(2)

Antenna: a specific exterior transmitting or receiving device used to capture, transmit, or receive radio frequency signals, microwave signals, and/or other communications energy transmitted from, or to be received by, other antennas. This includes, but is not limited to, Omni-directional ("Whip") antennas, directional ("panel") antennas, parabolic ("dish") antennas.

Antenna Array: two or more antennas.

Antenna Support Structure: a structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennas at a height, altitude or elevation which is above the base of such structure. Such support structures shall include, but are not limited to the following:

Lattice tower: a vertical support structure consisting of a network of crossed metal braces, forming a tower with three, four, or more sides.

Guyed tower: a monopole or lattice tower that is tied to the ground or to the surface by diagonal cables.

Monopole: a vertical support structure consisting of a single vertical metal, concrete, or wooden pole, pipe, tube or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

***Antique Shop: an establishment offering for sale articles such as glass, china, furniture, or similar furnishing and decorations, which have value and significance as a result of age, design, or sentiment.***

Apartment: a dwelling unit in a multiple-family building.

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**Apartment Unit:** *three or more contiguous dwelling units, under common ownership, each unit being occupied by not more than one family.*

**Apartment Accessory Uses:** *permitted uses accessory to an apartment building shall include a recreation room, employees' washroom, manager's office, and laundry facilities for tenants only.*

**Appeal:** request for review of a Planning Staff, Planning Commission, *or City Council* decision or any interpretation of any provision of this ordinance.

**Appliance:** *large or small household goods including washers, dryers, refrigerators, freezers, ranges, TVs, toasters, electric irons, and the like.*

**Application:** *a formal request to the City for development, administered through a form to be filled out by an applicant, approved by the City Planner; such as an application for a Land Use Development Permit, a Zoning Clearance Permit.*

**Arcade:** an arched or covered passageway; often along building fronts or between streets.

**Area of Illumination:** the area illuminated by lighting in certain areas of a site plan.

**Area of Shallow Flooding:** a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

**Area of Special Flood Hazard:** the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Special Flood Hazard Area designation on maps always includes the letters A or V.

**Architectural Significance:** *the term : that the building or structure: (1) portrays the environment of a group of people in an era of history characterized by a distinctive architectural style; (2) embodies those distinguishing characteristics of an architectural-type specimen; (3) is the work of an architect or master builder whose individual work has influenced the development of the city; or, (4) contains elements of an architectural design, detail, materials or craftsmanship which represent a significant innovation.*

**Articulate/Articulation:** *the jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.*

**Assembly or Meeting Hall:** *a building used for social, organizational, ecumenical, business or educational purposes.*

**Assessor:** the County Assessor of Tillamook County.

**Attached:** *architecture joined to or by a wall, especially by sharing a wall with another building; not freestanding*

## SECTION 3 - DEFINITIONS

**Automobile: a motor vehicle such a passenger car, truck or trailer.**

Automobile, Boat or Trailer Sales Lot: an open lot used for display, sale or rental of new or used motor vehicles, boats or trailers in operative condition and where no repair work is done.

**Automobile-Oriented Use: automobiles and/or other motor vehicles are an integral part of the use. These uses include vehicle repair, sales, rental, storage, and service; and drive-up, drive-in, and drive-through facilities.**

Automobile Repair, Major: the general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service including body, frame, or fender straightening or repair; overall painting or paint shop.

Automobile Repair, Minor: upholstering of, replacement of parts for, and motor service to passenger cars and trucks not exceeding one and one-half (1 1/2\_ tons capacity, but not including any operation named under "Automobile Repair, Major", or any other similar operation thereto.

Automobile Service Station or Filling Station: a building or lot having pumps and storage tanks where fuels, oils, or accessories for motor vehicles are dispensed, sold, or offered for sale at retail only, and where repair service is secondary. See also Section 26 (1).

Automobile Wrecking: the dismantling or disassembling of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles, or their parts.

Awning: a shade structure that *projects from the wall of a building for the purpose of shielding a doorway or window from the elements, and* is supported by either posts or columns and/or by a permanent structure.

**Balcony: a platform projecting from the exterior wall, enclosed by a railing, supported by brackets or columns or cantilevered out.**

**Barber and Beauty Shop: a facility, licensed by the state, where haircutting, hairdressing, shaving, trimming beards, facials, manicures, and/or related serves are performed.**

**Base Course: a course of specified aggregate material of planned thickness placed upon the subgrades.**

Base Flood: the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

**Base Flood Elevation: the crest elevation, in relation to mean sea level, expected to be reached by the base flood, also known as the regulatory flood elevation.**

## SECTION 3 - DEFINITIONS

Basement: any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast: any establishment located in a structure designed for a single family residence, regardless of whether the owner or operator of the establishment resides in such structure, which:

- a. Has one (1) or more rooms for rent on a daily basis to the public; and
- b. Offers a breakfast meal as part of the cost of the room;
- c. Serves only one breakfast meal a day to guest, staff and owners, only.
- d. License requirements per OAR Chapter 333, Division 170.

Berm: an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

Beveled Building Corner: a rounded or flat edge on a building usually at a street corner; may include an entrance, windows, pillars or other architectural details and ornamentation.

Bicycle Facilities: a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

***Bicycle Path: a path that is physically separated from the roadway and designed exclusively for non-motorized traffic.***

Bikeway: any road, path or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. The five types of bikeways are:

- a. Multi-use Path. A paved way (typically 10 to 12-feet wide) that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other non-motorized users.
- b. Bike Lane. A portion of the roadway (typically 4 to 6-feet wide) that has been designated by permanent striping and pavement markings for the exclusive use of bicycles.
- c. Shoulder Bikeway. The paved shoulder of a roadway that is 4 feet or wider; typically shared with pedestrians in rural areas.
- d. Shared Roadway. A travel lane that is shared by bicyclists and motor vehicles.
- e. Multi-use Trail. An unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians.

## SECTION 3 - DEFINITIONS

Billboard: the same as “Advertising Structure.”

***Blacksmith Shop***: *a shop for a worker of iron, forging iron, repairing the iron work on a wheel, barrel, or making and shaping plow shares or draft animal shoes and a horse shoer. See machine or welding shop.*

Block: a parcel of land or group of lots bounded by intersecting streets.

Board: the Board of County Commissioners of Tillamook County, Oregon.

~~Boarding or Lodging House or Rooming House~~: *a dwelling or part thereof a residential building, other than a hotel or motel or multiple family dwelling, where lodging with or without meals are provided for compensation to three or more persons, and for which a fee is charged.*

Boat Yard: a place where boats are constructed, dismantled, stored, serviced or repaired, including maintenance work thereon.

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

***Boulevard***: *a street with broad open space areas; typically with planted medians.*

***Buffer***: *a combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.*

Buildable Area (as it relates to the calculation of required landscaping): the area of a lot remaining after other zoning requirement, including, but not limited to setback, off street parking, and ingress/egress have been met.

Building: a structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, but not including swimming pools, fences, and patios.

Building footprint: the outline of a building as measured ~~around~~ ***with the shape of*** its foundation.

Building Height: the vertical distance from the average contact ground level of the building to the highest point of the building.

Building Inspector: the Building Inspector of the City of Tillamook, Oregon, as designated by the City Council.

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**Building Line:** a line on the plat map indicating the limit beyond which buildings or structures may not be erected.

**Building Lot:** a lot occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, together with such open spaces as are required by this ordinance, and having the required frontage on a street.

**Building, Main:** a building within which is conducted the principal use permitted on the lot, as provided in this Ordinance.

**Building Mass:** *the aggregate size of a building or the total height, width and depth of all its parts.*

**Building Pad:** *a vacant building site on a lot with other building sites.*

**Building Scale:** *the dimensional relationship of a building and its component parts to other buildings.*

**Bulletin Board:** *A sign of a 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.*

**Bush or Shrub:** a planting whose primary purpose is decorative and whose normal height will not be in excess of ten (10) feet.

**Business:** *a commercial or industrial enterprise.*

**Business or Professional Office:** *an office of a professional providing a service to the public, including but not limited to medical or dental offices, architectural, engineering or surveying office; certified public accountant or tax preparer's office, realty or insurance office; business or computer consultant.*

**Business Frontage:** *the lineal front footage of the building or a portion thereof, devoted to a specific business or enterprise, and having an entrance/exit opening to the general public.*

**Cabana:** a stationary, lightweight structure which may be prefabricated, or demountable, with two or more walls, used adjacent to and in conjunction with a mobile home to provide for additional living space, meant to be moved with the mobile home.

**Cabinet, carpentry and woodwork shop, custom:** *shop for the repair or creation of individual items of furniture and wooden home furnishings on a custom basis; not a factory, planing mill, or similar woodworking plant.*

**Camping or Recreational Vehicle:** *vacation trailer, park trailer, self-propelled vehicle, or structure equipped with wheels for highway use which is designed for human occupancy and is being used for temporary vacation/recreational or emergency purposes, as allowable by*

## SECTION 3 - DEFINITIONS

*this ordinance, but not for residential purposes, and may be equipped with plumbing, sink, or toilet.*

Capacity: maximum holding or service ability, as used for transportation, utilities, parks and other public facilities.

Capacity Tower: a tower lower than a "Coverage Tower" with lower antennas and reduced power output, added to fill in the service ability not covered by a "Coverage Tower".

**Cartoon**: *a caricature of an animate or inanimate object* ~~intended as humorous.~~

Cell Tower: please see Utility Facility, Wireless Communication Facility.

**Cemetery**: *land dedicated for burial purposes, including mortuary, crematory, mausoleum, and columbarium, when operated within the boundary of a cemetery.*

**Certified Arborist**: *an arborist having been certified by the International Society of Arboriculture.*

Change of Use as relates to a non-conforming use: visible or audible changes that would affect surrounding properties and neighbors, including, but not limited to traffic, parking, noise level, lighting, signing, smoke, dust, odor, vibration, soot, heat or glare. An application for such change of use may be granted administratively or by the Planning Commission in accordance with provisions of Section 27 of this Ordinance.

Church: a permanently located building commonly used for religious worship and religious training, fully enclosed with walls (including windows and doors) and having a roof (canvas or fabric excluded), and conforming to applicable legal requirements affecting design and construction. A church is considered a public facility.

City: the City of Tillamook City, State of Oregon.

City Council or Council: the City Council of the City of Tillamook City, Oregon.

City Engineer: the City Engineer of the City of Tillamook City, Oregon, as designated by the City Council.

City Manager: the duly appointed administrative officer of the City of Tillamook or a person designated by him/her to fulfill his/her obligations as set forth in this Ordinance.

City Planner: the duly appointed city planner of the City of Tillamook, or the City Planning Commission.

City Recorder: the City Recorder of the City of Tillamook City, Oregon.

Clear Vision Area: identified in this ordinance under Interpretations and

## SECTION 3 - DEFINITIONS

Exceptions.

Clear Zone: an area that extends from the primary surface to a point where the approach surface is 50 feet above the runway and elevation.

***Clinic Medical, Dental or Optical: facility for examining, consulting with, and treating patients, including offices, laboratories, and outpatient facilities, but not including hospital beds for overnight care or treatment.***

***Critical Clinic: a facility for extensive and continuous care and treatment, and closely monitored health care provided to critically ill patients***

***Emergency Clinic: a facility for the performance of acts or procedures under emergency conditions in the observation, immediate care and counsel of persons who are ill or injured or who have disabilities.***

***Urgent Care Clinic: a facility for the delivery of ambulatory care in a facility dedicated to the delivery of medical care outside of a hospital emergency department, usually on an unscheduled, walk-in basis. Urgent care centers are primarily used to treat patients who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency department.***

***Walk-in Clinic: a facility, often associated with a hospital or medical school, that is devoted to the diagnosis and care of outpatients.***

Club: an association of persons (whether or not incorporated, religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

Co-location (collocation): the use of a personal wireless service utility facility or wireless communication facility by two or more wireless communications service providers for more than one type of communication technology and/or placement of two or more wireless service facilities on adjacent properties, or utilization of a single antenna support structure, alternative antenna support structure, or an underground conduit or duct by more than one Wireless communications service provider.

Commercial: any use of land or structure involving buying/selling of goods or services as the primary activity.

Commercial Enterprise: any use of land, structures or natural resources for profit, or non-profit making activities not residential, public facility, or industrial in character.

Commercial Retail: any commercial enterprise of, relating to, or engaged in the sale of commodities or goods in small quantities directly to the ultimate consumer.

Commercial Service: any commercial enterprise which provides a useful labor that does not

## SECTION 3 - DEFINITIONS

produce or involve the sale of a tangible commodity or good.

Commission or Planning Commission or Planning and Zoning Commission: the Planning and Zoning Commission of the City of Tillamook City, Oregon.

***Common Open Space: an open area within a development, designed and intended for the use or enjoyment of all residents of the development, or for the use and enjoyment of the public in general.***

***Community Building and Community Center: a facility whether owned or not by a governmental agency or a nonprofit community organization, for the purpose of public assembly, used for meetings, recreation or education.***

***Compatibility: aspects of buildings and other constructed features which, by material, shape, scale, and architectural detail, tend to support the ambient quality of the City of Tillamook. Compatibility may be achieved through building design, setbacks, screening, materials choices, building orientation, site design, or other design solutions.***

***Comprehensive Plan: the Tillamook City Comprehensive Plan is the official document adopted by the City which delineates the general long range policies on how the City's future development should occur. The Tillamook City Comprehensive Plan which interrelates all functional and natural systems and lands, including, but not limited to, sewer and water systems, transportation systems, education systems, and recreational management programs. The City Comprehensive Plan includes several parts among which are the following: an inventory, a policy element which includes the City's policies on future development, community plans, functional plans, a plan map, and implementing measures.***

***Comprehensive: all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the Plan.***

***Conditional uses: are those uses which may be appropriate, desirable, convenient or necessary in the zone district in which they are allowed, but which by reason of their height or bulk, intensity of use or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed.***

***Condominium: a structure containing more than one dwelling unit, each of which is owned individually, exclusive of the land of the land upon which the structure is located.***

***Conflict of Interest: as described in ORS 244.135, when the prospect of personal gain prevents a member of some public body from carrying out the purposes of that body in a fair and objective fashion, Oregon Law requires that a Planning Commissioner not take part in a decision in which he or she may have such a conflict, reference ORS 244.135 regarding cities.***

## SECTION 3 - DEFINITIONS

**Conical Surface:** an area that extends 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the center of each end of the Primary Surface of each visual and utility runway at 150 feet above the airport elevation) an upward extending to a height of 350 feet above the airport elevation.

**Consolidation:** *the act of aggregating two or more tax lots or tracts of land into one or more parcels.*

**Construction sign:** *a sign stating the names, addresses or telephone numbers of those individuals or businesses directly associated with a construction project on the premises.*

**Contiguous:** *lots, parcels, or lots and parcels that have a common boundary. "Contiguous" includes, but is not limited to, lots, parcels, or lots and parcels separated only by an alley, street, or other right of way or flagpole. Lots or parcels are not contiguous if their common boundary is an arterial or collector street.*

**Contract Annexation:** *a binding agreement between a city and county which requires the parties to accomplish specified tasks prior to and/or after property identified in the contract is annexed by City action into city jurisdiction.*

**Convenience Store:** *A small retail store that is open long hours and that typically sells staple groceries, snacks, and sometimes gasoline.*

**Conversion Plan:** *a binding plan which shows how a parcel can be ultimately divided into the maximum practical number of lots allowed by the zoning district; and shows how a proposed land division will be compatible with the allowable ultimate land division, and provides all of the graphic information required for a land subdivision or a partition, based on the ultimate number of lots allowable under the zoning district.*

**Cooking Facility:** *an arrangement within a residential unit which provides, but is not limited to, the following features: refrigeration capability; hot plate, electrical frying pan, toaster oven, crock pot, counter top burners, stove or microwave; and facilities for washing and cleaning.*

**Cottage:** ~~a small house that may be used as an accessory dwelling.~~

**Cottage Industry:** *an industry where the creation of products and services is home-based, rather than factory-based. These products and services created by cottage industry are often unique and distinctive given the fact that they are usually not mass-produced.*

**County:** the County of Tillamook County, State of Oregon.

**Country Club:** *a club organized and operated primarily for social indoor and outdoor recreation purposes, including incidental accessory uses and structures.*

## SECTION 3 - DEFINITIONS

Court: an open unoccupied space, other than a yard, on the same lot with a building or group of buildings.

Coverage Tower: a wireless communication facility tower for initial deployment of a large area. "Coverage Towers" operate at high power levels and are tall.

Creek (see "Stream").

***Criterion: a legal threshold against which an application is compared in order to determine its adequacy.***

***Critical Facility: include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste. A critical facility is a facility for which even a slight chance of flooding might be too great.***

Crop and Tree Farming: the use of land for horticultural uses.

Curb cut: a driveway opening where a curb is provided along a street.

***Curvilinear: means represented by curved lines.***

***D.B.H. (Diameter at Breast Height): circumference of the tree's trunk(s) at four and a half feet above grade/ground level, and dividing by 3.14.***

***Day: unless otherwise specified by this ordinance or statute, all references to days: calendar days. References to days involving deadlines apply to normal department business hours. When a deadline falls on a holiday or weekend, it shall be presumed to be extended to the next working day of the department.***

Day Care Center: an institution maintained under public or private auspices and licensed by the state, for which care is provided on a daily basis for three or more children under sixteen years of age. Note Day care centers providing care for more than six children result in an educational ("E" occupancy) status for the structure under the Uniform Building Code and the National Electrical Code. (See "Family Day Care Providers' Home").

Deciduous: a tree or shrub that sheds its leaves seasonally.

Dedication: the designation of land by its owner(s) for any public use as shown on a subdivision plat or deed. The term may also be used for dedication to a private homeowners association.

***Demolish or Demolition: to raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of a structure.***

Density (Residential): the number of residential dwelling units per unit of land, ***expressed in a ratio to land area. Density is computed by dividing the number of dwelling units by total***

## SECTION 3 - DEFINITIONS

*gross acreage of the site. (Example twenty dwelling units divided by five acres, equals a density of four units per acre.)*

~~Design Review Committee shall mean the members of a subcommittee of the Planning and Zoning Commission established to review fence and hedge installations in accordance with Section 26 of this Ordinance.~~

Developable: buildable land as identified by the City's Comprehensive Plan. This shall include both vacant land and land likely to be redeveloped.

***Developer: a person or other legal entity who subdivides or partitions land, or constructs on more than one parcel of land.***

~~Development: all improvements on a site~~ ***any manmade change to improved or unimproved tracts of land***, including, parking and loading areas, landscaping, paved or graveled areas, grading and areas devoted to exterior display, storage or activities. "Development" includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes ***but not limited to, construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area.***

***Development permit: any permit or authorization issued by the city as a prerequisite for undertaking any development. It includes permits and authorizations customarily known as certificates of appropriateness, building permits, zoning or rezoning permits, variances, conditional use permits, street plans, plat approvals, subdivision or planned unit development permits.***

***Development Schedule: a construction timeline schedule submitted by the applicant showing all major events. If the project is to be constructed in phases, a schedule shall be submitted for each phase. Areas designated for staged development shall be indicated on the Tentative Plan. It shall indicate the approximate date when construction of a Planned Unit Development is expected to begin and end, or if developed in phases, the development schedule for each phase shall be keyed to a plan that indicates phasing boundaries. It coordinates the improvement of the common open space, and the construction of buildings and other structures in the common open space with the construction of the primary structures in the Planned Unit Development.***

***Direct illumination: a source of illumination directed towards such signs so that the beam of light falls upon the exterior surface of the sign.***

Director: the City Manager or his designated representative.

District: a portion of the territory of the City of Tillamook City within which certain uniform regulations and requirements of various combinations thereof apply under the provisions of this Ordinance.

- a. That certain uses are required to be a specified distance from "any R

## SECTION 3 - DEFINITIONS

District" as provided in this Ordinance, the term "an R District" shall include any R-7.5, R-5.0 and R-O District.

- b. The term "any C District" shall include any C-N, C-H C-C District.
- c. The term "any I District" shall include any I-L or I-G District.

***Divide: to separate land into two or more parcels or lots for the purpose of transferring a substantial interest in land.***

***Division: the act or process of dividing land or a tract that has been divided.***

***Door: a movable structure used for opening and closing an entrance or for giving access to something.***

***Downslope: of or having 10% or greater slope from an adjoining property line to point of setback.***

***Double Frontage: a term used to describe a lot or parcel which has road access and frontage at each end. Corner lots are not considered to have double frontage unless they front roads on three sides. Alley access is not considered "frontage" in this definition.***

***Drinking Establishment: an establishment, the primary activity of which is the sale and consumption on the premises of beer, wine, or other liquors, and where food service, if any, is secondary to the sale of beer, wine, or other liquors. Synonymous with bar, lounge, or tavern.***

***Drip line: the area on the ground below every tree that would be affected if water were dripping off of the tree's leaves and branches on a calm day. From a plan view, the area on the ground covered by the tree canopy.***

***Driveway: areas that provide vehicular access to a site except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking space areas. ~~a legally and physically defined area available and practical for motor vehicle ingress and egress to the building site from a road.~~***

***Drug Store or Pharmacy: facility for preparing, preserving, compounding, and dispensing drugs and medicines; and, may include the display and sale of other merchandise, such as cosmetics, notions, fountain service, and similar items.***

***Dry Cleaner or Laundry, Commercial: a plant for cleaning garments, fabrics, rugs, draperies, or other similar items on a commercial or bulk basis.***

## SECTION 3 - DEFINITIONS

***Dry Cleaning or Laundry Shop, Small Custom: an establishment for custom cleaning only of individual garments, fabrics, rugs, draperies, or other similar items, and not a bulk or commercial type plant.***

**Durable, Dustless Surface: a permanently surfaced area of asphalt, concrete, brick, cobblestone, oil-matte, and/or chip-seal for the standing and maneuvering of vehicles in all zones maintained adequately for all weather uses.**

**Dwelling: a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code (UBC), for not more than one family, or a congregate residence for ten (10) or less persons. *a building, or portion thereof, designed or used for human occupancy as a residence for one or more persons, not including vehicles, travel trailers, or recreational/camping vehicles.***

- a. **Dwelling, Single Family: a building, on a separately platted lot, designed or used for residential purposes by not more than one family, although potentially including one ancillary dwelling unit. Each single-family dwelling must have separate utility services.**
- b. **Dwelling, Two-Family, or Duplex: a building designated and used for residential purposes with two (2) attached dwelling units on one lot or parcel by not more than two families and containing two dwelling units only.**
- c. **Dwelling, Triplex: a building designed and used for residential purposes with three (3) attached dwelling units on one lot or parcel.**
- d. **Attached Single-Family: two or more single-family dwellings on individual lots or parcels with common end walls. See "a", above.**
- e. **Dwelling, Multiple Family: a building containing two or more dwelling units, including units that are located one over the other.**
- f. **Dwelling, Seasonal: a dwelling unit not used as a principal residence that may be occupied weekends and for brief periods during the year.**
- g. **Dwelling, Townhouse: a single family dwelling unit, on a separately platted lot, with use and occupancy identical to all other single-family dwellings, except without the required yard setbacks in the side yard. Fire separations are required between each townhouse, and such required fire separation may be obtained by two separate one-hour fire resistive walls, or a single masonry common wall, having a two-hour fire resistive rating. Said fire walls shall have no penetrations whatsoever. Each townhouse must have separate utility services; however, general utility services, on that land owned and maintained by a homeowner's association, will be allowed. Each common wall shall be covered by a set of deed restrictions.**

**Dwelling Unit: one room, or a suite of two or more rooms, designated for or used by one family or housekeeping unit for sleeping purposes, and having not more than one (1) kitchen or**

## SECTION 3 - DEFINITIONS

~~kitchenette~~ *one or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the unit for the exclusive use of the occupants maintaining the household.*

Easement: a non-possessory interest in the land of another which entitles the owner of the interest to a limited use or enjoyment of the other's land and to protection from interference with this use.

Eating Establishment: *synonymous with restaurant, but does not include drinking establishment.*

Elevated Building: *a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, sheer walls, post piers, pilings, or columns.*

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

Emergency Medical Facility: *a first aid station or headquarters for an ambulance service, which offers emergency outpatient treatment only.*

Emergency Water Storage Facility: *a facility for the storage of water used for fire protection and suppression. Such facility may consist of a storage tank, whether elevated, above ground, or underground, a swimming pool, or other reasonable means to store an emergency water supply on the premises.*

Emergency Measures: *unforeseen or sudden occurrences usually caused by civil unrest or natural disaster, esp. of a danger demanding immediate remedy or action.*

Engine or Motor Repair Shop: *a shop for the repair of engines or motors. Term includes electric or fuel power motors.*

Equipment, Heavy: *farm, forestry, or construction machinery weighing in excess of 10,000 pounds.*

Evergreen: *a plant with foliage that persists and remains green yearround.*

Ex Parte Contact: *private meetings or discussions between a member of a reviewing body and a person or persons who have some interest in a case to be heard by that body. Oregon law doesn't forbid such contact but requires that decision makers disclose them publicly. ORS 227.180 is the pertinent statute for cities.*

Family: ~~a person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a boarding house, lodging house, motel or hotel, fraternity or sorority house~~ *an individual or two or more persons related by blood, marriage, adoption or legal guardianship using one kitchen, and providing meals or lodging to not more than two additional persons, excluding servants, or a group of not more than five unrelated persons, living together as one housekeeping unit, using one*

## SECTION 3 - DEFINITIONS

***kitchen. The maximum occupancy allowed in special group homes that permitted outright by State Law in single or multifamily zones shall not exceed the number of persons allowed by State statute.***

Family Day Care Center: a day care facility where care is provided in the home of the provider to fewer than 13 children, including children of the provider, regardless of full or part-time status.

Farm Use: the current employment of land for the purpose of obtaining a profit in money by raising, harvesting, and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use of animal husbandry or any combination thereof.

"Farm Use" includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise.

***Feed Store, Retail (No Mill): facility for the sale of grain, prepared feed, and forage for pets, livestock, and fowl, but not involving the grinding, mixing, or commercial compounding of such items, and the sale of additional pet items, gardening supplies and farm equipment.***

***Fell: to remove or sever a tree or to use any procedure the natural result of which is to cause the death or other substantial destruction of the tree. Fell does not in any context include normal trimming or pruning.***

Fence, Sight Obscuring: any fence which contains any sort of non-transparent paneling, lath, sheeting, planking, posts, fabric or organic material either dead or alive, etc., of any material which is not necessary for the support of the fence, shall be termed sight obscuring. This shall not include chain link or other similar fences which are maintained clear and clean of any material, either organic or inorganic.

Fill: the placement by man of sand, sediment, concrete, or other material, usually in submerged lands or wetlands, to create new uplands or raise the elevation of land. Fill shall also include a properly engineered sanitary landfill.

Final Map: a map prepared in accordance with this Ordinance, which is designated to be filed with the Tillamook County Clerk and the State of Oregon.

Fish Habitat: those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration (According to Oregon Administrative Rule 660-23-090(1)).

Fish Use: an area inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts. Fish use is determined from Oregon Department of Forestry Stream Classification maps.

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***Flag Lot:*** a "panhandle" shaped lot or parcel with its widest area set back some distance from a road, and having a thin strip of land connecting to the road to provide legal access.

***Flagpole:*** the thin strip of land connecting the widest area of a flag lot to a road. The flagpole shall be considered a part of the tax lot for purposes of calculating total lot area.

**Flood or Flooding:** a general and temporary condition of partial complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters and/or,
- b. The unusual and rapid accumulation of runoff of surface waters from any source.

***Flood Hazard Boundary Map:*** an official map of a community issued by the Federal Emergency Management Agency where the boundaries of the flood, mudslide (i.e. mudflow), and related erosion areas having hazards have been designated as Zone A, M, and/or E.

***Flood Insurance:*** the insurance coverage provided under the Federal Flood Insurance program.

***Flood Insurance Rate Map (Firm):*** an official map of a community on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Floodplain:** the area adjoining a stream, river, or lake that is subject to regional flooding. A regional flood is standard statistical calculation used by engineers to determine the probability of severe flooding. It represents the largest flood which has a one percent chance of occurring in any one year in an area as a result of periods of higher than normal rainfall or stream flows, high winds, rapid snow melt, natural stream blockages, or combinations thereof.

***Floodplain 100Year:*** the land within the City subject to a one percent chance of flooding in any given year, including the floodway and floodway fringe.

***Floodprone:*** areas likely to be flooded by virtue of their location adjoining a river, stream, or other water course or water body to the extent where the level of hazard exceeds acceptable designated floodplain, floodway, and approximate method floodplain, torrential flood hazard area identified by the Department of Geology and Mineral Industries, and other areas both within or outside of FEMA mapped areas which are either known to be flood prone or where flood hazard conditions may be more extreme than indicated by FEMA and development would jeopardize life or property.

***Floodproofing:*** any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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**Floodway:** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Floor Area:** *the maximum horizontal area of living space, to include guest house and/or ancillary unit, not to include decks, balconies, porches, exterior stairways, garages, carports, and storage.*

**Floor Area Ratio (FAR):** *the gross floor area of all buildings or structures on a lot divided by the total lot area.*

**Fluorescent colors:** *extra bright and glowing type colors; includes "dayglow" orange, fluorescent green, etc.*

**Fluorescent lighting:** *light provided by fluorescent tubes. Fluorescent lighting is a type of electric discharge lamp consisting of a glass tube filled with a mixture of argon and mercury vapor. Fluorescent lamps are cooler and more efficient than incandescent lamps.*

**Food Cart/Food Trailer:** *a mobile kitchen and food service establishment that is vehicle-mounted or wheeled and is capable of being readily moved, set up on the street to facilitate the sale and marketing of prepared food to people from pedestrian traffic. Food carts and Food Trailers can be found selling food of just about any variety. Food carts and Food Trailers either allow the vendor to sit or stand inside and serve food through a window, or have all of the room inside the cart for storage and to house the cooking machinery, usually some type of grilling surface. The cart style is determined principally by the type of food served at the cart. Some food carts are towed by another vehicle or are part of a vehicle, while some alternatively are pushed by a human. Food Carts/Food Trailers include the following:*

*Conventional Unrestricted Units which are enclosed trucks, trailers, buses with open foods - mobile taquerias, barbecue trailers, snow-cone units, grilled chicken buses.*



*Conventional Restricted Units includes trucks, trailers, vans with packaged foods only prepared at an approved commissary.*



*Ice cream tricycles and push carts (Individually-packaged ice cream)*

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*Unrestricted fixed location and park vendor units such as hot dog and other open-foods carts*



*Ice cream trucks and vans (Individually packaged frozen desserts)*



***Food Store, Retail Sale: an establishment where diversified foods and associated items are kept and displayed for retail sales. Synonymous with grocery store, supermarket, and convenience grocery.***

***Foster Family Home, as defined by OAR 412-22-010 (4): any State-certified home maintained by a person who has under his or her care any child unattended by parents or a guardian for the purpose of providing such child with care, food, and lodging. Such homes include foster, family, group, and shelter homes.***

***Foundation (permanent): primary support for a structure through which the imposed load is transmitted to the footing or earth.***

***Fraternal or Lodge Building: a building for a chartered private service organization, club, society, or order.***

***Frontage: that portion of a parcel of property or building which abuts a dedicated public street or highway.***

***Building Frontage: the single wall surface of a building facing a given direction.***

***Double Frontage: a parcel of property or building which abuts two (2) dedicated public streets or highways.***

***Fuel Alcohol Production: the distillation of fuel alcohol from agricultural products, byproducts, or waste.***

## SECTION 3 - DEFINITIONS

**Fuel break:** *an area maintained around buildings and structures for fire protection, which is cleared of dry brush and grass. The fuel break may contain ornamental shrubbery, specimen trees, lawn, or other plants used as ground cover, provided the plant material does not provide a means of rapidly transmitting fire from native growth to buildings and structures, or from development to surrounding rural lands.*

**Garage or carport:** *a permanently constructed building with a covered roof available for the parking of a motor vehicle ~~an attached or accessory structure, designed primarily for storage of the family automobile(s).~~ Also used for the storage of additional items, personal shop activities, but limited to non-habitable uses.*

**Garden Shop and Plant Sales, Display, or Greenhouse:** *a facility for the growing, display, and sale of garden and/or flower seeds, plants, nursery stock, and related items, which may include a glassed enclosure for the cultivation or protection of tender plants.*

**Government Facility:** *projects, activities, and facilities deemed to be necessary for the maintenance of city, county, state, or federal purposes consistent with Comprehensive Plan policies. Government facilities shall include federal, state, county or municipal offices or facilities. See also "Public Facility"*

**Government Offices:** *projects and activities deemed to be necessary for the maintenance of city, county, state, or federal purposes consistent with Comprehensive Plan policies, and shall include federal, state, county or municipal offices.*

**Grade:** *the average elevation of the existing ground at the centers of all walls of the existing building.*

**Grade (Natural):** *the elevation of the ground level in its natural state, before construction, filling, or excavation.*

**Grocery Store:** *See food store.*

**Gross Floor Area (GFA):** *the gross floor area of a building is the same (in square feet) of the area at each floor level, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that are included within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all stories or areas that have floor surfaces with clear standing head room (6 feet, 6 inches, minimum) regardless of their use. Where a ground level area, or part thereof, within the principal outside faces of the exterior wall is left unenclosed, the gross floor area of the unenclosed portion is said to be considered as a part of the overall square footage of the building. All unroofed areas and unenclosed roofed-over spaces, except as defined above, are to be excluded from the area calculations. Any roofed-over areas with three or more sides and used for storage of materials or goods shall be included in the gross floor area.*

## SECTION 3 - DEFINITIONS

Ground Cover: a plant material or non-plant material (e.g. mulch, bark chips, dust) that is used to cover bare ground.

***Group Home: a licensed home maintained and supervised by adults for the purpose of providing care, food, and lodging for children under the age of 18 years, unattended by parent(s) or guardian(s), where the number of unrelated persons living together as one household commonly exceeds five. The maximum occupancy allowed in group homes shall not exceed the number of persons allowed by State statute. ORS***

Guest House: ~~an accessory building designated, constructed and used for the purpose of providing temporary living accommodations for guests, or for members of the same family as that occupying the main structure, and containing no kitchen or kitchen facilities~~ ***living quarters within an accessory structure, located on the same tax lot as the main dwelling, and occupied solely by members of the owner's family or temporary guests. A guest house contains no kitchen or kitchen facilities. A guest house must conform to the dwelling density and standards of the zoning district.***

***Guest Suites: an accommodation with two or more contiguous rooms comprising a compartment, with or without doors between such rooms, that provides living, sleeping, sanitary, and storage facilities.***

***Habitable Floor: any floor which is or can be made suitable for living purposes. These areas may be walled and are suitable for use as a place of working, sleeping, cooking, recreation, or the like, usually having access to heat, plumbing, and electricity. It includes foyers, hallways, restrooms, closets, storage, and other common areas within a building. Habitable floor does not include mechanical rooms, elevators and fireplaces.***

Hammerhead turnaround: a "T" or "L" shaped dead-end street that allows for vehicles to turn around.

***Handcraft, Ceramic Sculpture or Similar Art Work Studio or Facility: facility to create custom, artistic or decorative objects such as leather goods, jewelry, glass, ceramic or other oven-fired nonmetallic mineral products, woodwork or other carved, three-dimensional works of art, made by hand.***

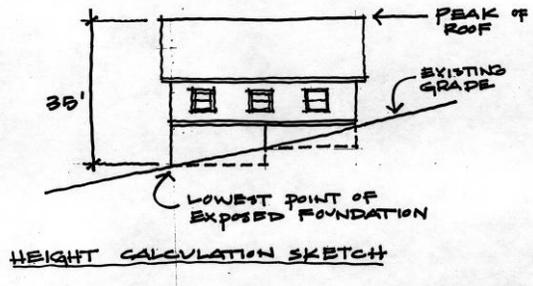
***Hazardous Waste: discarded, useless, or unwanted materials or residues in solid, liquid, or gaseous state and their empty containers which are classified as hazardous pursuant to ORS 459.410, OAR 34063100 to 135, and these rules. A hazardous material is a substance this same definition applies to except that it is not a waste.***

***Health Related Center or Spa: a facility which offers health related treatment, education, recreation, with equipment and facilities for exercising and improving physical fitness, not including long-term or emergency care.***

## SECTION 3 - DEFINITIONS

**Hedge:** any combination of non-annual plantings intended to form an obstruction to ingress or egress, and/or vision, such plantings providing no physical or visual space between individual plantings and where branches or foliage of one planting physically contact adjacent plantings.

***Height of Building:*** the height of all structures measured vertically from the natural grade at the lowest exposed portion of the foundation to the uppermost point of the roof edge or peak, wall, parapet, mansard, or other feature perpendicular to that grade.



***Heritage Tree:*** all broadleaf trees (except poplar trees) equal or greater than two feet DBH (for multi-stem trees, if the sum of the areas of all stems four inches in diameter or larger at DBH is greater than 3 square feet, it is a heritage tree). All conifers equal or greater than three feet DBH. Also any documented historically significant trees or trees that are rare or of outstanding size and/or form for their species, as noted in the adopted Heritage Tree list.

***Historic Rehabilitation:*** the act or process of returning a property to a state of utility through repair or alteration, which makes possible an efficient, contemporary use, while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

***Historical Significance:*** the term : that the site or structure (1) has character interest or value, as part of the development, heritage or cultural characteristics of the City, State or Nation; (2) is the site of an historic event with an effect upon society, (3) is identified with a person or group of persons who had some influence on society; or (4) exemplifies the cultural, political, economic, social or historic heritage of the community.

***Historic Resource:*** any building, structure, or site having historic or architectural significance as defined by OAR 660-023-0200(7).

***Home Occupation:*** an occupation conducted entirely within a building, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and which complies with the conditions of Section 28 (12): *an accessory use, usually of a nonresidential nature, carried on in a dwelling unit except where otherwise allowed by this ordinance, and which:*

- a. *Is incidental to the primary occupancy of the home as a dwelling,*
- b. *Is for gainful employment involving the manufacture, provision or sale of goods and/or services,*

## SECTION 3 - DEFINITIONS

- c. Does not take on an outward appearance or manifest any characteristics of a business or operation of a retail nature; and conforms to the standards specified for home occupations.*

**Home Schooling:** *homeschool, home education or home learning is the education of children at home, typically by parents but sometimes by tutors, an academic curriculum at home rather than in other formal settings of public or private school.*

**Horizontal Surface:** a horizontal plan 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the Primary Surface of each visual or utility runway and connecting the adjacent arcs by lines tangent to those arcs.

**Hospital:** any institution, place, building, or agency which maintains and operates organized facilities for twenty (20) or more persons for the diagnosis, care and treatment of human illness, including convalescence and including care during and after pregnancy, or which maintains and operates organized facilities for any such purpose, and to which persons may be admitted for overnight stay or for a longer period. *A hospital is considered a Critical Care Facility and an Urgent Care Facility.*

**Hotel:** ~~any building or portion thereof designed or used, or containing six (6) or more guest rooms or suites of rooms, but not including any institutions in which human beings are housed or detained under legal restraint.~~ an establishment that provides lodging as a temporary abiding place, containing guest rooms or units, furnishing customary hotel services such as linen, maid service, and the use and upkeep of furniture and usually meals and other services for travelers and other paying guests.

**Hydraulics:** *a study of the mechanical behavior of water in physical systems and processes. In floodplain management, hydraulics refers to determination of the lateral and vertical extent of a particular flood. Hydraulics also encompasses the flow characteristics around and through hydraulic structures such as bridges, culverts and weirs.*

**Hydrological Study/Hydrologic Analysis:** *an analysis used to estimate flood flow rates in a floodplain to develop a reasonable estimate of the future conditions of the 1 percent annual chance flood flow, relying on rainfall runoff simulations with altered land use conditions. Common methods are stream gage analysis, rainfall-runoff models, or a combination of the two. All of the currently accepted hydrology models for peak flow determination can be used to estimate future conditions by changing land cover/use parameters. All runoff models should be calibrated to past flood events before they are used for base flood determination. It is recommended that a conservative assumption be used that all of the areas in the watershed will be developed as planned. This information can be used in the hydrologic model's land use-to-land cover relationships to describe a build-out condition within the watershed. These flood studies are necessarily dependent on past precipitation and flow records, which do not provide information on flows generated under different climatic conditions.*

**Illustration:** *a line drawing or silhouette of a realistic object.*

## SECTION 3 - DEFINITIONS

***Incompatibility of land uses: an issue arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.***

***Immediate Danger of Collapse of a Tree: that a tree may already be leaning, with the; surrounding soil heaving, and/or there is a significant likelihood that the tree will topple or otherwise fail and cause damage to the surroundings. Immediate Danger of Collapse does not include hazardous conditions that can be alleviated by pruning or treatment.***

***Impervious surface: development that does not allow for water infiltration (e.g. pavement, roofs, etc) and any material which reduces and prevents absorption of stormwater into previously undeveloped land.***

***Industrial: any use of land, structure, or natural resources involving the manufacturing, processing, or assembly of semi-finished or finished products.***

***Infill: the development of vacant bypassed lands located in an area that is mainly developed.***

***Intensity: the floor area ratio (FAR). Floor area ratios are used as a measure of the intensity of the site being developed. The ratio is generated by dividing the building area by the parcel area, being sure to use the same units***

***Junk Yard : a place where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operative conditions, or salvaged materials incidental to manufacturing operations.***

***Kennel: any premises where five (5) or more dogs, cats, or other small animals or any combination thereof, are kept commercially or permitted to remain, for board, propagation, training or sale, except veterinary clinics and animal hospitals. ***a facility. 1. In which dogs are given training for which a fee is charged, or 2. Operated, not for profit, and intended to provide temporary care for lost, strayed, or abandoned animals; or 3. In which dogs, which are not licensed under ORS 609.100 (1), are kept, when such dogs are kept for farm use, breeding or sale; or 4. Which is a business conducted for the purpose of boarding and/or sale of dogs or cats.******

***Kindergarten: Public or private school or class for children usually from four to six years old.***

***Kitchen: any room, all or any part of which is designed, built, equipped, used or intended to be used for the preparation of food and/or the washing of dishes.***

## SECTION 3 - DEFINITIONS

***Laboratory, Manufacturing: operations involving the compounding of products such as perfumes and pharmaceuticals, and the development and assembly of instruments and similar items.***

***Laboratory, Scientific Testing Precision: facility which performs scientific tests or analysis or experimental studies.***

***Land Division: the process of dividing land to create parcels or lots. Please see Partition Land for further details. See also *Partition*.***

- a. ***Expedited Land Division Process.*** a land division process with distinct procedures and requirements from the quasi-judicial process (see administrative).

***Land Use: the main activity that occurs on a piece of land, or the structure in which the activity occurs.***

***Landscaping: not only trees, grass, bushes, shrubs, flowers and garden areas, but also the arrangement of fountains, patios, decks, street furniture and ornamental concrete, or stonework areas, and artificial turf, mulch or carpeting, but excludes artificial plants, shrubs, bushes or flowers.***

***Landscape or Plant Nursery: facility for raising and marketing plants, trees, shrubs, bulbs, and related materials.***

***Lawn: grass or similar materials maintained as a ground cover of less than 6 inches in height, and generally managed to restrict the growth of shrubs and trees that inhibit the growth of grasses and forbs. For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used.***

***Legislative Decision: matters involving the creation, revision, or large scale implementation of public policy, zone changes and comprehensive plan amendments which apply to entire districts. Legislative decisions are initially considered by the Planning Commission whose job it shall be to provide a recommendation to the City Council, with the final decision being made by the City Council.***

***Light Fabrication and Assembly Process: manufacturing which does not involve the generation outside the property of noise, odor, vibration, dust or hazard. The term includes, but is not limited to, the manufacture of electronic components, jewelry, clothing, trimming decorations and any similar item.***

***Light Industrial: any industrial enterprise where activities and operations in no manner affect in a detrimental way any of the surrounding properties and where any adverse impacts are restricted to the subject property. Such uses shall not be adverse due to odor, particulate matter, smoke, noise, vibration, appearance, or similar impacts. Vehicular access to and use of streets shall be no greater than that generated by a commercial enterprise.***

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***Loading Space: an off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.***

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

***Local Utilities: the usual electric power, telephone, gas, water, sewer drainage lines, and those inline facilities such as gas regulating stations and water pumping stations.***

**Lowest Floor: the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 20 5B(1)b.**

**Lot: a unit or parcel of land used or capable of being used under the regulations of this Ordinance, lawfully created by a subdivision or ordinances in effect at the time of its creation.**

**Lot Area : the computed area contained within the lot boundary lines, measured in a horizontal plane; said area to be exclusive of street or alley right-of-way.**

**Lot, Corner: ~~a lot abutting upon two (2) or more streets at their intersection, or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees within the lot lines~~ *a lot, parcel, or portion thereof, situated at the intersection of two or more streets.***

**Lot Coverage: that percentage of the total lot area covered by structures as herein defined.**

**Lot Depth: the horizontal distance between the front and the rear lot lines. In the case of a corner lot, the depth shall be the length of its longest front lot line.**

**Lot, Flag: a lot or parcel which has access to a road, street or easement, by means of a narrow strip of lot or easement.**

**Lot, Interior: a lot or parcel of land other than a corner lot.**

**Lot Line: the property line bounding a lot or parcel.**

**Lot Line, Front: ~~the property line abutting a street~~ *the property line separating the lot or parcel from the road or street, other than an alley. In the case of a corner lot or parcel or a lot with double frontage, the shortest property line along a street or road which has been improved and for which addresses have already been assigned, other than an alley. In the case of a***

## SECTION 3 - DEFINITIONS

***flag lot or other parcel or lot, where the majority of the lot or parcel does not front on a road, the front lot or parcel line shall be one of the shortest lines, if a rectangular lot or parcel.***

Lot Line, Rear: ~~a lot line not abutting a street which is opposite and the most distance from the front lot lines~~ ***a property line which is opposite and most distant from the front lot or parcel line. In the case of an irregular, triangular, or other shaped lot or parcel, a line ten feet in length within the lot or parcel, parallel to, and at a maximum distance from, the front lot or parcel line.***

Lot Line, Side: any lot line not a front lot line or a rear lot line.

Lot of Record: a lot held in separate ownership as shown on the records of the County Assessor at the time of the passage of an Ordinance or regulation establishing the zoning district in which the lot is located.

Lot, Through: an interior lot having a frontage on two (2) streets and/or highways.

Lot Width: horizontal distances between the side lot lines or parcel lines measured within the lot or parcel boundaries or the main distance between the side lot lines within the buildable area. In the case of a corner lot, lot width : the main horizontal distance between the longest front lot line and the opposite lot line not abutting the street.

***Lowest Floor: the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.***

***Lumber Yard: facility for stocking and selling lumber and other materials needed for building. Term includes hardware and building materials and supplies.***

***Machine Shop: facility in which material is processed by machining, cutting, grinding, welding, or similar processing. Term includes blacksmith shop, electric motor repair, and gun shop.***

***Machinery Sales and Service: facility for repairing equipment and selling and/or servicing machinery.***

Maintain: to cause or allow to continue in existence. When the context indicates, the word: to preserve and care for a structure, through improvement, alterations of site conditions or to such an extent that it remains attractive, safe and presentable and carries out the purpose for which it was installed, constructed or required.

Management Unit: a discrete geographic area, defined by physical characteristics and features, within which particular uses and activities are promoted, encouraged, protected, or enhanced, and others are discouraged, restricted, or prohibited.

## SECTION 3 - DEFINITIONS

### Manufactured Dwelling:

- a. A Residential Trailer, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.
- b. A Mobile Home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962 and June 16, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- c. A Manufactured Home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

Manufactured Dwelling Park: any place where four or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

"Manufactured Dwelling Park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one mobile home per lot if the subdivision was approved by the City of Tillamook.(added per Ord. 1121, effective 2/22/92)

Manufactured Home Accessory Building or Structure: any awning, portable, demountable, or permanent cabana, ramada, carport, porch skirting, or steps established for use of the occupant of the manufactured dwelling and which are designed or intended to be attached to and which depend, in whole or in part, upon the manufactured dwelling for structural support.

***Man: as used by this ordinance the word man refers generally to humans and is inclusive of both the masculine and feminine, unless the context otherwise requires.***

Map: a final diagram, drawing or other writing concerning a major or minor partition.

- a. ***Comprehensive Plan Map: a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs.***
- b. ***Flood Map: the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency***

## SECTION 3 - DEFINITIONS

- c. ***Wetlands Map***: the City map with graphic representations of the type, size and location of the wetlands in the City of Tillamook
- d. ***Zoning Map***: the City map that depicts current zoning designations in the City of Tillamook.

***Marquee***: a permanent, roofed, non-enclosed structure projecting over an entrance to a building and not separately attached to the ground surface.

***Massing or Building Mass***: the height, width, and depth of a structure. Often used in comparison to the relative masses of the buildings around the subject structure, hence "massing."

***Master Plan***: a long range plan or long range site plan which provides for development of an applicant's property or properties or specified area of the City.

***Medical Services***: establishments primarily engaged in the provision of personal health services ranging from prevention, diagnosis, and treatment, or rehabilitation services provided by physicians, dentist, nurses, and other health personnel as well as the provision of medical testing and analysis services. Typical uses include medical offices, dental laboratories, health maintenance organizations, or detoxification centers, Critical care facilities, Emergency Care facilities, Urgent Care facilities, and Walk-in facilities.

***Ministerial Decision***: decisions made by the Planning Director or designated staff where there is clear and objective criteria and the decision requires no use of discretion. These decisions are made without public notice or public hearing. See *Administrative Decisions*.

***Microfacility***: an attached wireless communication facility which consists of antennas equal to or less than four (4) feet in height, or six (6) feet in height for omni-directional antennas and with an area of not more than 580 square inches.

***Mineral Resources***: precious metals and other earth or natural materials other than aggregate resources.

***Minifacility***: an attached wireless communication facility which consists of antennas equal to or less than ten (10) feet in height, or a parabolic antenna up to one (1) meter in diameter and with an area of not more than fifty (50) square feet as viewed from any one point.

***Mini-Warehouse/Storage Units***: a structure or structures divided into units, used only for storage of goods by an individual or business on a rental basis.

***Mitigation*** : to avoid, rectify, repair or compensate for negative impacts, which result from other actions and restoration of riparian areas, enhanced buffer treatment or similar measures.

- a. Off-Site Mitigation means mitigation undertaken in areas distant from or coterminous with a development site.

## SECTION 3 - DEFINITIONS

- b. On-Site Mitigation means mitigation undertaken within the lot or parcel affected by a development action.

**Mitigation Plan:** a detailed plan to compensate for identified adverse impacts on water resources, riparian setback areas, and wetlands that result from alteration, development, excavation or vegetation removal within the Wetland-Riparian overlay district. A Mitigation Plan must be prepared by qualified biologists (According OAR 660-23-090(1)).

***Mobile Home/Modular Home:*** a structure or vehicle fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities, has sleeping, cooking, and plumbing facilities, or any combination thereof; and is intended for human occupancy or is being used for residential purposes.

***Mobile Home Park:*** (As described in ORS 446.003) Any place where four or more such homes are located within 500 feet of each other on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is:

- a. To rent or lease space for mobile homes for a charge or fee paid or
- b. To be paid for the rental, lease, or use of facilities for mobile homes; or
- c. To offer space free for location of mobile homes in connection with securing the trade or patronage of such person, but not including those used exclusively for farm labor or recreational camps.

**Motel:** a building or group of buildings used for transient residential purposes containing guest rooms and/or dwelling units with automobile storage space provided in connection therewith, which building or group is designed, intended, or used primarily for the accommodation of transient automobile travelers with lodging for motorists in rooms usually having direct access to an open parking area; including groups designated as auto cabins, motor courts, motor hotels and similar designations.

~~**Motel/Apartment** shall mean a building or group of buildings used for transient, periodic, or temporary tenancies containing guest rooms and kitchen facilities. Also automobile storage space as provided in Section 21 of this Ordinance.~~

***Mural:*** a large picture, painting or wallpaper pattern painted or affixed directly on an interior or exterior wall or ceiling. The size of the mural usually is limited to the size of the surface on which it is to be affixed.

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

***Negotiate:*** to confer with another or others in order to come to terms or reach an agreement.

## SECTION 3 - DEFINITIONS

Neighborhood: a geographical area lived in by neighbors and usually having distinguishing character.

***Neighborhood identification: a sign located at the entry point to a single-family subdivision comprising not less than two (2) acres, or a sign identifying a multiple-family development.***

Neighborhood-scale design: site and building design elements that are dimensionally related to housing and pedestrians, such as narrow streets with tree canopies, smaller parking areas, lower building heights and similar neighborhood characteristics. ~~These features are generally smaller in scale than those which are primarily intended to accommodate automobile traffic.~~

***Neon light: a form of illumination using inert gases in glass tubes. Includes "black light" and other neon lights.***

Net Loss: a permanent loss of riparian functions provided by native riparian structure and vegetation that results from a development action despite mitigation measures having been taken.

***Noise: a level of sound which disturbs, injures or endangers the health, safety or welfare of others, capable of being heard at or beyond the boundary of property from which the noise originates, results in the disturbance of peace, and exceeds sound in volume made by any make and model of engine or machine that is not consistent with its new or stock, manufactured condition.***

Noise Sensitive Areas: areas used as a church, day care center, hospital, nursing care center, school or place used for overnight accommodations of persons, including but not limited to, individual homes, individual apartments, trailers and nursing homes.

Nonconforming Lots or Parcels: lots or parcels legally created prior to the effective date of a land division or zoning regulation and not meeting the minimum lot area, width, or access requirements of those regulations.

***Nonconforming Structure: a building, structure, or portion thereof, which lawfully existed prior to adoption of a zoning regulation with which the structure does not conform. Such structures may be nonconforming as to height, setback, lot coverage, or similar requirements of the zone.***

Nonconforming Use: ~~the conduct of an activity in a structure or on a parcel of land, such activity lawfully existing at the time of the adoption of this Ordinance or of any amendment thereto but, such not being allowed by the listed "permitted uses" or "conditional uses" in the Ordinance section applying to that particular parcel.~~ ***a use lawfully made prior to adoption of a zoning regulation with which the use does not conform.***

***No-Rise Analysis: Any project in a floodway reviewed to determine if the project will increase flood heights. An engineering analysis must be conducted before a permit can be issued. The community's permit file must have a record of the results of this analysis, which can be in the form of a No-rise Certification. This No-rise Certification must be supported by technical***

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*data and signed by a registered professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM).*

**Nuisance:** *an intentional, negligent or reckless act or failure to act by a person which interferes with the use and/or enjoyment of the life or property of another person or which interferes with the rights of the public and for which the law will presume resulting damage.*

**Nursing Home or Convalescent Home:** *facility providing care, rehabilitation services, and minor treatment for more than five persons under the direction of a physician, licensed by the state. A nursing home may furnish basic provisions of food and laundry. Term includes rest home, home for the aged, and sanitorium.*

**OAR:** *Oregon Administrative Rules. The official compilation of rules and regulations having the force of law in the state of Oregon. It is the regulatory and administrative corollary to Oregon Revised Statutes, and is published pursuant to ORS 183.360 (3).*

**Off-street Parking:** *all off-street areas designed, used, required, or intended to be used for the parking of motor vehicles. "Off-street Parking" areas shall be a durable and dustless, surfaced and marked area.*

**On-street Parking:** *parking in the street right-of-way, typically in parking lanes or bays. Parking may be "parallel" or "angled" in relation to the edge of the right-of-way or curb.*

**Open Space:** *any portion of a building lot not covered by a building, and shall more specifically include parks, landscaped viewsheds, natural areas, former orchards or groves, outdoor parking areas, covered and partially enclosed patios, terraces, and courtyards provided such areas have at least one side open, and are available for public use and enjoyment in conjunction with commercial use of the premises.*

**Ornamental Tree:** *a tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.*

**ORS:** *Oregon Revised Statutes – (State Law). The codified body of statutory law governing the U.S. state of Oregon, as enacted by the Oregon Legislative Assembly, and occasionally by citizen initiative. The statutes are subordinate to the Oregon Constitution.*

**Overburden:** *soil, rock, sand, and similar materials that lie above natural deposits of minerals.*

**Overlay Zone:** *a special zone that is applied "over" or in addition to a base zone, of which such properties are subject to the requirements of both the base zone and the overlay zone. Also known as a "combining" zone.*

**Owner/Landowner:** *the owner of the title to real property, or the contract purchaser of real property of record, as shown on the last available complete tax assessment roll. "Owner" shall*

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also mean any agent with written authority of the owner *a person(s), partnership, or corporation possessing fee title to a tract of land, or shown as owner of record on the latest tax rolls or deed records of the County, or purchasing a parcel of property under written contract.*

Parcel: *includes a unit of land created:*

- a. *by partitioning land as defined in ORS 92.010 ~~(6)~~ in compliance with all applicable planning, zoning, and partitioning ordinances or regulations, or*
- b. *by deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.*

*The term parcel does not include a unit of land created solely to establish a separate tax account.*

Park or Playground: ~~recreation developments which provide for picnicking, swimming, fishing, riding or other similar recreational activities, but which exclude overnight camper or recreational vehicle use and outdoor commercial amusements such as miniature golf courses and go-cart tracks.~~ *a recreation area or park owned or operated by a private entity, public agency, or school district, and available to the general public.*

Parking Area, Public: an open area, other than a street or other public way, used for the parking of motor vehicles and available to the public whether for a fee, free or as an accommodation for clients or customers.

Parking Space: a durable and dustless, permanently surfaced and marked area ~~not less than eight and one-half (8 1/2) feet wide and twenty (20) feet long, excluding a paved area necessary for access, used for parking of a motor vehicle.~~ *in a range between seven and one-half (7 1/2) feet and nine (9) feet wide and fifteen (15) feet and twenty (20) feet long, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one (1) automobile, and connected with a street by a surfaced driveway which affords ingress and egress for automobiles.*

- a. *A parking space for a compact vehicle shall be of the dimensions seven and one-half feet by fifteen feet.*
- b. *A parking space for disabled parking shall be of the dimensions thirteen feet by nineteen feet.*
- c. *A parking space for Recreational Vehicles shall be of the dimensions twelve feet by thirty feet.*

Parking Strip: *the area between the street curb and sidewalk in the public right-of-way, utilized for landscaping and street tree planting; also known as Planter Strip or Tree Lawn.*

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Partition: either an act of partitioning land or an area or tract of land partitioned as defined in this section. *A partition does not include the creation of a street.*

~~a. Major Partition a partition which includes the creation of a street.~~

~~b. Minor Partition a partition that does not include the creation of a street.~~

~~Partition Land: 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. "Partition land" does not include divisions of land resulting from the creation of cemetery lots and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by Chapters 10 to 14. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner *to divide land into two or three parcels within a calendar year, but does not include a division of land that creates a road or results from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots; or an adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance. Partitioning of a lot or parcel or a portion thereof into more than three parcels in a calendar year results in a subdivision.*~~

Peddler: *includes any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance; or who solicits orders and as a separate transaction makes deliveries to purchasers.*

Pedestrian Facilities: improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths, and trails.

Pedestrian Way or Pedestrian Pathway: a right-of-way for pedestrian traffic.

*a. Reasonably Direct Pathway: a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.*

*b. Safe and Convenient Pathways : bicycle and pedestrian routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.*

Permittee: the person who is proposing to use or who is using the land pursuant to any permit required herein.

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Person: a natural person, firm, partnership, association or corporation.

Pet Shop: facility for the display and sale of small animals, fish, and birds as pets, and accessories, but not involving commercial boarding or treating of any animal, fish, or bird.

Place of Public Assembly: a structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.

Planned Unit Development: a development of primarily residential character which gives special attention to areas not built upon by varying the orientation of structures for energy and space conservation, and by allowing types of structures and uses which otherwise would not be considered under conventional zoning specifications.

Planning Commission: a commission appointed by the governing body of the City to be responsible for the administration of planning as provided by ORS 227.020.

***Planned Community: a development, as provided for in the Tillamook Zoning Regulations, of residential, commercial, industrial, or a mixture of residential, commercial, industrial, and semi-public units grouped in a fashion not customarily allowed by zoning or subdivision regulations, and providing for variety and diversification in the relationship between buildings and open spaces. Planned unit developments should each be planned as an entity, grouping dwellings units, allowing an area for open space, mixing housing types, including mobile homes, land uses, and should be designed to preserve natural features.***

Planter strip, ~~tree cutout~~: a landscaped area for street trees and other plantings within the public right-of-way, usually between the street and sidewalk. See also Parking Strip or Tree Lawn.

Plat: ~~a map of a subdivision, prepared as specified in ORS 92.080, and recorded with the County Assessor's Office.~~ ***a diagram, drawing, replat, or other writing concerning a partition or subdivision***

- a. A "preliminary plat" is a plat submitted prior to actual application and is intended only for department review or discussion.***
- b. A "Tentative plat" is a plat submitted as a part of an application for a partition or subdivision, also referred to as a Tentative Plan.***
- c. A "final plat" is a plat which has been prepared for recordation after approval of the tentative plat.***
- d. A "replat" is an alteration of a previously recorded plat. A property line adjustment is not a replat. A partition of an existing lot is not a replat.***

## SECTION 3 - DEFINITIONS

Platted Lot: a lot whose legal boundaries have been established by a legally created plat which has been duly recorded in the office of the Tillamook County Clerk.

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

Pocket Park: a small park, usually less than one-half acre.

***Pollard: a tree cut back to the trunk to promote the growth of a dense head of foliage.***

Porch, Covered, : a covered entrance to a building. This includes an enclosed patio.

***Portable Accessory Structure: any portable, demountable or permanent structure, including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks, steps, ramps, piers and pilings, that is:***

- a. Owned and used solely by a tenant of a manufactured dwelling or floating home; or***
- b. Provided pursuant to a written rental agreement for the sole use of and maintenance by a tenant of a manufactured dwelling or floating home.***

Poultry Farm: any premises used for the breeding, raising, or maintaining of poultry for sale of eggs or poultry.

Primary Surface: a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the Primary Surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the Primary Surface ends at each runway. The width of the Primary Surface is 250 feet for Utility Runways having only visual approaches and 500 feet for other than utility runways.

***Preservation, Historic: the act or process of applying measures to sustain the existing form, integrity, and material of an historic building, structure, or object, and the existing form and vegetation cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.***

***Primary revenue source: no less than seventy-five percent of gross total principal income derived from a business.***

Public Facility: projects, activities, and facilities deemed to be necessary for the maintenance of other public purposes consistent with Comprehensive Plan policies. ***Such public facilities shall*** include ~~(ing) non-public activities permitted by government agencies~~ any activity undertaken or structure held, used, or controlled for public or quasi-public purposes including but not limited to, churches, fraternal organizations or clubs, hospitals, schools, nursing homes, federal, state, county or municipal facilities, recreation facilities, public recreational uses, including ball fields (baseball, soccer, football, cricket, etc), golf course, club house, driving

## SECTION 3 - DEFINITIONS

range, putting greens, pro shop, swimming pools, tennis and basketball courts, walking paths and jogging/bike trails, public utilities, utility facilities. Such determination shall be made without reference to the ownership of the structure or the realty upon which it is situated. ***(OAR 660-011) A public facility includes water, sewer, and transportation facilities, but does not include buildings, structures or equipment incidental to the direct operation of those facilities.***

***Public right-of-way: the area commonly shared by pedestrians and vehicles for right of passage. An easement for public travel or access including street, alley, walkway, driveway, trail or any other public way; also, the land within the boundaries of such easement.***

***Public Utility: any corporation, company, individual, association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or any part of any plant or equipment for the conveyance of telegraph, telephone messages with or without wires, for the transportation as common carriers or for the production, transmission, delivery or furnishing of communication, heat, light, sewer, water or power, directly or indirectly, to the public, and includes a structure, pipe, or transmission line, which provides the public with electricity, gas, steam, heat, communication, water, sewage collection or other similar services.***

***Quasi-Judicial: an action or decision that requires substantial discretion or judgement in applying the standards or criteria of this Code, and usually involves a public hearing.***

***Radio, Television, or Microwave Towers: structures supporting antennae for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial installations for home use of radio or television.***

***Ramada: a stationary structure having a roof extending over a mobile home or trailer which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from sun and rain.***

***Real estate sign: a sign indicating that the premises on which the sign is located, or any portion thereof, is for sale, lease or rent.***

***Rear Lot: a lot which at its widest point (measured by a parallel to the City Street of access or a tangent to such street) lies with at least one-half its width behind another lot, i.e., a perpendicular to the City street of access which intersects the lot in question at its widest point will pass through another (front) lot for half or more than half of the width of the lot in question. (Refer to the accompanying diagram at the end of this Section for clarification).***

***Reclamation: the employment in a mining operation of procedures designed to provide for rehabilitation of the earth's surface by plant cover, soil stability, water resources, and other measures appropriate to the subsequent beneficial use of the reclaimed lands.***

***Reclamation Plan: a written and graphic proposal for rehabilitation of the mined area, further defined as being one of the below: 1 . Natural Reclamation Plan A reclamation***

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*and/or rehabilitation process in which the primary purpose is to restore the land to a natural appearing landscape consistent with surrounding terrain. Rehabilitation to an agricultural use is considered a natural reclamation plan. 2. Second Use Plan A reclamation and/or rehabilitation process that involves development of the land to a specific use.*

**Recreation Club or Area, Private:** *a building, park, or recreation area, the use of which is restricted to private membership such as by a church, neighborhood association, fraternal or social organization, and which may contain the facilities as normally provided in a public park or playground.*

**Recreational Facility:** *facilities deemed to be necessary for the maintenance of recreational purposes consistent with Comprehensive Plan policies including public and private recreational uses, including ball fields (baseball, soccer, football, cricket, etc), golf course, club house, driving range, putting greens, pro shop, swimming pools, tennis and basketball courts, walking paths and jogging/bike trails. Such determination shall be made without reference to the ownership of the structure or the realty upon which it is situated.*

**Recreational Vehicle:** *a vacation trailer or other vehicular or portable unit which is either self-propelled or towed, or is carried by a motor vehicle and which is intended for human occupancy, and is designed for vacation or recreational purposes, but not residential use (See "Camping or Recreational Vehicle), and is:*

- a. Built on a single chassis;*
- b. 400 square feet or less when measured at the largest horizontal projection;*
- c. Designed to be self-propelled or permanently towable by a light duty truck; or*
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.*

**Recreational Vehicle Park or Campground:** *an area where facilities are provided to accommodate temporary recreational trailers, motor homes, campers, and/or tents and self-propelled motorized vehicles are parked and used for the purpose of supplying to the public a temporary location while traveling, vacationing or recreating.*

**Rectory:** *a place of residence for the pastor of a church.*

**Recycling Dropbox:** *an enclosed and covered container for the depositing and temporary storage of recyclable materials, including but not limited to paper, glass, metal cans, or other recoverable material.*

**Residential:** *any use of land or structure of or relating to a place where people dwell.*

**Residential Care, Training, or Treatment Facility:** *any facility which provides care, training, or treatment for six (6) or more physically, mentally, emotionally, or behaviorally disabled*

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individuals as defined by ORS 443.400. Facilities that provide for five (5) or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.

**Residence Home for Aged:** *a facility for the care of six (6) or more persons suffering from infirmities of age or illness where care is provided on a prolonged or permanent basis.*

**Residential Home:** *as provided by Oregon Revised Statutes, a residence licensed by the State for the care of five or fewer physically or mentally handicapped persons, including staff personnel, is permitted in residential or commercial zones (excluding resource lands) subject to the normal requirements for a residence. Residents and staff need not be related to each other or any other home resident. Handicapped means that a person suffers from a functional limitation in one or more major life activities.*

**Residential or Day Treatment Facility:** *a facility licensed by the State for the care of five or more related or unrelated persons who are physically or emotionally handicapped by functional limitations in one or more major life activities. Term includes shelter care facility.*

**Resource Land:** *any land that has been identified and designated on the Tillamook County Comprehensive Plan and Zoning Map(s) as Forest Resource, Woodland Resource, Open Space Reserve, Exclusive Farm Use, or Aggregate Resource is considered resource land. This definition shall not be construed to exclude from protection under the provisions of city, state or county law other identified resources which have not been zoned, such as riparian habitat, natural areas, critical winter deer and elk range, historic sites, structures, corridors, or scenic areas.*

**Resource Tree:** *all broadleaf trees (except alder and poplar trees) equal or greater than one foot DBH (for multi-stem trees, if the sum of the areas of all stems four inches in diameter or larger at DBH is greater than 113 square inches, it is a heritage tree). All conifers equal or greater than eighteen inches DBH are resource trees.*

**Restore:** *revitalizing, returning or replacing original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, which have been diminished or lost by past alterations, activities or catastrophic events.*

- a. *Active restoration involves the use of specific positive remedial actions, such as removing fills, installing water treatment facilities, or rebuilding deteriorated urban waterfront areas.*
- b. *Passive restoration is the use of natural processes, sequences and timing of which occurs after the removal or reduction of adverse stresses without other specific positive remedial action.*

**Retail Sales:** *the sale or rental of commonly used goods and merchandise for person or household use. Typical uses include department stores, apparel stores, furniture stores, hardware stores, or florists.*

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***Retirement Home: facility providing living quarters, either owned or rented, to persons 62 years of age or older. Such facility may be a single structure or a group of structures, and may include limited medical, recreational, and commercial services if such services are limited to the residents and their guests. This type of facility should be developed as a planned unit development.***

***Right-of-way: the area between the boundary lines of a street.***

***Riparian Area: the area adjacent to a river, lake or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem (According to Oregon Administrative Rule (OAR) 660-23-090(1)).***

***Riparian Corridor: a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary (According OAR 660-23-090(1)).***

***River (see "Stream").***

***Road Approach Permit: a formal agreement between the developer/land owner and either the state, county or city concerning the private use of public right-of-way and facilities for access to adjoining property. The terms "road approach permit" and "approach road permits" are interchangeable in the context of this title, and includes both driveways and intersecting roads.***

***Roadside Stand: a temporary structure designed or used for the display or sale of merchandise and/or produce, or agricultural products produced on the premises upon which such a stand is located.***

***Roadway: the portion of a street right-of-way developed for vehicular traffic.***

***Root zone: any area within the drip line of any tree and any area within 20 feet of any resource tree trunk, whichever is further from the tree trunk.***

***Row Houses: a series of individual houses having architectural unity and a common wall between each unit.***

***Scale: the relationship of a particular project or development, in terms of size, height, bulk, intensity, and aesthetics, to its surroundings.***

***School: any institution for learning, whether public or private, meeting State of Oregon accreditation standards.***

***School, Business: a business enterprise, not a public or private school, offering instruction and training in a service or art, such as secretary, barber, commercial artist, but not including commercial trades or crafts.***

## SECTION 3 - DEFINITIONS

**School, Commercial, Vocational, Trade or Craft: a business enterprise, not a public, private, or business school, offering instruction and training in a trade such as welding, brick laying, machinery operation, and other similar manual trades.**

**School, Home: education in the children's home, taught for a period equivalent to that required of children attending public schools the courses of study usually taught in grades 1 through 12 in the public school by a parent, legal guardian, or private teacher.**

**School, (Public/Private): an educational institution, licensed or regulated by the state, which has a curriculum, including kindergarten, elementary, secondary, or higher education; or, one that provides special training and/or care suitable to persons with above average intelligence, or defective, delinquent, or dependent persons such as retarded, dyslexic, autistic, or brain damaged persons, but does not include business, commercial, trade, or craft schools.**

**Screen: a method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.**

**Second Hand Store, Used Furniture or Rummage Shop Facility or Pawnshop: facility for the sale of second hand or used items.**

**Secondary Use: a use which is supplementary or subordinate to an allowed principal use in that it functions to furnish direct aid or support to the use.**

**Senior Housing: housing designated and/or managed for persons over the age of 55.**

**Sensitive Fish and/or Wildlife Habitat: areas important to the survival of a species, or group of species, and habitats with a limited area.**

**Service Station: commercial facility which offers petroleum products and limited accessory sales of products for motor vehicle use, including limited vehicle repair service to the public.**

**Setback: the distance from a right-of-way of a public or private road, or from a lot line to any point of a building.**

**Sewage: water-carried wastes from a home, business operation or community.**

**Sewage Treatment Plant: facilities for the treatment and disposal of sewage.**

**Shade Tree: usually a deciduous tree planted primarily for its high crown of foliage or overhead canopy.**

**Shadow Plan (Future Re-division Plan): a plan for future division of lots or parcels that exceed the maximum lot size standard of the underlying zone. Large lots (i.e., those that exceed the minimum lot size by more than 200 percent) shall be of such size, shape, and orientation as to**

## SECTION 3 - DEFINITIONS

facilitate future re-division in accordance with the requirements of the underlying zone. The re-division plan shall identify:

- a. Potential future lot division(s) in conformance with all applicable city standards.
- b. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way.
- c. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owner(s), except as may be required through conditions of land division approval.

Shared driveway: when land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) may be created for this purpose.

***Shelter Care Facility: a home licensed by the state to provide for short term emergency care for no more than nine children at any one time. See also halfway house or residential/day treatment facility.***

Shopping Center: three (3) or more commercial retail or service establishments on a single unit of land.

Shrub: a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground, may be deciduous or evergreen.

Sign: a presentation or representation, other than a house number, by words, letters, figures, designs, pictures, or colors, publicly displayed so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of advertising; any notice or advertisement, pictorial or otherwise, used as an outdoor display for the purpose of advertising a property or the establishment or enterprise, including goods and services, upon which the signs are exhibited. This includes the board, metal, or surface upon which the sign is painted, included, or attached; or any material used to support the sign. ***This definition shall not include official notices issued by a court or public body or officer, or directional, warning or information signs or structures required by or authorized by the law or by federal, state, county or city authority.***

- a. ***Blinking sign: a sign which shines with intermittent or momentary brief beams or flashes of light, flashing on and off.***
- b. ***Building register sign: A sign which identifies four or more businesses contained within a single building structure or complex.***
- c. ***Flashing sign: a sign with sequential light source giving off light suddenly or in transient bursts where the period of time of illumination is equal to the period of non-illumination, and is used solely to attract attention in a non-informative way.***

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- d. ***Flashing sign:*** *A sign incorporating intermittent electrical impulses to a source of illumination, or revolving in a manner which creates the illusion of flashing, or which changes color or intensity of illumination.*
- e. ***Fluttering sign:*** *a sign which moves, vibrates, in quick, irregular motions, with irregular spasms or trembling motions.*
- f. ***Rotating sign:*** *a sign which turns/revolves around as on an axis or center point.*
- g. ***Wind sign or device:*** *Any sign or device in the nature of a series of one, two or more banners, flags or other objects, fastened in such a manner as to move upon being subject to pressure by wind or breeze.*

***Sign, Area of:*** *in determining whether a sign is within the area limitations of this title, the area of the total exterior surface shall be measured and computed in square feet; provided, that where the sign has two or more faces, the area of the total exterior surface shall be measured and divided by the number of faces; and provided further, that if the interior angle between the two planes of two faces exceeds one hundred thirty-five degrees, they shall be deemed a single face for the purposes hereof. Measurement shall be made at the extreme horizontal and vertical limit of a sign.*

***Sidewalk:*** a pedestrian walkway.

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

***Site Design Review, Development Review, Plan Review:*** *please see Section 22.*

***Site Plan:*** a plan, prepared to scale, showing accurately and with complete dimensioning, all of the uses proposed for a special parcel of land.

***Slope:*** *gradient of a line describing its steepness, incline, or grade.*

***Slope Easement:*** *an area adjoining a road which is affected by the road fill or cut, but is not within the road easement or right-of-way.*

***Solar Energy System:*** any device, structure, mechanism, or series of mechanisms which uses solar radiation as a source for heating, cooling, or electrical energy.

***Solar Orientation:*** *the layout and design of parcels and siting of a structure on building lots to take advantage of solar insolation for optimal utilization of the sun as an energy source.*

***Specimen Tree:*** *a particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.*

***Speculation Support Structure:*** an antenna support structure designed for the purpose of providing location mounts for wireless communication facilities without a binding commitment

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or option to lease a location upon the tower by a licensed service provider at the time of initial application.

Standards and criteria: standards are code requirements, such as rules governing the size or dimensions of a lot or parcel, or the placement of buildings or activities thereon. ~~Criteria are the elements required to comply with a particular standard.~~

Start of Construction: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. ***For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.***

Steep slopes: slopes of greater than 25 percent.

***Step-backwater analysis: an option used in a No-Rise Analysis/Certification to calculate BFE's if more than one (1) cross section is warranted to cover the extent of the property. Generally if the property parallels more than 500 feet of a flooding source, this option is used.***

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

Storm Water Facility: a detention and/or retention pond, swale, or other surface water feature that provides storage during high rainfall events.

***Story: any area that can be reasonably considered habitable and has floor surface with clear standing head room (6 feet, 6 inches, minimum) regardless of their use.***

Stream: a channel such as a river or creek that carries flowing surface water including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels (According OAR 660-23-090(1)).

### ***Streams, Class I and II***

***1. Class I Stream Waters which are valuable for domestic use, are important for angling or other recreation, and/or used by significant numbers of fish for spawning, rearing, or***

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*migration routes as designated by the State of Oregon. Stream flows may be perennial or intermittent.*

*2. Class II Stream: Any headwater streams or minor drainages that generally have limited or no direct value for angling or other recreation as designated by the State of Oregon. They are used by only a few, if any, fish for spawning or rearing. Their principal value is their influence on water quality or quantity downstream in Class I waters. Stream flow may be perennial or intermittent.*

Streets (or Roads): a public or private right-of-way being the entire width from lot line to lot line that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road", "highway", "lane", "avenue" or similar designations; the following definitions apply to roads (none of these definitions is intended to supersede ORS 368.001):

- a. ~~"Arterial" a street of considerable continuity which is primarily a traffic artery for intercommunication among large areas. It is designed to move traffic as efficiently as possible. A "Major Arterial" is the principal mover of traffic in a region. A "Minor Arterial" is the feeder that brings the majority of traffic to the "Major Arterial". A highway (e.g. Highway 101, Highway 6) can be considered an "Arterial" street.~~
- b. ~~"Collector" a street used to provide some access to abutting properties, and also is intended to move traffic from "Local" streets to "Arterial" streets. A "Major Collector" is a street supplementary to, and used as an alternative to, the arterial street system, used to some extent for through traffic and to carry a majority of truck traffic within the City. A "Minor Collector" is the main traffic artery within a given neighborhood, encouraging traffic movement to Major Collectors and Local Streets, and providing a high degree of access to abutting properties. McCormack Loop, Marolf Loop, Williams Avenue, Miller Avenue, Third Street, Eleventh Street and Twelfth Street are considered "Collectors"~~
- c. ~~"Cul-de-sac" (Dead end street) a short street having one end open to traffic and being terminated by a vehicle turn-around.~~
- d. ~~"Half Street" the dedication of a portion only of the width of the street, usually along the edge of a subdivision where the remaining portion of a street has been or could later be dedicated in another subdivision.~~
- e. ~~"Local/Minor Street" a street intended primarily for access to abutting properties.~~
- f. ~~"Marginal Access Street" a minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.~~
- a. Road: the entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by mean of vehicles. "Road" includes, but is not limited to:  
Ways described as streets, highways, throughways or alleys,

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Road related structures that are in the right of way such as tunnels, culverts or similar structures: and structures that provide for continuity of the right of way such as bridges.

- b. Alley: a narrow street, with a sixteen (16) to twenty (20) foot right-of-way and the minimum of a twelve (12) foot travel lane, through a block primarily for vehicular access to the back or side of properties.
- c. ***Arterial: a road which carries traffic through and between major centers of activity in urban, suburban, and rural areas.***
- d. ***Collector: a road which is used primarily as a connector from local roads to one or more arterials.***
- e. ***County Road: a public road under the jurisdiction of a county that has been designated as a county road under ORS 368.016.***
- f. ***Cul-de-sac: a local or limited local road having only one outlet with a turnaround at the opposite end, and which is not intended to be extended or continued.***
- g. Dead-end Street: a road or street with no outlet to other roads or streets.
- h. Frontage Road: a road which is parallel to and adjacent to an arterial or other limited access road or a railroad right-of-way, and which provides access to abutting properties.
- i. Public Road: a road over which the public has a right of use that is a matter of public record.
- j. Stubbed Road: a road having only one outlet, but which is intended to be extended or continued.
- k. Through Street: a road or street that connects to another road. Not all through streets are arterials.

***Street frontage: the lineal dimension in feet of the property upon which a structure is built that fronts the street.***

Street Furniture/Furnishings: benches, lighting, bicycle racks, drinking fountains, mailboxes, kiosks, and similar pedestrian amenities located within a street right-of-way.

Street Line: a property line between a lot, tract or parcel of land and an adjacent street or private way.

***Street Tree: a tree on land located within a dedicated right-of-way along either side of a street, avenue, or other way within a dedicated utility easement of the City.***

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***Street Vendor:*** any person duly licensed upon a public sidewalk or other public way or place carrying, conveying or transporting merchandise which is offered for sale from a mobile type device or as a pedestrian.

***Structure:*** anything, such as a building or other major improvement that is constructed, built, or installed; an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which requires location on the ground or is attached such as a structural addition, to something having a location on the ground, including swimming and wading pools, and covered patios. This does not include outdoor areas such as paved areas, driveways or walks, and other minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances. ***For land use regulatory purposes, the term structure shall also include gas or liquid storage tanks but shall exclude fences six feet in height or less and uncovered patios.***

***Structural, Alteration:*** any change in the supporting members of a building, such as a bearing wall, column, beam or girder, floor or ceiling joist, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

***Studio, Broadcasting and/or Recording:*** facility for broadcasting live or prerecorded programs by radio and/or television and/or recording on records, tapes, video tapes or other suitable media. Such facility may perform activities necessary for recording programming and receiving of radio and/or television signals.

***Subdivide Land:*** to divide an area or tract of land into four or more lots (three with a road) within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

***Subdivision:*** either an act of subdividing land or an area or tract of land subdivided.

***Subgrade:*** that portion of the graded roadbed upon which the base, surfacing, or pavement is to be placed.

***Substantial Damage:*** damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

***Substantial Improvement:*** any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either,

- a. Before the improvement, reconstruction or repair is started; or,
- b. If the structure has been damaged and is being repaired, reconstructed or improved before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure.

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*The term does not, however, include either:*

- c. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or*
- d. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.*

**Surface Mining:** *all or any part of the process of removal, by extraction of minerals from the surface of the earth. Removal of overburden or diversion of water necessary to expose the deposit of minerals is considered part of the process. Leveling, grading, filling, or removing earth materials in conjunction with farm use, or onsite construction projects are not considered surface mining.*

**Swale:** *a type of storm water facility. Usually a swale is a broad, shallow depression with plants that filter and process contaminants.*

**Swimming Pools, Private:** *a swimming pool, constructed for the exclusive use of the residents and guests of single-family, duplex, townhouse, or apartment dwellings.*

**Tax Lot:** *a parcel, lot or other unit of land as created by the County Assessor for the purpose of taxation. A tax lot may also be a lot or parcel when created at a property owner's request for the purpose of land division consistent with applicable planning and zoning regulations in effect at that time.*

**Telephone Exchange, Switching and Transmitting Equipment:** *non-attended switching or transmitting telephone service, but not including business office facilities, storage or repair shops or yards.*

**Temporary:** *temporary: 27 days or less in any 12 month period, unless otherwise specified by a provision of this ordinance; a land use that is not permanent and only allowed for this limited time period.*

**Temporary Field or Construction Office:** *temporary office and temporary material storage use in connection with the property. This use may be permitted for a specified period of time in accordance with a permit issued by the Building Official.*

**Temporary Mobile Home:** *a mobile home which is utilized as an additional dwelling on the same parcel for an infirm or disabled person who requires 24 hour care or the person providing that care, according to a certification by an Oregon licensed medical doctor or responsible state licensed medical agency.*

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***Tent:*** *a fabric shelter supported by poles or rope, which is designed for human occupancy and to be used temporarily for recreational or emergency purposes, but not for permanent or residential purposes.*

**Tentative Plans:** the preliminary proposal for a subdivision which includes the information specified in Section 22.

**Top-of-bank:** a clearly recognizable sharp break in the stream bank. It has the same meaning as "bankfull stage"; the stage or elevation at which water overflows the natural banks of streams and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage (According OAR 660-23-090(1)).

**Townhouse:** a single-family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two (2) sides.

**Tract, private/public:** a piece of land set aside in a separate area for dedication to the public, a homeowner's association, or other entity (e.g. open space, recreation facilities, sensitive lands, etc.).

***Top Course:*** *a course of specified aggregate material of planned thickness placed immediately below the pavement or surface.*

***Transient:*** *an individual who occupies a site for a period of twenty-seven days or less, counting portions of days as full days, and cannot demonstrate the intention and legal ability to construct a permanent dwelling upon that site.*

**Transitional Zones:** an area that extends seven feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).

**Transportation Facilities and improvements:** the physical improvements used to move people and goods from one place to another (e.g. streets, railroad tracks, sidewalks, pathways, bike lanes, airports, transit stations, bus stops, etc). Transportation improvements include the following:

- a. Normal operation, maintenance;
- b. Installation of improvements within the existing right-of-way;
- c. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval;
- d. Landscaping as part of a transportation facility;
- e. Emergency Measures;

## SECTION 3 - DEFINITIONS

- f. Street or road construction as part of an approved subdivision or partition;
- g. Transportation projects that are not designated improvements in the Transportation System Plan; (Conditional Use Permit for Transportation System Facilities and Improvements) and
- h. Transportation projects that are not designed and constructed as part of an approved subdivision or partition (Conditional Use Permit for Transportation System Facilities and Improvements).

Transportation Mode: the method of transportation (e.g. automobile, train, bus, walking, bicycling, etc.).

Travel Trailer: a "Recreational Vehicle"

Tree: ~~a planting whose purpose may be decorative or otherwise, and which has clearly identifiable trunk or trunks, and whose normal height is expected to be ten (10) feet or greater.~~ ***any woody plant having a trunk six (6) caliper inches or larger in diameter at breast height (DBH). If a tree splits into multiple trunks above ground, but below 4.5 feet, the trunk is measured at its most narrow point beneath the split, and is considered one (1) tree if greater than six (6) inches DBH. Plants commonly planted as shrubs, including but not limited to English Laurel, Photinia, Arborvitae, Poison Oak, English Holly, and English Ivy shall not be considered a "tree". Trees specifically planted and maintained as a hedge shall additionally not be considered a "tree". Tree types are described further in Ordinance #1266. Different classifications of trees include the following:***

- a. ***Dead Tree: A lifeless tree. Such evidence of lifelessness may include unseasonable lack of foliage, brittle dry branches, or lack of any growth during the growing season.***
- b. ***Heritage Tree: A tree listed on the Official City of Tillamook Heritage Tree.***
- c. ***Park Tree: A tree, shrub, bush or other woody vegetation located in a public park or other area owned by the City having an individual name, and all other areas owned by the City, or to which the public has free access as a park.***
- d. ***Private Tree: A tree, shrub, bush or other woody vegetation located on private property other than a dedicated right-of-way or City utility easement or public parks and grounds.***
- e. ***Significant Tree: A tree having a trunk eighteen (18) caliper inches or larger in diameter.***
- f. ***Street Tree: A tree, shrub, bush or other woody vegetation on land lying within a dedicated right-of-way along either side of a street, avenue, or other way within a dedicated utility easement of the City.***

***Tree Cut-out: the area between the street and a sidewalk in the public right-of-way, for street tree planting, as described further in Ordinance #1266; also known as Tree Well.***

## SECTION 3 - DEFINITIONS

***Tree Lawn:*** *the area between the street curb and sidewalk in the public right-of-way, utilized for landscaping and street tree planting; also known as Parking Strip or Planter Strip.*

***Tree Removal:*** *to cut down a tree, or remove 50% or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline and/or die. "Removal" includes topping. "Removal" includes but is not limited to damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. "Removal" does not include normal trimming or pruning of trees.*

***Tree Topping:*** *the severe cutting back of a tree's limbs to stubs three(3) inches or larger in diameter within the tree's crown to such a degree so as to remove the natural canopy and disfigure the tree. Topping does not include the practice of "pollarding" when conducted in accordance with the standards established by the International Society of Arboriculture.*

***Tree Well:*** *the area between the street and a sidewalk in the public right-of-way, for street tree planting, as described further in Ordinance #1266. Also known as Tree Cut-out.*

***Underlying Zone:*** *the base zone district; the parent zone district.*

***Unhealthful Conditions:*** *conditions and circumstances that are detrimental, not conducive to good health.*

***Urban Growth Area (UGA):*** *land that is inside the City's Urban Growth Boundary but outside the City Limits. Land in the UGA is considered "urbanizable land".*

***Urban Growth Boundary:*** ~~shall mean a boundary line that indicates the outermost limit of the City's planned expansion. The City and the County must adopt the UGB.~~

***A site specific line imposed on the Official Comprehensive Plan and Zoning map of the City of Tillamook, which identifies and encompasses urban and urbanizable lands in or adjacent to each incorporated city in the County.***

***Urban Land:*** *those lands which normally have an incorporated city.*

*Such areas may include lands adjacent to and outside the incorporated city and may also:*

- a. *have concentrations of persons who generally reside and work in the area; and*
- b. *have supporting public facilities and services.*

***Urban Services Area:*** *the area within the UGB that is served by urban services and facilities of the City.*

***Urbanized Land:*** *land within the Urban Growth Boundary which is identified and:*

- a. *determined to be necessary and suitable for future urban land;*

## SECTION 3 - DEFINITIONS

- b. can be served by public facilities; and
- c. is needed for the expansion of an urban land area.

Use: the purpose for which land, roadways or a structure is designed, arranged, or intended, or for which it is occupied or maintained, ***whether on a permanent or temporary basis.***

Utility Facility: ~~a structure, pipe, or transmission line, which provides the public with electricity, gas, steam, heat, communication, water, sewage collection or other similar services~~ ***those necessary appurtenances including related rights-of-way for the transmission of electric power, gas, water, sewerage, telephone and other inline facilities needed for the operation of such facilities, such as gas regulating stations, pumping stations, power or communication substations, dams, reservoirs, and related power houses. Additionally, a utility facility means any energy device and/or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal, or similar sources.***

Utility Runway ~~shall mean a runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.~~

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

Variance: a deviation from the requirements of this ordinance which may be granted according to the provisions of Section 32.

***Vehicular Storage: a vehicular storage area and area for the storage of abandoned, impounded, dismantled, obsolete or wrecked vehicles.***

***Violation: an act of any person which is prohibited or prevented by the Tillamook Comprehensive Plan, Land Development Regulations or other federal, state, or county law, or the failure of any person to act as required by the Comprehensive Plan, Land Development Regulations or other federal, state or county law.***

Visual Obstruction: any fence, hedge, tree, shrub, device, wall or structure, exceeding three (3) feet in height above the elevation of the top of the curb, which dangerously limits the visibility of persons in motor vehicles on said streets or alleys. This does not include trees kept trimmed of branches to a minimum height of at least six (6) feet. See also Section 26.

Vision Clearance Area: a triangular area at the street or highway corner of a corner lot, or the alley-street intersection of a lot, the space being defined by a line across the corner, the ends of which are on the edge of the street or alley right-of-way lines an equal and specified distance from the corner and containing no planting, wall structures or temporary or permanent obstruction exceeding three (3) feet in height above the curb level (see Section 29 (5)).

## SECTION 3 - DEFINITIONS

***Wall: an upright structure of masonry, wood, plaster, or other building material serving to enclose, divide, or protect an area, especially a vertical construction forming an inner partition or exterior siding of a building.***

**Water area**: the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream (According OAR 660-23-090(1)).

**Wetlands**: those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted to life in saturated soil conditions (This definition has been selected from OAR 660-23-090(1)). There are two types of wetlands:

- a. **A "Significant Wetland"** is a wetland that appears on the City of Tillamook Wetlands and Riparian Inventory Maps.
- b. **A "Non-Significant Wetland"** is a wetland that does not meet the Division of State Lands (DSL) definition of a Locally Significant Wetland. **Non-Significant Wetlands** are not regulated by the Section pertaining to wetlands in this Ordinance, but do require DSL notification under ORS 227.350 and 21.1.11.

A "Wetland" is also defined by the Federal Clean Water Act (Section 404) and OAR 141-85-010. Wetlands include land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities.

***Wholesale, Storage, and Distributing: establishments or places of business primarily engaged in the wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants.***

**Width, of a Building**: the shortest side of elevation dimension measured horizontally.

***Wildlife: wild mammals, birds, reptiles, and amphibians.***

***Window: all the glass included with one casement.***

***Winery, Commercial: a facility for the preparation, processing, marketing, and distribution of wines; may include a tasting room and sales area.***

**Wireless communication facilities** shall include cell towers, antennae, monopoles, "coverage" towers, and "capacity" towers, and related facilities, including microfacilities and minifacilities, and equipment used for radio signal transmission and receiving. A Wireless communication facility is considered a "Utility Facility".

***Woodlands, existing: existing trees and shrubs of a number, size, and species that accomplish the same general function as new plantings.***

## SECTION 3 - DEFINITIONS

Yard: any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed by any structure from the ground upward to the sky, except for the projections as permitted in Section 26 (6) of this ordinance.

- a. Yard, Front: A yard between side lot lines, measured horizontally at right angles from the front lot line, to the nearest point of a building or other structure. (See also lot line, front.)
- b. Yard, Rear: A yard between side lot lines, measured horizontally at right angles from the rear lot line, to the nearest point of a main building.
- c. Yard, Required: Open space on a lot, which is unobstructed from the ground upward, except as otherwise provided in this ordinance.
- d. Yard, Side: A yard between the front and rear yards, measured horizontally at right angles from the rear lot line, to the nearest point of a main building.

Zone: a section/*district* of the City in which certain land uses are permitted and other are prohibited by the Ordinance.

~~Zone Change: an action taken by the City to change the type of zoning on one or more pieces of land. A "Zone Change" may be sought by an individual landowner, in which case the request is usually considered to be a legislative action initiated by a Planning Commission decision.~~  
***an action to change the type of zoning on one or more pieces of land. A "Zone Change" is considered to be a legislative action initiated by a Planning Commission decision.***

Zoning Ordinance: a set of land-use regulations enacted by the City including districts within which the type, location, density, bulk, height, and lot coverage of land uses are restricted.

## SECTION 404 - APPLICATION PROCEDURES AND FEES

### 1. Application for Land Use Action.

- A. Initiation. An application for a land use action may be initiated by the owner(s) of the property involved or an authorized agent of that owner(s). An application for a change of zone may also be initiated by the Council or the Commission, in accordance with the provisions of subsection 2 below. Authorization to act as an agent shall be in writing and filed with the application. Such applications shall be filed on the appropriate form provided by the Planning Department. When any such application requires the submission of a site plan, the site plan shall be submitted in a form as described within Section 22(5).
- B. Consolidated Application Procedure. If a proposed development requires more than one application for a permit or other land use request, the applicant may choose to apply for all necessary applications at once. The Planning Commission *or City Council* may consolidate their review of all necessary applications. This consolidated application procedure shall be subject to the requirements of *subsection 14*, Final Application for Permit or Zone Change Request.

### 2. Initiation by Planning Commission/City Council.

The Commission and/or Council may initiate proceedings to rezone land by motion and conduct a public hearing in accordance with all applicable provisions of this Ordinance. If the Council shall initiate such proceedings, the matter of the proposed change of zone shall first be referred to the Commission which shall then conduct proceedings as hereinafter provided. If the Commission and/or Council initiate proceedings for a change of zone, they shall so advise the Planner, who shall set a date for public hearing before the Commission.

### 3. Ownership List.

The applicant shall file with such applications a list of the names, addresses, and tax lot numbers of all owners of property situated within the following radii, including public rights-of-way, of the external boundaries of the property affected by the application:

- A. Four hundred feet for Annexations, Zone Changes, and UGB/Comprehensive Plan Map Amendments;
- B. Two hundred fifty feet for all other actions covered by Ordinance unless otherwise proscribed by State Law;

Such names, addresses, and tax lot numbers shall be those listed on the last preceding tax roll of the Assessor of Tillamook County. The applicant shall also file with the application an affidavit attesting to the validity of said ownership list.

### 4. Hearing Date.

SECTION 4.4 - APPLICATION PROCEDURES AND FEES

Upon receipt of a valid and complete application and fee as required in subsection 9 herein, the Planner shall, within thirty (30) days of determination of completeness set a date for public hearing at the next available Planning Commission hearing, unless the applicant requests a hearing at a later date, and provide notice as required within subsection 12 herein.

5. Application for Vacation.

A. Procedure. Whenever any person desires to vacate all or part of any public square, or other public place, plat, street or similar area, such person shall file an application for vacation with City on forms provided by the Planning Department. Such forms shall conform to the requirements of ORS 271.080 (1). Attached to such application shall be forms reflecting the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby as defined in ORS 271.080 (2) and described below (C2). Such consent shall be in writing and duly acknowledged before an officer authorized to take acknowledgments of deeds.

1) ***The City shall review, under ORS 271.080 - 271.230, proposals for the vacation of public easements or rights-of-way which provide access to or along the estuary. The following requirements shall be met.***

a. ***Petitioner first consults with Public Works and Planning.***

b. ***Petitioner initiates vacation and submits the required fee to initiate process and petition (letter) which includes***

- 1. Description of the ground proposed to be vacated;***
- 2. Map and legal description of ground to be vacated;***
- 3. Reason for the vacation; and***
- 4. Proposed use for vacated property***

c. ***Petitioner will be provided a map delineating the required 200 x 400 foot area required for the consent of property owners. Absolute consent of all property owners that are adjacent to the property to be vacated is required. In addition, consent of 2/3 of the property owners on either side of the property to be vacated for a distance of 200 feet or the next parallel street (whichever is closer) and extending 400 feet from each end of the property to be vacated is required. (Note: The “absolute consents” can be considered as part of the 2/3 consents.)***

d. ***Petitioner will bring signed Consents to Vacate to the City for review.***

e. ***A date will be set for petition on Council agenda for public hearing.***

f. ***City will notify Petitioner of date Council will hear petition and Public Hearing.***

g. ***City will publish Public hearing notice two consecutive weeks prior to Public Hearing.***



SECTION 404 - APPLICATION PROCEDURES AND FEES

- D. Hearing Date. Upon receipt of a valid and complete application and fee or resolution by the Council, the City Manager shall set a date for public hearing upon the application before the appropriate body.
7. Improper Application. If it is determined by the Planner that any of the aforementioned applications do not provide the desired information nor have attached thereto other pertinent data requested, the application may not be accepted.
8. Application Fees and Required Submittals. The application fees as set by resolution of the City Council and application submittals are required to defray costs incidental to the proceedings and shall accompany each respective land use request. Such fees, except as provided in subsection a) below shall be paid at the time of the filing of each application and shall not be refundable. Ten copies of the applicable land use information shall be submitted on one or more sheets of paper measuring a minimum of 11” x 17” and shall be drawn to a minimum scale of 1 inch equals 10 feet (1”=10’). ***A copy of the proposed drawing and applicable land use information shall also be submitted by PDF for electronic circulation.***

Required Submittals: the following information is required, as listed above, for all land use actions, handled administratively and brought before the Planning Commission, within the Urban Growth Boundary of the City of Tillamook

<u>Request</u>	<u>Required Land Use Criteria</u>
Annexation	A, B, C, D
Appeals*	Not Applicable
Change of Zone	A, B, C, D, P
Conditional Use	All
Site Plan Review	All (except P)
Flood Hazard Permit	A, B, C
Urban Growth Boundary Amend.	A, B, C, D, P
Right-of-Way Vacation	A, B, C, D, E
Variance	A-L
Partition	A, B, C, D, E, F, O
Planned Unit Development	All (except P)
Subdivision	All (except P)

- A. A list of the names, addresses, and tax lot numbers of all property owners situated within the distances listed under 3 of this section.
- B. A drawing of the affected area shall contain the date of preparation, a NORTH arrow, and written and graphic scale.
- C. A written statement of the intended use of the property, and a written response to the standards and criteria listed separately for each of the land use actions (e.g. for a Site Plan Review, the criteria listed in Section 22 of this Ordinance), and include the site plan procedures listed separately for each land use action.

## SECTION 404 - APPLICATION PROCEDURES AND FEES

- D. Statement of utility availability.
- E. Location, dimensions and names of adjacent streets and proposed internal streets showing center line radii and curb return radii.
- F. The size and location of all existing and proposed public and private utilities, easements, or rights-of-way.
- G. The building envelope, size, setback dimensions and height of all proposed structures which are to be retained on the site.
- H. Existing site specific physical features including drainage ways, ponding areas and structures, with indication as to which are to be retained. Adjacent properties and their physical features within 50 feet of the property line shall be identified, including setback dimensions of adjacent structures.
- I. The location of all existing trees and shrubs and those which are to be retained on the property, the location and dimensions of landscaped areas, location of proposed plant material and ground cover and other pertinent landscape features.
- J. The proposed layout of the parking lot including location and dimension of parking spaces, curb islands, internal planter strips, maneuvering aisles, and access driveways with indication of direction of travel.
- K. Statement of maintenance responsibility for all improvements shown on the site plan.
- L. Site data including:
  - 1. Total area of the property (square feet).
  - 2. Building coverage (square feet), ***setback and dimensions***.
  - 3. Parking and other impervious surface coverage (square feet).
  - 4. Parking lot landscape area (square feet).
  - 5. All other landscape area coverage (square feet).
  - 6. Number ***and type*** of parking stalls provided.
  - 7. Number of ***residential*** units as appropriate.
  - 8. Existing and proposed gross floor area (square feet).
- M. Finished floor elevation related to curb, street or other established grade or bench mark, and drainage pattern. All lots shall show grading and drainage with existing grades or contours and finished grades or contours clearly indicated.
- N. Location of all fencing used to divide properties.

SECTION 404 - APPLICATION PROCEDURES AND FEES

O. A legal description of the property. If the property is part of a recorded plat, a reference to the plan may be used.

P. Transportation System Plan Compliance.

1. Review of Applications for Effect on Transportation Facilities. When a development application includes a proposed comprehensive plan amendment or land use regulation change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – “TPR”). “Significant” means the proposal would:
  - a. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal causes future traffic to exceed the capacity of “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the City of Tillamook Transportation System Plan (“TSP”); or
  - b. Change the standards implementing a functional classification system; or
  - c. Allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
  - d. Reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.
  
2. Amendments That Affect Transportation Facilities. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one of the following:
  - a. Amending the TSP to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirements of the TPR; or,
  - b. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.
  - c. Traffic Impact Study. A Traffic Impact Study shall be submitted with a plan amendment or land use district change application. See Section XXX - Traffic Impact Study.

## SECTION 404 - APPLICATION PROCEDURES AND FEES

- Q. The location of all pedestrian and bicycle circulation areas and bicycle racks/storage, including sidewalks, internal pathways, pathway connections to adjacent properties and any bicycle lanes or trails.

### **9. Pre-Application and Post-Application Meetings.**

***A. A pre-application meeting shall be scheduled prior to the submittal of the land use application. The pre-application meeting includes participation by the Planning Department, City Public Works, Fire District, Police Department, and other appropriate agencies (including State and Federal) that need to be involved.***

***B. A post-application meeting shall follow the submission of a land use application.***

- 10. Rehearing.** The Council, Commission, or Planning Department, shall not consider any application involving a lot, parcel, or structure which has been the subject of the same application within twelve (12) months following final action on such application, unless substantial new evidence is submitted which could not reasonably have been presented at the previous meeting.

## NOTIFICATION REQUIREMENTS

- 11. Public Hearings.** Unless otherwise required by this Ordinance, any hearing before the Commission or Council required by any provision of Section 10 to 36 shall be in a public hearing held in accordance with the notification and procedure requirements hereinafter provided.

Hearings on land use and limited land use actions shall include *findings* that describe the applicable substantive criteria ***listed in the applicable section(s) of this ordinance*** which will be used to review the land use action.

- a. Testimony at the hearing must be directed towards the criteria, ***and other city and state land use standards that apply***, which will be used to review the land use action;
- b. Failure to address a criterion precludes an appeal based on that criterion.

The general public has a right to have members free from pre-hearing or ex-parte contacts on matters heard by them. It is recognized that a contravening public right is free access to public officials on any matter. Members of the hearing body shall place on the record the substance of any written or oral ex-parte communications concerning a decision or action at the first hearing on the decision or action which occurs after the communication was made. Parties shall be given the right to rebut the substance of the communication. If such contacts have impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall abstain therefrom.

## SECTION 404 - APPLICATION PROCEDURES AND FEES

**12. Notice of Hearings.** Upon fixing the time of public hearing before the Commission, the Planner shall cause notice of such hearing to be given by mail, posting, publication, or broadcast as required by the provisions of subsections 11 and 12 herein. In case of public hearing before the Council, the City Recorder shall cause such notice to be given in accordance with the provisions of subsections 11 and 12 herein.

A. Notice of a public hearing shall include the following information:

- 1) The name of the applicant;
- 2) The date, time, and location of the hearing;
- 3) A description of the location of the property for which a permit or other land use action is pending, including the street address and the subdivision lot and block designation, or tax lot number. (This information is required only for quasi-judicial actions.)
- 4) A concise description of the proposed development action;
- 5) A general description of the applicable comprehensive plan and zoning ordinance criteria which apply to the proposal.
- 6) A statement that a failure to raise an issue in person or by letter precludes appeal and that failure to specify to which criterion the comment is directed precludes appeal based on that criteria.
- 7) A statement describing where the complete application, criteria and other relevant information is available for review, and how written comments may be submitted.

B. Notice of any hearing shall be given to the applicant and to property owners required to be notified not less than twenty (20) days prior to the hearing and as follows:

- 1) By first class mail to applicant and all property owners as shown on the ownership list filed with the application. However, failure to *receive* such notice shall not invalidate any of the proceedings involved.

C. Each notice of a public hearing on a zone change for property which includes all or part of a mobile home park shall be sent by first class mail to each existing mailing address for tenants of the mobile home park at least 20 days but not more than 40 days before the date of the first hearing on the application. The city may require the applicant for the zone change to pay the costs of the notice.

D. Mailed notice to the Oregon Department of Transportation (ODOT) for all land use requiring a public hearing with the Planning Commission or City Council of land use applications related to property within 500 feet of a state highway or that impact State facilities.

## SECTION 404 - APPLICATION PROCEDURES AND FEES

E. Mailed notice to the Oregon Department of Transportation (ODOT) for the following public hearings; subdivisions and partitions and any land use application affecting private access.

**13. Posting Notices.** The City Planner shall require that affected applicants post notices of public hearings to be held by the Council or Commission for any land use action by posting a sign in a manner clearly visible on the subject property within 10 feet of whatever boundary line of such land abuts each public road or street. If a public road abuts thereon, then such sign shall face in such a manner as may be most readily seen by the public. The template for such signs shall be provided to affected applicants by the Planner.

### **14. Administrative Review.**

A. Types of land use requests eligible for administrative review:

1) Conditional Use Permits involving one of the following issues:

- (a) Signs according to Section 24 of this Ordinance
- (b) Rear lot development in the R-7.5 or R-5.0 Zone Districts

2) Partitions/Lot Line Adjustments

3) Site Plan Reviews for:

- (a) Conversions of residences to commercial uses.
- (b) Expansion of existing commercial, industrial, or public facility uses and structures if the expansion is less than 50% of the existing structure or less than 10,000 square feet (whichever is smaller) and exceeds 50% of the market value before improvement or repair is started.
- (c) Previously approved site plan reviews that are null and void and no changes are proposed.

4) Variances involving one of the following criteria:

- (a) Deviation from the minimum building setback of not more than twenty percent (20%).
- (b) Deviation from the building height limitation of not more than ten percent (10%)
- (c) Deviation from a residential accessory dwelling living area of not more than five percent (5%).
- (d) Expansion of a conditional or nonconforming use by not more than twenty percent (20%) of the gross building volume.

5) Home Occupations

6) Time Extensions on the following land use actions:

## SECTION 4 - APPLICATION PROCEDURES AND FEES

- (a) Tentative Land Partitions
  - (b) Preliminary Subdivision/PUD Plat Approval
  - (c) Conditional Use Permits
  - (d) Site Plan Reviews
- B. A property owner may initiate a land use request by filing an application with the Planning Department. The Planning Department may require other drawings or information necessary for a complete understanding of the proposal and its relationship to surrounding properties. An application will not be considered complete for purposes of any time limitations until all requested information is received by the Planning Department. An application will not be accepted until all fees are paid according to the provisions of Section 4 (8).
- C. The Planner shall, within thirty (30) days of receipt and acceptance of an application for a land use request act administratively according to the procedure set forth in Section 4 (14A) through (14J) or shall refer the application to the Planning Commission for a public hearing and decision. The application shall be referred to the Planning Commission if the Planner decides that the land use request would have significant impacts that extend beyond areas of notice per Section 4 (3). If the Planner elects to refer the application to the Planning Commission, it shall be set for a public hearing at the next available Planning Commission hearing, unless the applicant requests a hearing at a later date.
- D. At the time the Planner acts administratively based on the requests set forth in Section 4 (14) (A), he or she shall cause notice of the application for a land use request to be mailed by First Class Mail to the following persons:
- 1) the applicant;
  - 2) all owners of *adjacent* property per Section 4 (3);
  - 3) such other persons, agencies or departments as the Planner deems appropriate.
- E. No land use request approval shall be invalidated because of failure to receive the notice provided for in Section 4 (14D) hereof.
- F. The notice sent pursuant to Section 4 (14D) shall be mailed within ten (10) days of receipt of a complete application. The notice shall state the general nature of the request and that there is a right to respond with comments or objections in writing within ten (10) days of mailing. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision and have a right to appeal that decision to the Planning Commission.
- G. In addition to the notice by mail provided to the persons listed in Section 4 (14D), notice of a land use request application shall be posted on the property at least ten (10) days before any administrative decision is made. The posting shall inform the public of the general nature of the request and announce that written comments and objections will be accepted by the Planning Department for seven (7) days from the date of posting. The notice shall

## SECTION 4 - APPLICATION PROCEDURES AND FEES

also say that only those persons who respond in writing will receive a copy of the written decision and have a right to appeal that decision to the Planning Commission.

- H. After any written comments or objections are received and the period of time for public input has passed, the Planner shall have ten (10) days to prepare a written decision approving, disapproving, or approving with conditions the application for a land use request. The Planner shall consider in making the decision all written comments, the information in the application and the applicable criteria of the ordinance.
- I. The applicant and all persons who submitted written comments in response to the mailed or published notice shall be considered parties to the written decision and shall be entitled to written notice of the decision within ten (10) days of the date of the decision. Any party may appeal the decision of the Planner to the Planning Commission in accordance with Section 33. Only those who are considered to be parties *that* have standing to make an appeal of an administrative decision made pursuant to Section 4 (13) *may do so*.
- J. Copies of all ~~written decisions~~ *on administrative actions* shall be *provided* to Planning Commission members for their review.

### 15. Final Action of Application for Permit or Zone Change Request.

The following section shall apply to all applications for permits or zone change requests, except those which involve an amendment to the comprehensive plan or zoning ordinance, or the adoption of a new land use regulation.

- A. The City shall take final action on an application for a permit or zone change requests, including resolution of all local appeals, within 120 days after the application is deemed complete. This 120 day period may be extended for a reasonable period of time at the request of the applicant.
- B. If an application for a ~~permit or zone change~~ *land use request* is incomplete, the City shall notify the applicant of the additional information required within 30 days of the receipt of the application. The applicant shall be given ~~an opportunity~~ 180 days to submit the additional information. The application shall be deemed complete upon receipt of the additional information required. If the applicant refuses to submit the required additional information, the application shall be ~~forwarded to the Planning Commission~~ *handled administratively* for action with the issues related to incompleteness noted.
- C. If the application was complete when first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, the City's approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

## SECTION 30 21 - INTERPRETATIONS AND EXCEPTIONS

1. General Exceptions to Lot Size Requirements. If at the time of passage of ~~this~~ *the original zoning Ordinance dated July 28, 1980*, or annexation to the city, a legally created lot or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension less than required for the zoning district in which the property is located, the lot or aggregate holdings may be occupied by any permitted use in the district subject to compliance with all other requirements of the district, provided however, that the use of a lot in an R-7.5, R-5.0 or R-O Zone District which has an area deficiency shall be limited to a single-family dwelling.
2. Accessory Structures and Uses.
  - A. A greenhouse or hot house may be maintained accessory to a dwelling provided there are no sales.
  - B. A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house.
  - C. Sight obscuring fences, as per Section 3 (Definitions), may be located in a required front yard or in a vision clearance area provided that they shall not exceed three (3) feet in height measured from the top of the curb.
3. Exception to Height Regulations. Height limitations set forth elsewhere in this Ordinance shall not apply to: Barns, silos, or other farm buildings and structures, water towers and tanks, provided they are not less than 50 feet from every lot line; chimneys, church spires, belfries, cupolas, domes, smokestacks, flagpoles, grain elevators, cooling towers, monuments, fire hose towers, masts, aerials, elevator shafts and other similar projections; and outdoor theater screens, provided said screens contain no advertising matter other than the name of the theater.
4. Access. Except as permitted by other provisions of this Ordinance, no lot shall contain any building used in whole or in part for residential purposes unless said lot abuts a street or an alley for a distance of at least 40 feet.
5. Vision Clearance Area. Vision Clearance Area shall be provided within the triangular corner, two sides of which are the intersecting right-of-way lines, and the third side, the connection of points on those right-of-way lines the following distance from the point of intersection of those two lines (See Figures 1 and 2.)
  - A. In a residential district, the minimum distance shall be **20 feet at street intersections** or, at intersections including an alley, 10 feet, *measured from the property line.*
  - B. In all other districts where yards are required, the minimum distance shall be 15 feet or at intersections including an alley, 10 feet, except that when the angle of intersection between streets other than an alley is less than 30 degrees, the distance shall be 25 feet, *measured from the property line.*

In districts where no yards are required, the minimum distance shall be 10 feet, *measured from the property line.*

SECTION 30 21 - INTERPRETATIONS AND EXCEPTIONS

C. Vision clearance area shall contain no plantings, fences, walls, structures or temporary or permanent obstructions exceeding three (3) feet in height measured from the top of the curb, except that street trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of *ten (10)* feet above the grade, and a maximum of two (2) sign support posts not exceeding eight (8) inches in diameter may be located in this area provided that no portion of the sign or signboard may extend below *ten (10)* feet above the grade.

***D. In the public right-of-way, for objects located in the sidewalk area, the minimum distance shall be 30 feet at street intersections measured from the curb tangent point where the arc and ray, or straight curb meet.***

E. Nothing in this Section shall be deemed to permit a sight obstruction within any required yard area at a street or alley intersection interfering with the view of operators of motor vehicles on the streets or alleys to such an extent as to constitute a traffic hazard. If the planning commission finds that this is the case, it shall have the authority to order the removal or modification of any such obstruction within any such required yard area.

F. The order shall be effective upon delivery of written notice to the owner of the property giving the owner ten days after delivery of the notice in which to remove or modify the obstruction; provided, that said notice may be given by certified letter addressed to the owner at the address indicated in the records of the Tillamook County department of assessment and taxation, and the ten-day period shall run from the date of mailing of such notice. Any decision of the planning commission may be appealed in writing to the city council, if written notice of appeal is filed with the city recorder within ten days after the giving of the notice to remove or modify.

6. Exception to Yard Requirements.

A. Projects into required yards. Certain architectural features may project into required yards or courts as follows:

- 1) Cornices, canopies, eaves, belt courses, sills, or other similar architectural features, or fireplaces, but they may not in any case extend more than eighteen (18) inches into any required yard areas.

Fire escapes, open uncovered porches, balconies, landing places or outside stairways may not in any case extend more than eighteen (18) inches into any required side or rear yards, and not exceeding six (6) feet into any required front yard. This is not to be construed as prohibiting open porches or stoops not exceeding eighteen (18) inches in height and not approaching closer than eighteen (18) inches to any lot line.

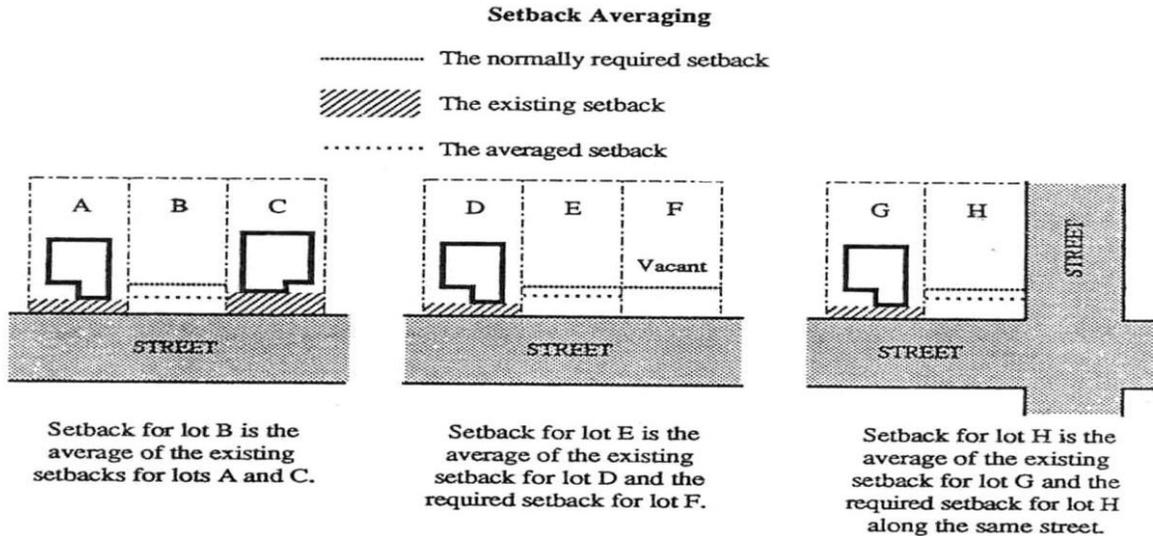
B. Residential use in Commercial or industrial Zoning Districts. Any structure in a "C" or "I" District designed and used for residential purposes shall comply with the requirements of the R-O District. Structures in any "C" or "I" District which contain dwelling units not on

SECTION 30 21 - INTERPRETATIONS AND EXCEPTIONS

the ground floor need not comply with residential district yard requirements, provided such structures comply with other applicable codes or regulations as may exist concerning the health and safety aspects of the dwelling units.

**C. Front Yard Exceptions. The following exceptions to the front yard requirements are authorized for a lot in any zone district:**

- 1) *If there are dwellings on both abutting lots with front yards of less than the required depth for the zone district, the front yard of the lot may equal the average front yard of the abutting lots.*
- 2) *If there is a dwelling on one abutting lot with a front yard of less depth than the required depth for the zone district, the front yard for the lot may equal a depth halfway between the depth of the abutting lot and the required front yard depth.*



SECTION 30 21 - INTERPRETATIONS AND EXCEPTIONS

*D. Structures Within Yards. Decks, walkways or uncovered porches, 12 inches or less in height above grade, may be located within a required yard no closer than five (5) feet from the property line.*

*E. Portable accessory structure or object.*

*1. Portable accessory structures or objects may be located in a rear yard or street-side yard setback provided all of the following are met:*

*a. Such structures or objects, with the exception of basketball hoops, shall be less than 10' in height. Basketball hoops shall be less than 20' in height; and*

*b. Shall have structural walls located no closer than five (5) feet from the property line; and*

*c. Shall have a footprint of less than 200 square feet.*

7. Authorization for Similar Uses. The Planning Commission may rule by resolution that a use, not specifically named in the allowed uses of a district shall be included among the allowed uses, if the use is of the same general type and is similar to the allowed uses.

8. Existing Uses. Except as hereinafter specified, any use, building or structure lawfully existing at the time of the enactment of this ordinance, may be continued even though such use, building or structure may not conform to the provisions of ~~this~~ ***the original zoning Ordinance dated July 28, 1980***, for the district in which it is located; provided however, that this section does not apply to any use, building or structure established in violation of any zoning ordinance previously in effect. Any change of use shall be subject to the applicable provisions of this ~~Ordinance~~ ***Development Code***.

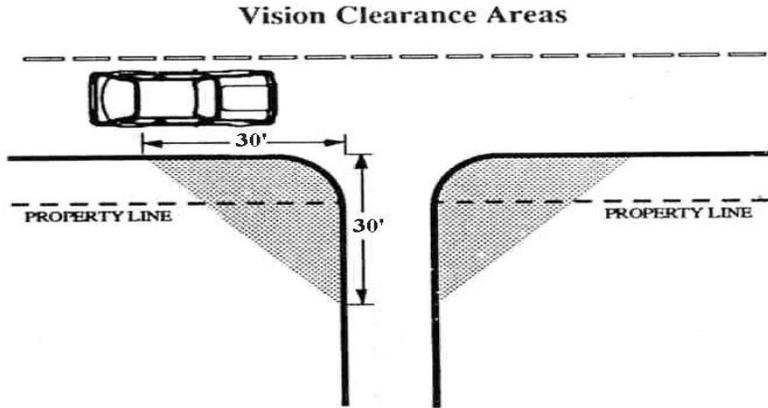
9. Pending Building Permits. Nothing herein shall require any change in the location, site plans, building plans, construction, size, or designated use of any development, building, structure or part thereof, for which the required official approval has been granted prior to the adoption of ~~this~~ ***the original zoning Ordinance dated July 28, 1980***, or which was lawfully permitted within an area prior to annexation thereof to the City of Tillamook. Unless construction on such building or structure within the City begins within one (1) year after the adoption of ~~this~~ ***the original zoning Ordinance dated July 28, 1980***, no such existing permit shall be deemed to allow any building or use which would not conform to the requirements of this ~~Ordinance~~ ***Development Code***.

10. Existing Land Restrictions. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided however, that where this Ordinance imposed a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

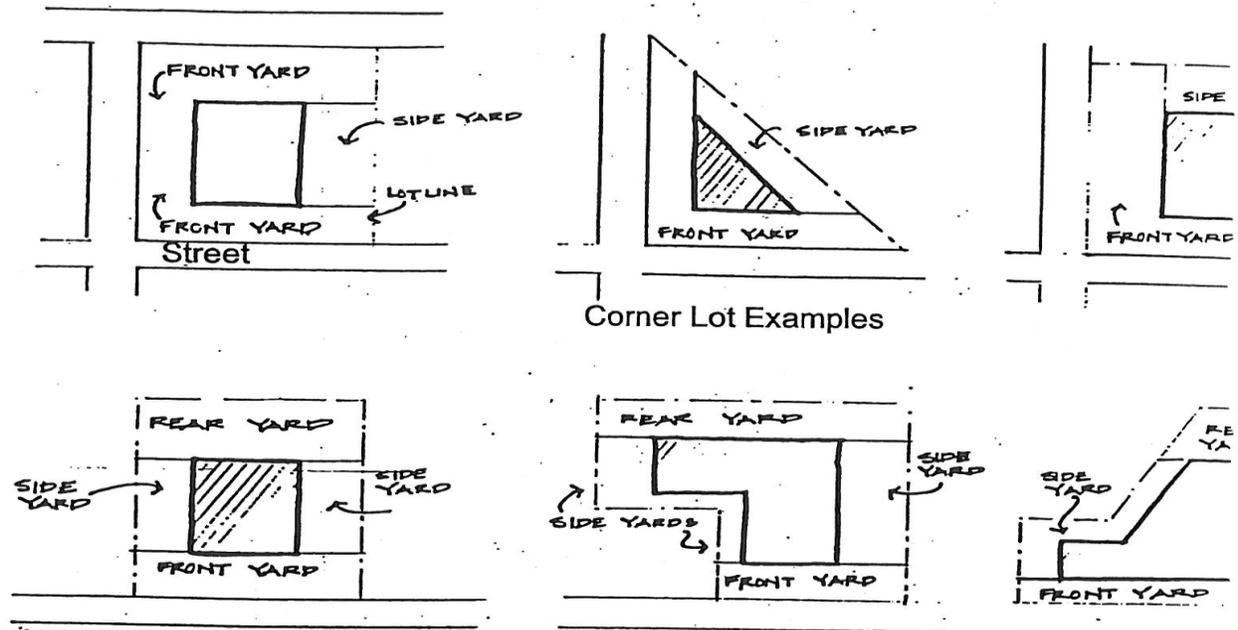
***11. The following illustrations are provided for further description.***

SECTION 30 21 - INTERPRETATIONS AND EXCEPTIONS

A. Clear Vision Area

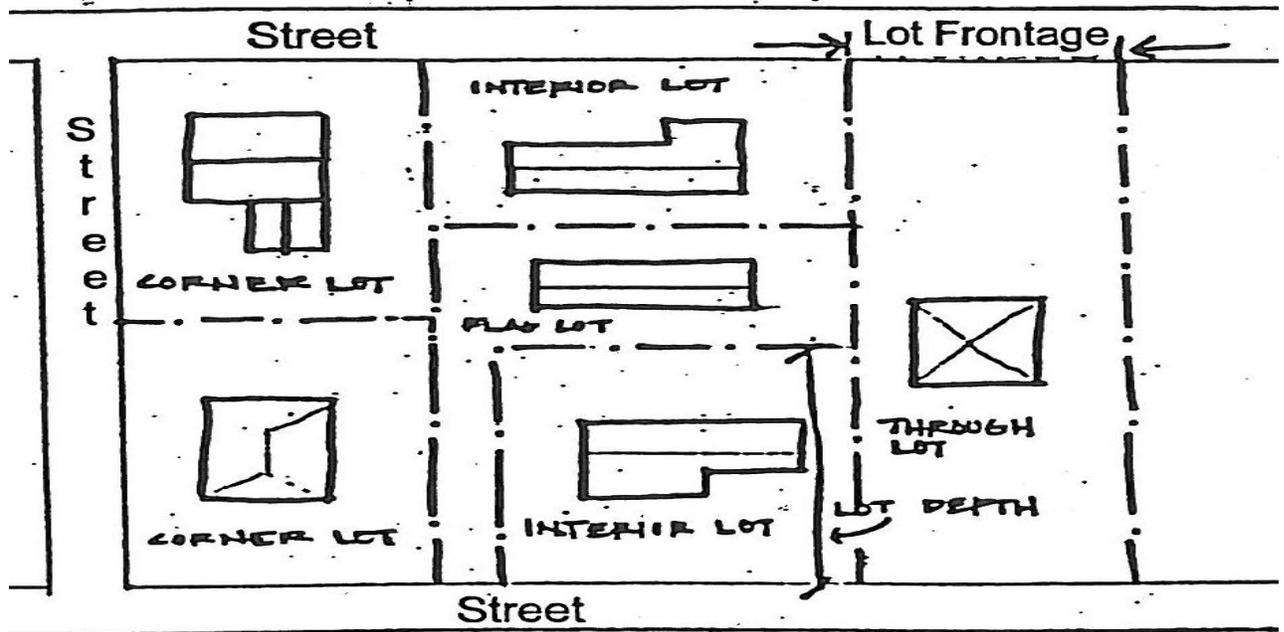


B. Yards.

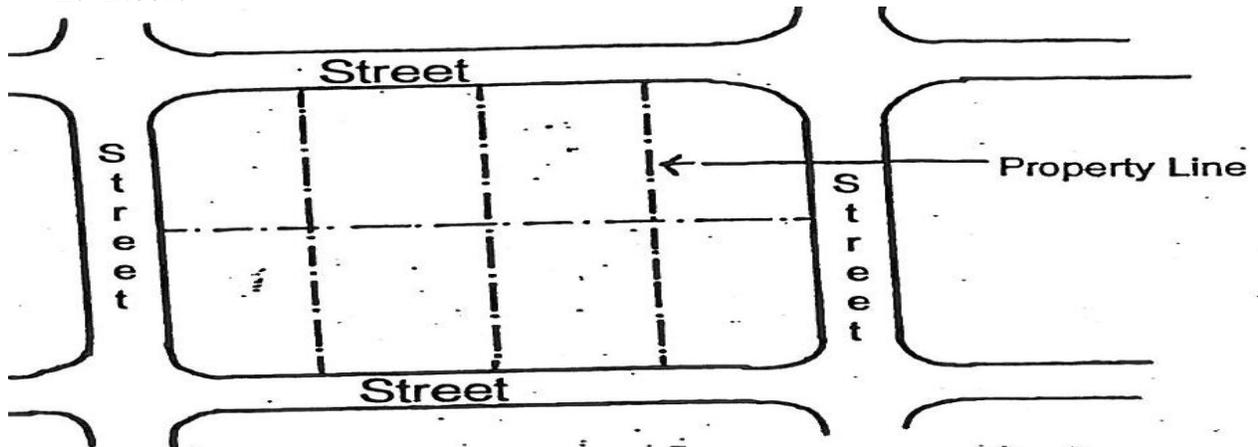


SECTION 30 21 - INTERPRETATIONS AND EXCEPTIONS

D. Lots.



E. Block.



## SECTION 27 - CONDITIONAL USE PERMITS

1. Purpose. Conditional uses may be permitted in certain districts, subject to the granting of a Conditional Use Permit. ~~Conditional uses may require special consideration, because of unusual characteristics of the area in which it is to be located. It is important that conditional uses be properly located with respect to the objectives of this Ordinance and the effect to the surrounding properties.~~ ***A use is considered conditional if it may require special consideration because of unusual characteristics of the area in which it is to be located. It is important that conditional uses be properly located with respect to the objectives of this Ordinance and the effect to the surrounding properties. A use designated as conditional use may be permitted, enlarged or otherwise altered upon authorization by the Planning Commission in accordance with the standards and procedures set forth in this section.***
2. Planning Commission Authority. The Planning Commission shall have the authority to approve, approve with conditions, disapprove, or revoke Conditional Use Permits subject to the provisions of this section. Changes in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional and existing prior to the effective date of this Ordinance shall conform to all regulations pertaining to conditional uses and shall require a new Conditional Use Permit.

***In permitting a conditional use or the modification of an existing conditional use, the City may impose, in addition to those standards and requirements expressly specified by this section, any additional conditions which the City considers necessary to protect the best interests of the surrounding property or the City as a whole. These conditions may include, but are not limited to, the following:***

- A. Increasing the required lot size or yard dimensions, open spaces or buffer areas;***
- B. Limiting the height of buildings;***
- C. Controlling the location and number of vehicle access points;***
- D. Increasing the street width;***
- E. Increasing the number of off-street parking and loading spaces required, along with the type of surfacing and drainage of parking areas;***
- F. Limiting the number, size and location of signs;***
- G. Requiring screening, fencing, and/or landscaping (and maintenance thereof) to protect adjacent property; and***
- H. Requiring means of pedestrian/bicycle access pathways to serve the property;***

SECTION 27 - CONDITIONAL USE PERMITS

- I. Limiting the location, coverage or height of buildings because of obstructions to view and reduction of light and air to adjacent property;*
- J. Limiting or prohibiting openings in sides of buildings or structures;*
- K. Enclosure of storage areas and limitation of outside display and/or storage of merchandise;*
- L. Regulation of noise, vibration, odors, etc.;*
- M. Regulation of time for certain activities;*
- N. Establishing a time period within which the proposed use shall be developed;*
- O. The requirement of a bond for removal of such use within a specified period of time;*
- P. Requirements under which any future enlargement or alteration of the use shall be reviewed by the Planning Commission and new conditions imposed;*
- Q. And such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this ordinance and the City Comprehensive Plan.*

3. Application. A property owner ~~any interested person~~ *or their authorized agent* may ~~make application~~ *initiate a request* for a conditional use permit *or the modification of an existing conditional use* by filing an application *with the City* in accordance with the provisions of Section 4.

*The application shall be accompanied by a site plan (as described in Section 30), drawn to scale, showing the dimensions and arrangement of the proposed development. The Planning Commission may require other drawings or information necessary to understand the proposed use and its relationship to surrounding properties.*

4. Public Hearings. Before a conditional use is permitted, the proposed conditional use shall be considered by the Planning Commission at a public hearing, or administratively. Notice of said hearing or administrative action shall be provided as per *Section 4 of this Ordinance*.
5. Action by the Commission. The Planning Commission may approve, approve with conditions, or disapprove the application for a Conditional Use permit. ~~In permitting a conditional use the Planning Commission may impose, in addition to regulations and standards expressly specified in this Ordinance, requirements increasing the required lot size or yard dimensions, increasing street widths, controlling the location and number of vehicular access points to the property, increasing the number of off-street parking or loading spaces required, limiting the number of signs, limiting the coverage or height of buildings because of obstructions to view and~~

## SECTION 27 - CONDITIONAL USE PERMITS

~~reduction of light and air to adjacent property, limiting or prohibiting openings in sides of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare.~~ ***The Planning Commission may approve the application for a temporary conditional use.*** Any future enlargement or alteration of ***a conditional use*** shall ***require a new conditional use permit application*** to be in accordance with the regulations and standards of this Ordinance.

- A. In order to grant any conditional use, the Planning Commission must find that the establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be in violation to the appropriate regulations and standards contained in this Ordinance.
- B. The Planning Commission shall render a decision within 120 days after the application has been deemed complete. The decision of the Planning Commission shall be final unless appealed to the City Council.
- C. A Conditional Use permit shall become void one year after approval, unless a different time frame is specified as a condition of approval, or, within that time period the required building construction, alteration or enlargement has commenced and been diligently pursued or, if no such construction, alteration or enlargement is required, the permitted activity is being regularly conducted on the premises. The Planning Commission may extend the permit for an additional period of one year. A conditional use permit shall become void if the use is discontinued for a period of one year.
- D. Any conditional use authorized according to this Section (excepting "F" below) shall be subject to the following criteria, where applicable, ***and the Planning Commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:***
  - 1) ***If the conditional use is a permitted use in any other zone district in the City, that the City need would best be met by allowing the conditional use with respect to the property in the application.*** ~~The use is listed as a conditional use in the underlying zone, or in an applicable overlying zone.~~
  - 2) The use is consistent with the applicable goals and policies of the City Comprehensive Plan.
  - 3) The parcel is ~~suitable~~ ***adequate*** for the proposed use. ***Considering*** its size, shape, location, topography, existence of proposed improvements and natural features, ***the parcel will accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by the site plan.***
  - 4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

## SECTION 27 - CONDITIONAL USE PERMITS

- 5) *Streets and highways , water and sewer service lines, must be adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use. ~~The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.~~*
- 6) *There are no outstanding code violations or conditional requirements on the subject property;*

### **E. Burden of Proof.**

- 1) *The specific findings made by the Planning Commission in granting a conditional use permit must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the conditional use. If no evidence is produced concerning any of the findings listed in subsection D above, the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any conditional use permit application.*
- 2) *Where the planning commission is of the opinion that said conditional use permit shall be granted, it shall, in open public meeting, by a majority of its members in attendance, enter a Planning Commission order granting the conditional use permit, which order shall include specific findings of fact, conclusions and supportive evidence and any conditions of approval. Upon the filing of said order with the city recorder, the order shall be in full force and effect. An order denying a conditional use permit shall be entered and filed in a like manner, with the necessary findings of fact, where the Planning Commission, based on the standards specified herein, determines that the conditional use permit should not be granted.*

### **F. Conditional Uses and Criteria for Certain Transportation Facilities and Improvements**

- 1) Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the adopted City of Tillamook Transportation System Plan (“TSP”), or (2) not designed and constructed as part of an approved subdivision or partition, are allowed in all Zones subject to a Conditional Use Permit **under** Transportation Facilities, and satisfaction of all of the following criteria:
  - a. The project and its design are consistent with City of Tillamook adopted TSP, or, if the city has not adopted a TSP, consistent with the State Transportation Planning Rule, OAR 660-012 (“the TPR”).
  - b. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.
  - c. The project design minimizes environmental impacts to identified wetlands, wildlife

## SECTION 27 - CONDITIONAL USE PERMITS

habitat, air and water quality, cultural resources, and scenic qualities, and a site with fewer environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.

- d. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
  - e. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.
- 2) State transportation system facility or improvement projects. The State Department of Transportation (“ODOT”) shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 27A 1.b-e. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.
- 3) Proposal inconsistent with TSP/TPR. If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:
- a. If the City’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional use permit application; or
  - b. If the City’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit if and when the amendment is approved; or
  - c. If the City’s determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall submit a plan/zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 227.178 120-day period within which to complete all local reviews and appeals once the application is deemed complete; or
  - d. If the City’s determination of inconsistency is part of a final decision on the conditional use permit application, the applicant, **after one (1) year**, may submit a new conditional use permit application **without prior inconsistencies**, along with a plan/zoning amendment application for joint review and decision.
- F. Expiration. **If no improvements are made or actions taken, a** Conditional Use Permit for Transportation System Facilities and Improvements shall be **null and** void after five (5) years.

## SECTION 27 - CONDITIONAL USE PERMITS

6. Appeal. The applicant or any interested person *of standing* may appeal a decision of the Planning Commission to the City Council in the form prescribed by the City. The appeal procedures shall be set forth in Section 33.
7. Effect. No building or other permit shall be issued in any case where a Conditional Use Permit is required by the terms of this Ordinance until fourteen (14) days after the approval of the conditional use by the Planning Commission. An appeal from an action of the Planning Commission shall automatically stay the issuance of a building or other permit until such appeal has been completed.
8. Violation of Condition. The Planning Commission, on its own motion, may revoke as being void any Conditional Use Permit for non-compliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing as provided in Section 34. *Revoking the Conditional Use Permit* shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Conditional Use Permit.

The Planning Commission, on its own motion, may also revoke any other conditional use permit granted, if the permitted use has been discontinued for a period of one year, and if the property owner, after notification of such proposed action, does not certify his or her intent to resume the use during the following year.

9. Limitation on New Applications. In a case where an application is denied by the Planning Commission, or denied by the City Council on appeal from the Planning Commission, unless specifically stated to be without prejudice, it shall not be eligible for resubmittal for the period of one year from the date of said denial, unless, in the opinion of the Planning Commission, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.
10. Notification of Action. The City Planner shall notify the applicant and all interested parties submitting written or oral testimony into the record for a conditional use in writing of the Planning Commission's action within five (5) days after the entry of the final order. A copy of said order shall be provided to the applicant.
11. Applicability. The approved Conditional Use Permit shall apply to the specific use applied for only, and shall transfer with the ownership of the property. A conditional use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application, except as otherwise provided in this section.

## SECTION 35-28 - AMENDMENTS

This Ordinance, *the City Comprehensive Plan text and map and zone map* may be amended by changing the boundaries of *zone* districts or by changing any other provisions thereof. Whenever the public necessity, convenience ~~and, or~~ the general welfare requires such an amendment, such a change may be proposed by the City Council on its own motion or by motion of the Planning Commission, or by petition as hereinafter set forth. Any such proposed amendment or change shall first be submitted to the Planning Commission ~~and the Planning Commission shall, within 40 days after a hearing, recommend to the Council, approval, disapproval or modification of the proposed amendment.~~

1. Application and Fee. An application for amendment by a property owner or his authorized agent shall be filed with the City Recorder. ***If the amendment involves a boundary change***, the application shall be made on the forms provided by the City, accompanied by a site plan drawn to scale showing the property involved and adjacent land. A ~~non-returnable~~ fee as set forth in the City's fee schedule, ***in Section 4***, shall accompany each application. The applicant shall pay the costs of notification and publication required by this Ordinance. ***The failure of the applicant to meet any or all conditions, stipulations, or limitations contained in the resolution, including the time limit placed in the resolution, shall render the resolution of intent to re-zone null and void, unless an extension is granted by the Council upon recommendation of the Planning Commission.***
2. Public Hearing on an Amendment. Before taking final action on a proposed amendment, the Planning Commission shall hold a public hearing thereon. After receipt of the report on the amendment from the Planning Commission, the Council shall hold a public hearing on the amendment.
  - A. Notice of hearing. Notice of time and place of the public hearing before the Planning Commission and of the purpose of the proposed amendment shall be given by the City Recorder in the following manner.
    - 1) If an amendment to the text is proposed, the notice shall be by one publication in a newspaper of general circulation in the City not less than four (4) days nor more than 10 days prior to the date of hearing. ~~Where all property so located is under the same ownership, owners of property abutting that of the same ownership shall be notified in the same manner as provided in this section.~~ If an amendment to the Zoning Map is proposed, the notice shall be as provided in Section 4 of this Ordinance.
    - 2) ~~Failure to send notice to a person specified in this section or failure~~ of a person to receive the notice shall not invalidate any proceedings in connection with the proposed ***amendment.***
  - B. Recess of hearing. The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed amendment. Upon recessing for this purpose the Commission shall announce the time and date when the hearing will be resumed.

SECTION 35 28 - AMENDMENTS

*C. Recommendation by the Planning Commission to City Council. At the conclusion of the Planning Commission public hearing, the Planning Commission may make a recommendation to the City Council to approve, approve with changes, or deny the zone change or amendment(s). The Planning Commission shall, in any case, render its decision on any application within 40 days after a hearing.*

*D. Public hearing held by council. Notice of the hearing to be held by the Council on the proposed amendment to the Zoning Ordinance shall be given as provided in Section 35 (2A).*

3. Action by the City Council. At the conclusion of the public hearing, the Council may enact an ordinance granting the zone change or amendment, or may by motion deny the granting of the zone change or amendment. The Council shall in any event render its decision on any application within 40 days after the public hearing, provided however, that nothing shall prohibit the City Council from by motion, postponing disposition of the application to a definite time past the said 40 day period.
4. Record of Amendments. The signed copy of each amendment to the text and the map of this Ordinance shall be maintained on file in the office of the City Recorder. A record of such amendments shall be maintained in a form convenient for the use of the public.
5. Resubmittal. In a case where a petition for an amendment is denied by the City Council, said petition shall not be eligible for resubmittal for one (1) year from the date of said denial, unless such denial was specifically stated to be without prejudice. A new petition affecting the same property must be, in the opinion of the Planning Commission and the City Council, substantially different from the petition denied, to be eligible for consideration within one (1) year from the said date of denial, unless the first denial was denied without prejudice, or the Planning Commission finds that conditions have changed to the extent that further consideration is warranted.
6. Resolution of Intent to Re-Zone. If, from the ~~facts~~ **findings** presented ~~and findings and the report~~ and recommendations of the Planning Commission, as required in Section 35 hereof, the City Council determines that the public health, safety, welfare and convenience will be best served by a proposed change of zone, the Council may indicate its general approval in principal of the proposed re-zoning by the adoption of a "resolution of intent to re-zone" the area involved. This resolution shall include any conditions, stipulations or limitations, which the Council may feel necessary to require in the public interest as a pre-requisite to final action, including those provisions which the Council may feel necessary to prevent speculative holdings of the property after re-zoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such resolution a binding commitment on the City Council. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning or by imposing setback, area or coverage restrictions not specified in the Ordinance for the zoning classification, or as a substitute for a variance. Upon completion of compliance action by the applicant, the Council shall by ordinance effect such re-zoning. ~~The failure of the applicant to meet any or all conditions, stipulations, or limitations contained in the~~

SECTION 35 28 - AMENDMENTS

~~resolution, including the time limit placed in the resolution, shall render the resolution of intent to re-zone null and void, unless an extension is granted by the Council upon recommendation of the Planning Commission.~~

7. *Submittals required for a Comprehensive Plan and Zoning Map Amendment.*

- A. *Basic proposal description.*
- B. *Size, shape and orientation of the subject property.*
- C. *Analysis of residential land/commercial land/public & semi-public land within the UGB, including such things as:*
  - 1. *acreage needed for each land use type for the 20 year planning period;*
  - 2. *acreage left for each land use type if proposed change occurs (if after the proposed change there is a shortage in one of the land use types, the Planning Commission may consider converting other land in surplus of 20-year planning period to fill the need).*
- D. *Applicability of land use objectives of both existing and the proposed zoning districts.*
- E. *Analysis of the need for the change.*
- F. *Economic and population data for the affected area that may be necessary as part of the amendment of the Comprehensive Plan.*
- G. *Compatibility with surrounding land uses/current use of surrounding land.*
- H. *Surrounding parcel sizes.*
- I. *Zoning history of the subject property and surrounding properties.*
- J. *Traffic circulation and proposed traffic impact analysis.*
- K. *Existing/proposed/availability of public services, such as:*
  - 1. *sewer,*
  - 2. *water,*
  - 3. *access roads,*
  - 4. *fire/police protection,*
  - 5. *parks and schools.*
- L. *Environmental issues, such as:*
  - 1. *floodplains,*
  - 2. *wetlands,*
  - 3. *steep slopes.*
- M. *Feasibility for development of rezoned properties.*
- N. *Additional criteria and standards within the applicable plan and Zoning Ordinance should be addressed.*
- O. *Consistency with Statewide Planning Goals 1 (Citizen Involvement), 9 (Economic Development), 10 (Housing), 11 (Public Facilities and Services), and 12 (Transportation) as contained in the State Administrative Rules.*

8. *The Planning Commission and Council, shall determine that zone change requests meet the following criteria:*

- A. *Rezoning of the subject property will conform with the intent of and will be consistent with all policies of the Comprehensive Plan;*

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- B. Rezoning of the subject property will conform with the intent of the zoning designation to which the subject property is proposed to be changed as defined in the purpose statement of the proposed zone;*
- C. Rezoning of the subject property will not seriously interfere with the permitted uses on other nearby and surrounding parcels;*
- D. Rezoning of the subject property is better suited to the purposes of the proposed zone than it is to the purposes of the existing zone;*
- E. Rezoning of the subject property will not adversely impact the orderly provision of public services (water, sewer, police, fire ,schools, etc.) in the area in which the property is located; and*
- F. Rezoning of the subject property will not adversely impact the road and street system serving the area in which the property is located.*

SECTION 23 29 - LAND DIVISIONS: (~~MINOR/MAJOR~~ PARTITIONS, SUBDIVISIONS) & PLANNED UNIT DEVELOPMENT

1. Purpose. The purpose of this Ordinance is to enact subdivision and land partitioning and expedited land division regulations for the City of Tillamook which will provide for better living conditions within new land divisions; assure necessary streets, utilities and public areas and provide for their installation or improvement; enhance and secure property values in land divisions and adjacent land; simplify and make land descriptions more certain and in general to promote the health, safety, convenience and general welfare of the people consistent with the Tillamook City Comprehensive Plan.

2. Rules of Application. No person shall subdivide, submit a land division or partition an area or tract of land without compliance with the provisions of this Ordinance.

A. No person shall dispose of, transfer, sell or agree, offer or negotiate to sell any lot in any subdivision with respect to which approval is required by the City provisions of this Ordinance until such approval is obtained and the plat thereof has been acknowledged and recorded with the County Recording Officer.

B. No person may dispose of, transfer, sell or agree to sell any parcel in a ~~major partition or a minor~~ partition, **subdivision, and planned unit development (PUD)** prior to approval as required by the provisions of this Ordinance.

C. No person subdividing or partitioning a parcel of land shall lay out, construct, open or dedicate thereon a street, sanitary sewage disposal system, storm sewer, water supply or other improvements for public or common use unless the partitioning has received preliminary and construction plan approval pursuant to the provisions of this Ordinance.

3. Minor Land Partitioning. ***A land partition is the division of one (1) lot into two (2) or three (3) lots within a period of one (1) calendar year. Splitting a lot into two lots, where a flag lot is created, is considered a land partition. Only one flag lot shall be created from a parent parcel. This definition is subject to any exclusions provided for by State Law.***

***A land partition is used in situations where only the lot lines need to be changed or added. If a partition will create a new street, compliance with the Subdivision regulations (Subsection 5 of this Section) is required.***

***An Expedited land partition is used solely for the purposes of residential use and will create three or less parcels as defined by State Law.***

A. Minimum Standards. The minimum standards for design and improvements in a ~~minor~~ land partitioning shall conform to standards mentioned in this section and Section 22.1 of this Ordinance. A partition does not include the creation of a street.

B. Initial Submission. The person proposing the partition, or his authorized agent, or representative, shall make an application in writing to the City Planner. Each application shall be accompanied by one reproducible copy of the tentative plan map, and any proposed deeds for easements. Ten (10) copies shall be submitted to the City Planner at least 45 days prior to the Planning Commission Hearing at which such plan would be considered. A filing fee as listed in Section 4 of this Ordinance shall be paid at this time.

C. All applicants shall submit to the City information and materials consistent with the

SECTION 23 29 - LAND DIVISIONS: (~~MINOR/MAJOR~~ PARTITIONS, SUBDIVISIONS) & PLANNED UNIT DEVELOPMENT

requirements of this section.

***D. Completed Application Form.*** *The applicant must submit a completed application form signed by the owner of record of the real property covered by the application. If more than one ownership is involved, the applicant shall submit a signed notarized statement from each property owner agreeing to participate in the project as a group. An application form may be signed by the duly authorized representative of the record owner if such authorization is evidenced by a properly executed power of attorney.*

***E. Site Plan.*** *A site plan is required only to the extent necessary to adequately and reasonably permit findings that the provisions of this section have been met. The City Planner is empowered to waive the submittal of any of the following site plan items, which are deemed unnecessary or inapplicable based on the nature, scope, and significance of the proposed project. Waiver of application items, if any, shall occur following a pre-application conference. If the City Planner position is vacant, all application materials must be submitted.*

***F. The applicant shall submit ten (10) copies of a site plan, accurately drawn to a scale of sufficient size to illustrate the following site plan details as determined to be required during the application conference and the review for completeness:***

- 1. The location and dimension of property boundaries and the location, name, surface type, and width of public and private streets, pedestrian ways, driveways, and any off-street parking, along with a north point and indication of scale.***
- 2. The accurate location and outline of the exterior walls of all existing buildings and structures, if any, with the square footages, uses, and heights of each clearly noted. Include setback dimensions for front, side, and rear yards.***
- 3. The site plan shall conceptually illustrate the location of existing major site features, including water courses, topography for sites having slopes in excess of 5%, rock outcroppings, drainage swales, springs, woodlands, and other physical features which may influence future site layout and design. If there are any special or unusual seismic, soil or geologic conditions on the site, a written disclosure to that effect must accompany the application.***
- 4. Street light, fire hydrant, water, sanitary sewer, and storm drain locations within 100 feet of the subject property. Show direction of flow for the site.***
- 5. Wells, septic tanks, and drainfields, if applicable.***
- 6. Flood elevation of 100-year floodplain or floodway, if applicable.***
- 7. Zoning, total land area; section lines, corners, city boundaries, monuments, and lot and block dimensions and identifying numbers.***

SECTION 23 29 - LAND DIVISIONS: (~~MINOR/MAJOR~~ PARTITIONS, SUBDIVISIONS) & PLANNED UNIT DEVELOPMENT

8. *Location and purpose of easements, if applicable.*
  9. *Title block with section, township and range; street address; title of proposal; names of applicant and owner; name and stamp of person preparing the plan (if applicable); and date of drawing.*
- G. *Application Fee. An application fee for processing all applications shall be charged by the City. No part of any application fee is refundable. Application fees shall be established by resolution of the City Council. Fees shall not exceed the actual average cost of processing services incurred by the City.*
- H. *Legal description of the existing property.*
- I. *Vicinity map. Mark the location of the proposal on the vicinity map available from the City Offices.*
- J. *Deed Restrictions. A copy of any covenants, conditions, and restrictions applicable to the subject property.*
- K. *At the time an application is made to divide a parcel into any number of lots, a conversion plan (Shadow plat) must also be submitted, if the parcel will have additional division potential after the current proposal is completed. The conversion plan (Shadow plat) must show how the parcel can be ultimately divided into the maximum practical number of lots allowed by the zoning.*

*The conversion plan (Shadow plat) must provide all of the graphic information required for a land subdivision or a partition, as applicable, based on the ultimate number of lots allowable under the zoning. The conversion plan (Shadow plat) must show how the presently proposed division will be compatible with the allowable ultimate land division. The conversion plan must be simultaneously recorded with the approved partition plat and shall be binding unless amended with the Planning Commission's approval.*

L. Review and Approval.

1. *Processing a Land Division may be subject to the Expedited procedures put forth in ORS 197.360 if requested by the applicant. A decision by the local governing body must be reached within 63 days of receipt of a completed application based on whether it satisfies the substantive requirements of this Title. Appeal procedures for expedited land divisions are contained in ORS 197.375.*
2. *Processing a commercial land partition proposal is a quasi-judicial action requiring discretionary decision-making. Commercial land partition approval is a Land Use Decision and subject to the procedures established by ORS 197.763. The Planning Commission has the authority to base its decision on the evidence and interpretation of City Comprehensive Plan and Zoning Ordinance criteria and standards.*

SECTION 23 29 - LAND DIVISIONS: (~~MINOR/MAJOR~~ PARTITIONS, SUBDIVISIONS) & PLANNED UNIT DEVELOPMENT

3. Within 30 days of the receipt of the completed partition application, the City Planner shall distribute copies thereof to appropriate offices and agencies, and property owners within the distance as described in Section 4 of this Ordinance, for their review. Not more than 15 days thereafter, such copies shall be returned to the City Planning Department together with any comments or information they *City Planner* deems necessary. Upon receipt of this information, the Planning staff shall transmit to the Planning Commission, or handle internally for administrative processing, a written report and recommendation including available reports and recommendation of the City Engineer and/or other affected agencies.
4. After receipt of the report, the City Planning Commission shall take action on the proposed partition at a regular meeting, or City Staff shall handle the process administratively, as directed by Section 4 of this Ordinance.
5. *If an application is incomplete, the City shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The applicant has 180 days from the date of initial submission to submit all additional information. The application shall be deemed complete for purposes of this subsection upon receipt by the City of the missing information.*
6. *The application must meet all of the following objective criteria:*
  - (a) *The application does not violate any City or State regulations, including, but not limited to, lot configuration requirements, unimpeded drainage, accessibility by public utilities and vehicular/foot traffic, and zoning requirements.*
  - (b) *The project is compatible and suitable within the context of its surroundings. This shall include, but not be limited to, consideration of human scale, street scape, landscaping, and any noise and lighting impacts.*
  - (c) *The development will be compatible with the use or character of any adjacent resource land.*
  - (d) *Development conforms to or minimally alters existing topographic features and seeks to preserve natural features. Development in areas adjacent to streams and those characterized by erosive slopes has been limited to the extent necessary to minimize risk to acceptable levels as determined by the City Comprehensive Plan or, where objective levels are not available, as determined by the Planning Commission.*
  - (e) *Natural wildlife habitats and wetlands have been identified, preserved, and protected.*
  - (f) *Adjoining land under the same or separate ownership can either be developed or be provided access that will allow its development in accordance with the City's*

SECTION 23 29 - LAND DIVISIONS: (~~MINOR~~ MAJOR PARTITIONS, SUBDIVISIONS) & PLANNED UNIT DEVELOPMENT

*Comprehensive Plan and this Code, and with the Tillamook County Comprehensive Plan and Code, where applicable.*

*(g) After partition, all lots must directly access a public street with a minimum frontage dimension determined in Section 22.1, except a flag lot as provided below.*

*(h) For Commercial land to be eligible for a land partition, the applicant must submit a legitimate development proposal to substantiate the need for the partition and the ability of the resulting parcels to provide adequate off-street parking and loading. If the city grants the partition and the development is not effectuated to an agreed upon point of construction within 180 days, the land reverts to the original configuration.*

**M. Flag lot standards.**

*1. If the original lot cannot be otherwise divided separately or in conjunction with adjoining lots and it can be demonstrated and guaranteed through a recorded building envelope, that the building site of the rear lot will be within 200 feet of an existing street, a deep lot may be split into a front and rear lot, creating a maximum of one flag lot. The length, width, and yard dimensions of each resulting lot must be at least the minimum required in the zoning district, with the front lot retaining a minimum lot depth of one hundred (100) feet.*

*2. The rear lot must have an access to the street that is at least twenty (20) feet wide with twenty (20) feet of frontage and a maximum length of one hundred and fifty (150) feet. The "flagpole" access must be conveyed with ownership of the rear lot and be an integral part of the rear lot.*

*3. The driveway access shall be improved to a permanent surface of asphaltic concrete, Portland cement, or similar surface acceptable to the Fire District with a minimum width of fifteen (15) feet. However, in order to minimize the number of parallel driveways accessing a public street, shared access agreements benefiting two adjacent parcels shall be encouraged, particularly where two accesses are less than fifty (50) feet apart.*

*4. The partition must still comply with the legal frontage requirement. However, the improvement requirement may be waived for the shorter driveway of two parcels sharing such an agreement.*

*5. In granting a permit, the Planning Commission may impose such reasonable conditions or limitations as it deems necessary to assure compliance with comprehensive plan and zoning ordinance criteria and standards. The Planning Commission may require dedication of land and easements, and may specify conditions or modifications in the drawing to facilitate development, including, but not limited to, deed restrictions and constructed improvements. Any conditioned*

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*changes shall be reviewed by the City Planner or his/her designee, prior to recording the final partition plat.*

**N. Approval and Filing.**

5.1. Approved partitions shall be signed by the Planning Commission chairperson or designee. The date of approval and any conditions attached to the approval must be completed prior to final approval.

6. 2. Decisions made by the Planning Commission may be appealed to the City Council in accordance with Section 33 of this Ordinance.

7. 3. Filing of Partition Map. *A partition plat conforming to all applicable provisions of ORS Chapter 92: Approval of Plans, Plats; ORS Chapter 209: County Surveyors; and other applicable ORS requirements must be prepared under the direction of, and bear the seal of, a licensed professional land surveyor. Prior to recording, the survey must be monumented. If the surveyor finds a discrepancy in a previous survey, the discrepancy must be corrected as part of the partition process. Signatures of all property owners whose properties are directly affected by the partition must be included on the application map.*

**8. 4. Filing approved plat.** *Within 180 days after the partition has been approved by the Planning Commission, all improvements must be completed and two (2) blueline copies of the indelibly inscribed and recorded partition plat, with the approval date and a reference adequately directing the reader to the file where conditions of approval are stored, are to be delivered to the city. If the improvements have not been completed or the two (2) copies of the partition plat are not submitted, then the partition plat shall become null and void. The Planning Commission may extend a partition approval for an additional period of up to one (1) year.*

**9. 4. ~~Lot~~ Property Line Adjustments**

A. Area of Application. A ~~lot~~ **property** line adjustment is a change to a property boundary that only modifies existing lots and does not create a new parcel of land or reduce the number of lots.

B. Standards

1. A ~~lot~~ **property** line adjustment cannot create or vacate a parcel. Creation or vacation of a parcel requires a separate approval process by the City of Tillamook.

2. Following the ~~lot~~ **property** line adjustment, all lots must comply with lot size and dimensional standards of the applicable land use district. For non-conforming lots, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.

3. If there are existing structures on the parcels, the ~~lot~~ property line adjustment may not result in a setback violation.

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C. Submittal Requirements. The following information and material must be submitted by the applicant:

1. Applications for ~~lot~~ *property* line adjustments shall be submitted on forms provided by the City to the City Planner and accompanied by the appropriate fee. The application must be signed by the owners of all lots affected by the application.

2. *All applicants shall submit to the City information and materials consistent with the requirements of this section.*

a. *Completed Application Form. The applicant must submit a completed application form signed by the owner of record of the real property covered by the application. If more than one ownership is involved, the applicant shall submit a signed notarized statement from each property owner agreeing to participate in the project as a group. An application form may also be signed by the duly authorized representative of the record owner if such authorization is evidenced by a properly executed power of attorney.*

b. *Site Plan. A site plan is required only to the extent necessary to adequately and reasonably permit findings that the provisions of this chapter have been met. The City Planner is empowered to waive the submittal of any of the following site plan items, which are deemed unnecessary or inapplicable based on the nature, scope, and significance of the proposed project. Waiver of application items, if any, shall occur following an application conference. If the City Planner position is vacant, all application materials must be submitted.*

*The applicant shall submit three (3) copies of a site plan, accurately drawn to a scale of sufficient size to illustrate the following site plan details as determined to be required during the application conference and the review for completeness:*

1. *The location and dimension of property boundaries and the location, name, surface type, and width of public and private streets, pedestrian ways, driveways, and any off-street parking, along with a north point and indication of scale.*

2. *The accurate location and outline of the exterior walls of all existing buildings and structures, if any, with the square footages, uses, and heights of each clearly noted. Include setback dimensions for front, side, and rear yards.*

3. *The site plan shall conceptually illustrate the location of existing major site features, including water courses, topography for sites having slopes in excess of 5%, rock outcroppings, drainage swales, springs, woodlands, and other physical features which may influence future site layout and design. If there are any special or unusual seismic, soil or geologic conditions on the site, a written disclosure to that effect must accompany the application.*

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4. *Street light, fire hydrant, water, sanitary sewer, and storm drain locations within 100 feet of the subject property. Show direction of flow for the site.*
  5. *Wells, septic tanks, and drainfields, if applicable.*
  6. *Flood elevation of 100-year floodplain or floodway, if applicable.*
  7. *Zoning, total land area; section lines, corners, city boundaries, monuments, and lot and block dimensions and identifying numbers.*
  8. *Location and purpose of easements, if applicable.*
  9. *Title block with section, township and range; street address; title of proposal; names of applicant and owner; name and stamp of person preparing the plan (if applicable); and date of drawing.*
- c. *Application Fee. An application fee for processing all applications shall be charged by the City. No part of any application fee is refundable. Application fees shall be established by resolution of the City Council. Fees shall not exceed the actual average cost of processing services incurred by the City.*
- d. *Legal description of the existing property.*
- e. *Vicinity map. Mark the location of the proposal on the vicinity map available from the City Offices.*
- f. *Deed Restrictions. A copy of any covenants, conditions, and restrictions applicable to the subject property.*

*3. At the time an application is made to adjust property lines, a conversion plan must also be submitted, if the parcel will have additional division potential after the current proposal is completed. The conversion plan (Shadow plat) must show how the parcel can be ultimately divided into the maximum practical number of lots allowed by the zoning.*

*The conversion plan (Shadow plat) must provide all of the graphic information required for a land subdivision or a partition, as applicable, based on the ultimate number of lots allowable under the zoning. The conversion plan (Shadow plat) must show how the presently proposed division will be compatible with the allowable ultimate land division. The conversion plan (Shadow plat) must be simultaneously recorded with the approved map of adjustment and shall be binding unless amended with the Planning Commission approval.*

*If an application is incomplete, the City shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the*

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*applicant to submit the missing information. The applicant has 180 days from the date of initial submission to submit all additional information. The application shall be deemed complete for purposes of this subsection upon receipt by the City of the missing information.*

D. Review Process. A ~~lot~~property line adjustment is subject to City Planner review. *Processing a property line adjustment permit is an administrative action that does not require discretionary decision-making. If the application fails to comply with all objective criteria for a property line adjustment, the permit must be denied. The application must meet all of the following objective criteria:*

- 1. The application does not violate any City or State regulations, including, but not limited to, lot configuration requirements, unimpeded drainage, accessibility by public utilities and vehicular/foot traffic, and zoning requirements.*
- 2. The drawing is technically correct and the map of survey conforms with the approved site plan.*
- 3. After property line adjustment, all lots must directly access either a public street or an easement that benefited the subject property(s) prior to the property line adjustment.*

E. After a ~~lot~~property line adjustment is approved, the new boundary becomes effective only after the following steps are completed:

1. A metes and bounds legal description of the adjusted lots is recorded with the Tillamook County Clerk.
2. As required by ORS Chapter 92, a final plat of survey *is* prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final plat is submitted to the City for signatures. After signatures are received the applicant files the final plat in the County Surveyor's office and returns three (3) copies to the City.

10. 5. Subdivision of Land. *A land subdivision is the division of one (1) lot into four (4) or more lots or any division that will create a street. The land subdivision is used in situations where substantial engineering and improvement work will need to be done.*

A. Application Conference. *It is in the best interests of the City to provide planning services that assist applicants in constructing appropriate developments. In that spirit, the City requires that prior to filing an application, a prospective applicant shall hold an application conference with the City Planner or his/her designee.*

*The purpose of an application conference is to provide advice to prospective applicants regarding compliance with the purpose and requirements of this Ordinance, and to determine which application materials must be submitted to constitute a complete application.*

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**B. Application Requirements.** *All applicants shall submit to the City information and materials consistent with the requirements of this section. The City Planner is empowered to waive the submittal of any of the following application items, except filing fees, which are deemed unnecessary or inapplicable based on the nature, scope, and significance of the proposed project. Waiver of application items, if any, shall only occur following an application conference. If the City Planner position is vacant, all application materials must be submitted.*

**C. Completed Application Form.** *The applicant must submit a completed application form signed by the owner of record of the real property covered by the application. If more than one ownership is involved, the applicant shall submit a signed notarized statement from each property owner agreeing to participate in the project as a group. An application form may also be signed by the duly authorized representative of the record owner if such authorization is evidenced by a properly executed power of attorney.*

**D. Tentative Plan.** *The applicant shall submit 20 copies of the plan on sheets not less than 18 inches by 24 inches at a scale of 1" = 50' with the following information:*

- 1. Proposed name and the title "Tentative Plan." The name shall not be similar to or pronounced the same as the name of any other subdivision in Tillamook County except as provided in ORS 92.090.*
- 2. The name, address, and telephone number of property owner(s), preparer of plan, surveyor, and engineers. The stamp of the registered professional preparer of the plan shall also be clearly indicated, along with the date the plan was prepared.*
- 3. Boundary lines (to scale) of the tract to be divided. This shall include section lines, corners, city boundaries, monuments, and lot and block dimensions and other identifying numbers as deemed necessary. The plan shall also include a North arrow and the zoning of the subject and adjacent properties. Location by section, township, range, and tax lot sufficient to define the location and boundaries of the proposed tract shall be called out in the title block.*
- 4. A vicinity sketch shown on the plat at a small scale (i.e., 1" = 400') showing all existing and adjacent subdivisions, streets, tract lines of acreage parcels, names of the recorded owners of parcels of land immediately adjoining the land to be divided, including properties across a street, and between it and the nearest existing or proposed public road.*
- 5. Topographic contour lines having the following minimum intervals:*

<i>Overall Site Elevation Difference</i>	<i>Contour Interval</i>
<i>0' - 25'</i>	<i>2'</i>
<i>26' - 50'</i>	<i>5'</i>

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51'+

10'

*With slopes indicated as follows:*

*Slopes 12% to 20% light shading.*

*Slopes exceeding 20% heavy shading.*

6. *The existing uses of the property, including scaled location and present use of all existing structures with an indication as to whether they will remain on the property after platting. The accurate location and outline of the exterior walls of all existing (dotted line) and proposed (solid line) buildings and structures, with the square footages, uses, and heights of each shall be clearly noted. Include setback dimensions for front, side, and rear yards.*
7. *The general type, size and location of existing (dotted line) and proposed (solid line) trees, shrubs and ground cover, including the location, height, and type of trees having a caliper of one and one half inches or greater measured four feet above the base of the tree. Groups of three or more trees with a closed canopy may be indicated using scalloped lines. The Landscaping Plan shall include a diagram of irrigation system piping and sprinkler locations.*
8. *The accurate location, height, and dimensions of all signs which are not to be attached to buildings.*
9. *Existing (dotted line) and proposed (solid line) exterior walls and fencing, including specification of construction materials and height.*
10. *The location and type of all exterior lighting.*
11. *The location of existing major site features, including water courses (location, direction, and extent of streams and their high banks), wetlands, rock outcroppings, drainage swales, springs, woodlands, significant isolated trees, and other natural features which influence site layout and design. Any proposed changes to such site features shall be shown.*
12. *The existing drainage demonstrating disposition of storm water runoff and the direction of flow for the site. A drainage Plan showing all proposed drainage ways, sized inlets, culverts, drainage lines, drainage easements, disposition of storm water runoff, and approximate slopes of drainage channels to demonstrate adequate disposition of storm water runoff. A grading plan is required if more than 100 cubic yards of material will be disturbed. Include slope calculations, contours, and erosion control.*
13. *The location and elevation of 100-year floodplains or floodways, and all other areas subject to seasonal ponding.*

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14. *The location of setback lines, along with the location, widths, and purpose of all existing or proposed easements on or abutting the tract.*
15. *The location and size of all existing and proposed sanitary sewer mains, storm drains, water lines, fire hydrants, street lights and irrigation canals on and within 100 feet of the tract. Include wells, septic tanks, and drainfields, if applicable.*
16. *The location of waste handling facilities and outdoor storage areas, along with screening technique.*
17. *The typical cross-sections of proposed streets, showing all utility improvements proposed within the street right-of-way and adjacent easements at such scale to clearly show the details thereof.*
18. *Existing Transportation: Location, names, surface types, grades, pavement dimensions of public and private streets, pedestrian ways, driveways, alleys, any off-street parking, and rights-of-way on and abutting the tract. Source of datum shall be indicated on the plan and shall be acceptable to the review body.*
19. *Proposed Transportation: Location, names, surface types, grades, pavement dimensions of public and private streets, pedestrian ways, driveways, alleys, any off-street parking, and rights-of-way on and providing service for the direct benefit of the proposed land division, including approximate radius of curves and grades. Include entry and exit points for motor vehicles and pedestrians using off-street parking areas, and internal circulation patterns, and location of any street plugs required to direct future street extensions.*
20. *A Future Transportation Plan: The pattern of future transportation routes from the boundaries of the proposed land division. This pattern must include other tracts within 200 feet of the proposed land division and properties to each side of a proposed route which will primarily benefit the proposed subdivision.*
  - (a) *A Future Transportation Plan shall not be required for any portion of the area for which a proposed street layout has been established by a Transportation System Plan previously approved by the governing body.*
  - (b) *The Planning Commission may adopt a Future Transportation Plan submitted by an applicant, provided the Transportation Plan does not conflict with a Transportation System Plan previously approved by the governing body and contains only local streets.*
  - (c) *If a Future Transportation Plan submitted by an applicant does conflict with a Transportation System Plan previously approved by the governing body or contains other than local streets, review and adoption of the Future Transportation Plan by the City Council will be required before a Tentative Plan can be approved.*

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21. *The numbering, location, dimensions, and lot sizes (in square feet or acres) of all proposed lots and blocks.*
  22. *The Building Envelopes necessary to show compliance with all setback requirements. Approved building envelopes shall be enforceable and recorded as a supplement to the final plat and/or covenants, conditions, and restrictions*
  23. *The locations of all areas to be dedicated or reserved for public use, with the purpose, condition, or limitations of such reservations clearly indicated.*
- E. Development Schedule.** *The applicant shall submit a construction timeline schedule showing all major events. If the project is to be constructed in phases, a schedule shall be submitted for each phase. Areas designated for staged development shall be indicated on the Tentative Plan.*
- F. Architectural Details.** *The applicant shall submit the details of any structures proposed to be built in conjunction with the proposed subdivision.*
- G. Deed Restrictions.** *The applicant shall prepare preliminary covenants, conditions, and restrictions (CCRs) that affect all resulting properties. These CCRs shall also establish a homeowners association if necessary to address the development and maintenance of all common areas. The proposed preliminary covenants, conditions, and restrictions, once approved, may not be substantially altered when presented back to the City in their final form.*
- H. Names and Mailing Addresses.** *The applicant shall submit the correct name and mailing address of all fee title holders of real property situated within 300 feet of the outer boundaries of the property covered by the application. The names and mailing addresses shall be submitted on an 8-1/2 by 11 inch sheet(s) of peel-and-stick transferable label paper. This information shall be provided to the City Recorder's office twenty-five (25) days in advance of the hearing at which the application is scheduled for consideration.*
- I. Application Fee.** *The applicant shall pay an application fee for processing all applications. No part of any application fee is refundable. The amount for such fees shall be established by resolution of the City Council. Fees shall not exceed the actual average cost of processing services incurred by the City.*
- J. Legal description of the property.** *The applicant shall submit a land division guarantee issued by a title insurance company in the name of the owner of the land showing all parties whose consent is necessary and their interest in the premise.*
- K. Supplemental Information.** *The applicant shall submit the following information:*
1. *Land use Tabulation:*

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- (a) Total Site Area (Acres).*
  - (b) Area Dedicated to Public Right of Way (Acres).*
  - (c) Useable Site Area (Acres - Item (a) minus item (b)).*
  - (d) Density Factor Used (du/Acre).*
  - (e) Minimum Allowable Dwelling Units*
  - (f) Maximum Allowable Dwelling Units (du - item (c) times item (d)).*
  - (g) Actual Dwelling Units (du) total, and per stage of development.*
  - (h) Area Recreation/Open Space (Acres and % Useable Site).*
  - (i) Area Impervious Surface (Acres, # of parking spaces, and % Usable).*
- 2. If the subdivision proposal is adjacent to any resource land, either in the City or in the County, a written mitigation plan is required that describes buffering techniques that will utilize current best management practices.*
- 3. A written disclosure to that effect that there are no special or unusual seismic, soil or geologic conditions on the site. If there are any such conditions, an engineer's report and recommendations as to mitigation of those concerns are required.*
- 4. A written statement that there are no wetlands on the subject. If, when compared to City wetland maps, there are any wetlands identified on or potentially impacted by the tentative plan proposal, the Division of State Lands shall be notified at least 30 days prior to any hearing.*
- 5. A statement showing the source and availability of the municipal water supply, sanitary sewer, adequate drainage, public parks, schools, transportation facilities, and police and fire services. The statement must be accompanied by a certification from the Public Works Director that verifies the statement's accuracy and that the services contemplated are available and can be furnished without unreasonable detriment to the existing service commitments of the City. In the absence on such certification, the statement shall be deemed insufficient to meet this requirement.*
- 6. A statement as to how the proposal satisfies all applicable zoning requirements.*
- L. Conversion Plan Requirement. If the land being subdivided is only a part of the land owned or controlled by the applicant or if the land will have additional division potential after the current proposal is completed, the applicant must submit a conversion plan (Shadow plat) for the unsubdivided portion, or convey the remaining development rights on that unsubdivided portion to a disinterested third party.*

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*The conversion plan (Shadow plat) must provide all of the graphic information required for a land subdivision above, based on the ultimate practical number of lots allowable under the zoning. The conversion plan (Shadow plat) must show the location and gradient of the streets and how they will connect to existing streets and streets proposed for the new subdivision. The conversion plan (Shadow plat) must show how the presently proposed division will be compatible with the allowable ultimate land division.*

*The conversion plan (Shadow plat) must be simultaneously recorded with the approved subdivision plat and shall be binding unless amended with the Planning Commission's approval.*

*M. Preparation of Tentative Plan. The tentative plan must be prepared under the direction of a registered civil engineer, or registered surveyor, licensed by the state of Oregon.*

*N. Additional Requirements for Commercial Proposals: For Commercial land to be eligible for a subdivision, the applicant must submit a legitimate development proposal to substantiate the need for the subdivision and the ability of the resulting parcels to provide adequate off-street parking and loading. The applicant shall submit the following:*

- 1. Parking Plan: A parking plan with adequate, convenient, well-marked and safely lighted off-street parking. Include shade trees and landscaping to ameliorate the effect of paved areas. Handicapped access is required. Loading areas must be safely integrated.*
- 2. Pedestrian Plan: A pedestrian circulation plan that provides adequate pedestrian access in the vicinity and within the project. The plan must provide hard surfaced, safely lighted walkways suitable for use by the handicapped.*
- 3. Traffic Plan: A traffic plan that provides adequate vehicle circulation in the vicinity of and within the project. The traffic plan must coordinate internal and external transportation networks, including bikeways and mass transit to extent possible. Traffic noise must be minimized.*
- 4. Loading Plan: A plan for loading dock or space that provides adequate room for safe truck backing and turning movements.*
- 5. Landscape Plan: A plan for landscaping including trees, bushes, shrubs, ground cover for site aesthetics, shade, visual buffers, screening, pedestrian paths, pavers, other site features, etc.*
- 6. Public Safety Plan: A plan for minimizing the likelihood of criminal activity by eliminating areas that are neither clearly private nor clearly public and by using landscaping that allows maximum observation while providing desired aesthetics.*

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*7. Perimeter Plan: A plan for the perimeter of the project to protect adjacent properties from noise, visual incompatibility, light glare, heat pumps, fans, or other potential nuisances. This may be accomplished through screening, setbacks, siting, or other means.*

*O. Determination of a Complete Application.*

*1. If an application is incomplete, the City shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information.*

*2. The applicant must submit all additional information 180 days from the date of initial submission. The application shall be deemed complete for purposes of this subsection upon receipt by the City of the missing information.*

*3. The applicant must make available for public inspection at the Tillamook City Offices, the complete application and all evidence to be used by the applicant in seeking approval no less than 14 days prior to the first public hearing date regarding the proposal.*

*4. Initial Submission. Twenty (20) copies of a tentative plan consistent with Section D (1-through-18) shall be submitted to the City Planner at least 30 days prior to the meeting of the City Planning Commission.*

*5. Preliminary Review. Upon receipt of a notice of a complete application within 30 days, accompanied with filing fees, the applicant shall transmit copies of the tentative plan to each of the following:*

*a) School District.*

*b) State Department of Transportation (ODOT) if the property abuts a state highway.*

*c) Electric, telephone, garbage, and cable TV utilities.*

*d) County Surveyor.*

*e) Affected Governmental Agencies and Special Districts, and others, as determined by the City Planner.*

*Any comments received will be included in the staff report as part of the official record and distributed to the review body.*

*6. The City Planner shall prepare a report on the plan findings for submission to the City Planning Commission. The report shall include information on the Comprehensive Plan, Comprehensive Plan Background Report, zoning, adjoining streets and property, existing sewers, water mains, culverts, electric conduits, and other community facilities, in*

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addition to features of the proposal, together with any other data pertinent to the review of the plan.

7. The City Planner shall provide adequate public notice according to Section 4 (subsections 10 & 11), of this Ordinance. Individual notices shall be mailed to all owners of parcels of land within 250 feet of the subdivision boundaries, according to Section 4 (3) of this Ordinance.
8. Planning Commission Determination. *The City Planning Commission shall determine whether the tentative plan is in conformity with the provisions of the Comprehensive Plan and this ordinance.*

*P. Limited land use decision. Subdivision approval shall be considered a "Limited Land Use Decision" and subject to the procedures established by ORS 197.195. Following review and a recommendation by the City Planner, the Planning Commission shall approve, approve with condition(s), or deny the application based on the evidence and the application of the comprehensive plan and zoning ordinance criteria.*

*Q. Proposal presentation. The licensed professional(s) who is retained by the applicant to prepare the application, including the tentative plan, must supervise the presentation of the proposal before the Planning Commission and be available for questioning during the presentation.*

*R. Burden of Proof. The applicant must produce substantial evidence to support the requisite findings of compliance with all the standards and criteria applicable to subdivisions.* As a quasi-judicial process, the Planning Commission shall determine whether the tentative plan is in conformity with the provisions of the Comprehensive Plan and of this Ordinance.

1. *The review body shall approve, approve with conditions or deny the request, based upon the following criteria:*

*a) That the project will maintain a high quality visual appearance, and to the extent possible, a distinct rural/urban transition at city limits along major city entryways.*

*b) That the project will be compatible with the use or character of any adjacent resource land.*

*c) That the project conforms to or minimally alters existing topographic features and seeks to preserve natural features. Development in areas adjacent to streams and those characterized by erosive slopes has been limited to the extent necessary to minimize risk to acceptable levels as determined by the Comprehensive Plan, or where objective levels are not available, as determined by the Planning Commission.*

*d) That the project identifies, preserves, and protects natural wildlife habitats and wetlands.*

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e) That the project demonstrates the adequate availability of the following:

1. public sanitary sewers
2. drainage facilities
3. municipal water facilities
4. transportation facilities
5. police and fire services
6. public elementary schools
7. improved parks or recreation facilities

f) Alternately, that the applicant agrees to provide, concurrent with the subdivision development, such improvements as would bring any inadequate facilities and services to the level necessary to accommodate the project.

g) That the project's proposed transportation plan affords the most economic, safe, efficient and least environmentally damaging circulation of people, goods, and information and layout of utilities and parking possible.

h) That the project, through sensitive housing and site design, minimizes the cost of housing and barriers to the handicapped.

i) That the project demonstrates that adjoining land under the same or separate ownership can either be developed or be provided access that will allow its development in accordance with the City's Comprehensive Plan and this Code, and with the Tillamook County Comprehensive Plan and Code, where applicable.

j) That the project complies with all design standards contained in this Title and applicable portions of the Comprehensive Plan, this code, and State and Federal Laws.

2. In granting a land subdivision permit, the Planning Commission may impose such reasonable conditions or limitations as it deems necessary to assure compliance with Comprehensive Plan and Zoning Ordinance criteria and standards, or State and Federal laws. The Planning Commission may require dedication of land and easements, and may specify conditions or modifications in the drawing to facilitate development, including, but not limited to, deed restrictions and constructed on-site and off-site improvements. All conditions of approval shall be satisfied prior to final plat approval unless otherwise specified by the review body.

3. If the City Planning Commission does not approve the plan, it shall state the reasons for denial. The action of the Planning Commission shall be noted on two copies of the tentative plan, including any conditions attached thereto. The Planning Commission shall retain one copy and the other returned to the subdivider. An appeal, to the City Council of a Planning Commission decision, may be made consistent with Section 33 of this Ordinance.

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*S. Revised Tentative Plan. Prior to receiving a development permit for the tentative plan, the applicant shall submit a revised plan to the Planning Commission demonstrating compliance with the conditions of tentative plan approval. The review body may waive this requirement if no significant modifications are required. Any significant modifications must be approved by the Planning Commission.*

*T. Filing Tentative Plan. After the tentative plan has been approved, or approved as revised, two (2) copies are to be indelibly inscribed with the approval date and a reference adequately directing the reader to any documents that describe conditions of approval. One (1) copy of the inscribed tentative plan is to be given to the applicant and one (1) copy is to be filed with the city recorder.*

*U. Expiration of Tentative Plan. Within 18 months following the effective date of approval of a tentative plan, improvements must be completed and the final plat shall be submitted to the City Planner and shall incorporate any modification or condition required by the approval of the tentative plan. If the improvements have not been completed or the final plat has not been submitted for approval, then the tentative plan shall become null and void.*

- 1. The Planning Commission may extend the validity for good cause, for one (1) additional year. An extension must be applied for in writing before the original eighteen months expire. Upon granting such an extension, the City Planner shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant taking the tentative plan back through the application process and that no other development approval would be affected.*

*V. Staged Development. When an applicant desires to record and develop subdivision plats in stages, the reviewing body may authorize a time for the submittal of the final plat and development in various stages. The time period may exceed one year, but in no case shall the total time period for all stages exceed five years without resubmission of the tentative plan application for review and approval. Each stage so platted and developed shall conform to the applicable requirements of this Code. Stages platted after one year are subject to further review against current standards for compliance with modifications or any changes in the Comprehensive Plan or implementing regulations.*

*W. Preparation of Final Plat. The subdivision final plat must be prepared under the direction of, and bear the seal of, a licensed professional land surveyor. All subdivisions shall be surveyed by a registered professional land surveyor, setting lawfully approved monuments at all the parcel corners. If the surveyor finds a discrepancy in a previous survey, the discrepancy must be corrected as part of the subdivision process. Signatures of all property owners whose properties are altered by the subdivision must be included on the final plat.*

- 1. Submission of Final Plat. Within eighteen months after approval of the tentative plan, the subdivider, or land divider shall cause the proposed subdivision, or any part thereof, to be surveyed and a plat thereof prepared in conformance with the tentative plan as*

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approved or conditionally approved, unless an extension is requested in writing and granted by the Planning Commission.

a. A request for extension must be submitted prior to the expiration of *eighteen months, as described in "U" above.*

b. An original drawing and five blue line or black line prints of the plat shall be submitted to the City Recorder.

*2. A subdivision final plat must subsequently be approved if it is substantially the same as the approved tentative plan and complies with all other city and state requirements.*

***X. Determining Complete Submittal and General Conformance.*** *Within 18 months of tentative plan approval, or not later than the extension date authorized by the Planning Commission, a final plat shall be submitted to the City Planner for review and processing. With 30 days of submission, the City Planner shall determine whether or not the application is complete and the final plat generally conforms with the approved tentative plan and conforms with the applicable requirements of this Code. If the City Planner determines that generally the final plat fails to conform, or if the required supplemental information required is inadequate, then the applicant shall be advised and afforded an opportunity of up to 30 days to make corrections.*

1. Information on Final Plat. *At the time of submittal of the final plat, all required materials and required fees shall be accepted by the City Planner prior to review of the final plat. The final plat shall be prepared under the supervision of a licensed professional land surveyor and contain the following information, along with any additional information required by Oregon Revised Statute Chapter 92, Section 209.250 and other applicable ORS statutes:*

*a) The date, north arrow, and scale.*

*b) Legal description of the tract boundaries.*

*c) Name of the owner or owners, subdividers, and engineer or surveyor.*

*d) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:*

*1) Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision.*

*2) Adjoining corners of adjoining subdivisions.*

*3) City boundary lines when crossing or adjacent to the subdivision.*

*4) Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this Ordinance.*

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*e) The exact location and width of streets and easements intercepting the boundary of the tract.*

*f) Tract, block and lot or parcel boundary lines and street right-of-way and centerlines, with dimensions, bearings or deflection angles, radii, arcs, points or curvature, and tangent bearings. Approximate high water lines and high banks for any creek, lake or other body of water. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with bases of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.*

*g) The width of the portion of streets being dedicated and the width of existing right-of-way. For streets on a curvature which are being dedicated, curve data shall be based on the street centerline dimensions, the radius and central angle shall be indicated.*

*h) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. New easements shall be referenced in the owner's certificates of dedication.*

*i) Lot numbers beginning with the number "1" and numbered consecutively.*

*j) The area of each lot or parcel which is one acre or larger to the nearest hundredth of an acre. If less than one acre, the area to the nearest square foot.*

*k) Block numbers in any addition in the subdivision of the same name shall be a continuation of the numbering in the original subdivision. No other block numbers shall be used.*

*l) Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale. The following phrasing shall be used when identifying open space dedications.*

*1) Common Open Space - shall be used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved Homeowners Association group or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owners of property within the subdivision.*

*2) Public Open Space - shall be used when identifying those parcels of land dedicated in fee simple to the City of Tillamook or Tillamook County for open space purposes.*

*3) Open Space or Landscape Easement - shall be used to identify that portion of a lot or lots that has established an open space or landscape easement agreement with the City of Tillamook, or a Homeowners' Association.*

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*m) The following certificates which may be combined where appropriate:*

- 1) A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the final plat.*
- 2) A certificate signed and acknowledged as above, dedicating all lots for land shown on the final plat intended for the exclusive use of the owners in the subdivision, their licensees, visitors, tenants, and servants.*
- 3) A certificate conforming to ORS 92.060 through 92.070 with the seal and signature of the surveyor responsible for the survey and final plat.*
- 4) A certificate or transfer deed signed by all parties having any proprietary interest in the land, dedicating to the public all streets and roads, without any reservation or restriction other than reversionary rights upon vacation of any such street or road, and easement for public utilities.*
- 5) Other certifications now or hereafter required by law.*

*n) Statement of Water Rights: A statement of water rights noted on the subdivision plat together with the water rights certificate number, if applicable, per ORS 92.120 (5).*

*o) Final Plat Notes: The City may require, through the terms of approval, additional notes to be placed on the face of the plat including, but not limited to, restrictions, notices, and special conditions which are peculiar to the subdivision. The City shall not require that the plat show graphically any information or requirement that is, or may be, subject to administrative change or variance.*

*p) Supplementary Information. As required by the City Planner, the applicant must submit:*

- 1) A subdivision guarantee issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises, and written documentation stating that all taxes and assessments are paid to date. The report must not be more than thirty (30) days old at the time it is submitted.*
- 2) A copy of all final conditions, covenants and deed restrictions applicable to the subdivision.*
- 3) A copy of **all** dedication agreement requiring separate documents.*
- 4) Contracts with the private companies that will install public utilities and improvements.*

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5) *Mylar Sheets and drawings showing the following:*

i) *Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.*

ii) *The computation of distances, angles, and courses shown on the plat.*

iii) *Ties to existing monuments, proposed monuments, adjacent subdivision, street corners and street highway stationing.*

iv) *Floodway or 100 year Floodplain designation, as applicable.*

6) *Building envelope and/or setback lines, if any, are to be made a part of the subdivision's Deed Restrictions.*

7) *Any and all instruments of improvement guarantees, including warranty bonds.*

8) *Payment of 110% in advance of all outstanding inspection fees incurred by the City and bonding for 110% of all estimated inspection fees that are likely to be incurred by the City with any remaining work yet to be completed.*

*q. Referral for Review. On the same day the applicant submits the application to the city, the applicant must also mail or deliver copies of the application to each of the following:*

1) *School District.*

2) *State Department of Transportation if the property abuts a state highway.*

3) *Electric, garbage, telephone and cable TV utilities.*

4) *County Surveyor.*

5) *Affected Governmental Agencies and Special Districts, and others, as determined by the City Planner.*

*Any comments received will be included in the staff report as part of the official record and distributed to the review body.*

r. Technical Review. Upon receipt of the final plat and accompanying data, the City Planner shall review the plat and documents, to determine that it conforms to the proposed tentative plan. *The City Planner shall review the final plat and shall state*

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*findings on whether to approve or deny the request. A denial of the final plat shall render the tentative plan void.*

*s. The City Planner shall approve or deny the request based upon the following criteria:*

- 1) The final plat must be accompanied by application must contain all of the final plat and supplemental all of the information asked for in this chapter.*
- 2) The layout shown on the subdivision plat must be substantially the same as the layout approved for the tentative plan.*
- 3) The subdivision plat must be technically correct.*
- 4) All required off-site and on-site improvements and other conditions of approval have been satisfied or guaranteed.*

*t. Processing a subdivision final plat is an administrative action that does not require discretionary decision-making. The application for Final Plat and all required material is judged solely on its merits by the City Planner. If the application fails to comply with all objective criteria, the subdivision final plat must be denied.*

*u. Following the final action of approval by the City Planner, the applicant shall obtain the following signatures on the original of the final plat:*

- 1) The County Surveyor*
- 2) The director of any Special District (such as Fire) shown on the final plat.*
- 3) The County Assessor certifying that all taxes on the property have been paid or bonded for in accordance with State law.*
- 4) The City Administrative Services Department certifying that all fees, charges, and special assessments on the property have been paid.*
- 5) Following (1) through (4) above, the review authority of the final plat, and other officials as required by law.*
- 6) Following (5) above, the Tillamook Planning Commission.*

v. At the applicant's expense a City engineer or surveyor may examine the plat for compliance with requirements for accuracy and completeness and shall collect such fees as are provided by state law. He may make checks in the field to verify that the map is sufficiently correct on the ground, and he may enter the property for this purpose. If he determines that there has not been full conformity, he shall advise the subdivider of the

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changes or additions that must be made and afford the subdivider an opportunity to make such changes or additions.

w. If the engineer determines that full conformity has been made, he shall so certify and transmit the plat to the Planning Commission.

2. Final Plat Approval of City Planning Commission/ City Manager or Designate. If the City Planning Commission determines that the plat conforms to all requirements, it shall approve same, but before certifying its approval thereon, it shall be required that the subdivider file the agreement and bond, or make the deposit, required in Section 8 of this Section and when the agreement and bond have been filed as approved and prescribed, the City Planning Commission approval shall be endorsed upon the plat by execution of the appropriate certificate as prescribed by law. The approval of the plat does not constitute or affect an acceptance by the public of the dedication of any street or other easement shown on the plat.

3. Filing of Final Plat. *After obtaining all required approvals and signatures, the developer shall:*

*a) Within 90 days, file the plat with the County Recorder. Failure to file within 90 days will render the final plat null and void, and will require resubmission of the tentative plan in the same manner as a new tentative plan.*

*b) File one print each of the approved and recorded plat with the City Planner and the City Engineer.*

4. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.

Y. Appeal.

1. A person may appeal to the City Council a decision or requirement of the Planning Commission. Written notice of the appeal must be based on criteria and filed with the city within 10 days after the **notice of decision has been mailed**. The notice of appeal shall state the nature of the decision or requirement and the grounds for the appeal.

2. The City Council shall hold a hearing on the appeal according to Section 33 of this Ordinance. The City may continue the hearing for good cause according to Section 33 of this Ordinance. The Council may uphold, modify, or overrule the decision of the Planning Commission.

6. Planned Unit Development (PUD)

A. Purpose. To encourage development of large land areas as planned building groups by making possible greater variety, **functionality**, and diversification in the location and orientation of buildings and open spaces. It is further the purpose of Planned Unit Developments to ~~utilize and take advantage of: advances in technology and design; the potential of sites characterized by special features of geography, topography, size and shape;~~

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and opportunities to further the objectives and policies of the Tillamook City Comprehensive Plan.:

1. Promote creative and imaginative design for urban development in a way that is more compatible with the natural topography.
2. Promote the preservation of important natural features, view sheds, and scenic qualities of the land.
3. Promote a mixture of housing types.
4. Promote a more economic and efficient use of urbanizable land while integrating with the surrounding neighborhood and not compromising the public health, safety or general welfare.
5. Promote clustering of housing to preserve open space, historic & heritage resources and limit the amount of key facilities or infrastructure to service the development.
6. Promote a mixture of land use types that are thoughtfully planned and integrated.
7. Promote the development, public utilization and appropriate maintenance of open spaces and other elements intended for common use and ownership.
8. Provide opportunities to further the objectives and policies of the Tillamook City Comprehensive Plan.
9. Promote the use of energy-efficient, sustainable, development.
10. Promote construction of pedestrian ways including internal pedestrian circulation.

*A PUD proposal must serve at least three of the above purposes.*

**B. Application Requirements.** ~~Applicability of Planned Unit Development Regulations.~~ The requirements for a Planned Unit Development set forth in this Section are in addition to the conditional use procedures and standards of Section 27. *The owner or his agent may make application for planned unit development approval by filing an application with the city. When an application is submitted for a planned development, the following items will be submitted:*

- 1. A filing fee in an amount established by general resolution of the City Council. No part of the fee shall be refundable;*
- 2. A current assessor's map with the boundaries of the proposed PUD identified;*
- 3. Preliminary Plan. All applications shall be accompanied by a general development plan (12 copies). Additionally, such plans shall include preliminary plans for the provision of public access, water and sanitary sewer service and a proposal for the PUD's operative Covenants, Codes, and Restrictions (CCRs). The applicant shall also submit*

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*one copy of the Preliminary PUD Plan which has been reduced to a size suitable for photocopy reproduction.*

*4. If a tentative plan for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plan shall be on separate sheets, with the tentative plan submitted in accordance with the application requirements of subsection 9.*

*5. The following Quantitative data is required:*

*a. Total number and type of dwelling units;*

*b. Parcel sizes;*

*c. Proposed lot coverage of buildings and structures;*

*d. Approximate residential densities; total amount of open space (including separate figures for common open space and usable open space);*

*e. The total amount of non-residential acreage (including a separate figure for commercial and industrial acreage) .*

*f. A Development Schedule shall be submitted for each phase. Areas designated for staged development shall be indicated on the Tentative Plan. The schedule shall indicate the approximate date when construction of a Planned Unit Development is expected to begin and end, or if developed in phases, the development schedule for each phase shall be keyed to a plan that indicates phasing boundaries. The schedule coordinates the improvement of the common open space, and the construction of buildings and other structures in the common open space with the construction of the primary structures in the Planned Unit Development.*

*6. Site Plan and Supporting Maps: A site plan and any maps necessary to show the major details of the proposed planned development must contain the following minimum information:*

*a. The existing site conditions, including contours at two-foot intervals, shorelines, flood plains, unique natural features, and forest cover;*

*b. A grading plan for the site showing future contours if the existing grade is to be changed by more than two feet;*

*c. Proposed lot lines and other divisions of land for management, use or allocation purposes;*

*d. The approximate location of present and proposed buildings and structures;*

*e. The location and size of all areas proposed to be conveyed, dedicated, or reserved for streets, parks, playgrounds, public and semi-public buildings, and similar uses;*

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*f. The existing and proposed vehicular circulation system including off-street parking and loading areas;*

*g. The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system, indicating proposed treatments of points of conflict;*

*h. The existing and proposed utility systems including sanitary sewers, storm sewers, and water, electric, gas, and telephone lines;*

*i. Enough information on land areas adjacent to the proposed development to indicate the relationship between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, and unique natural features of the landscape;*

*j. The proposed treatment of the perimeter of the development, including materials and techniques used such as screens, fences, and walls;*

*k. Any additional information as required by the review authority necessary to evaluate the character and impact of the proposed development.*

*When the approval of architectural plans for buildings has been proposed, the Preliminary PUD Plan shall show the footprint of planned buildings in conceptual form and indicate their approximate height(s). Such building envelopes shall reasonably anticipate and separately define the maximum extent of the footprint for each building in the PUD.*

*7. A narrative description of the PUD shall cover the following:*

*a. The nature, planned use, future ownership and method of perpetual maintenance of accessways and land to be left in natural or developed open space or which is otherwise to be held in common ownership.*

*b. A listing of all deviations from the strict provisions of this Code by citing each provision of the Code to be deviated from, followed by a brief explanation which covers the nature and extent of the deviation.*

*c. A proposed development schedule which indicates the approximate date when construction of the PUD is expected to begin and end. If the PUD will be developed in phases, the development schedule for each phase shall be keyed to a plan that indicates PUD phasing boundaries.*

*d. Such other pertinent information shall be included as may be considered necessary by the Planning Commission to make a determination that the contemplated arrangement or use makes it necessary and desirable to adopt regulations and requirements differing from those ordinarily applicable under this chapter.*

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*8. Written findings of fact and conclusions of law which address the approval criteria.*

*9. The names and mailing addresses of the owners of property which are located within 200 feet of the exterior boundary of the whole PUD. The names and mailing addresses shall be typed on mailing labels.*

*C. Limitation on application. No application shall be accepted for a use which will require a change of zoning district, unless said application is accompanied by an application for a zoning amendment as set forth in Section 4 of this Ordinance.*

~~I. B.~~ Applicability of Planned Unit Development Regulations. The requirements for a Planned Unit Development set forth in this Section are in addition to the conditional use procedures and standards of Section 27.

*2. PUD approval process. Approval of a PUD shall be a two-step process involving approval of a Preliminary PUD Plan as the first step and approval of a Final PUD Plan as the second step. Where use is made of the planned unit development process as provided in this section, no building or other permit shall be issued for such development or part thereof until the Planning Commission has approved said development.*

~~3. C.~~ Findings for Project Approval. The Planning Commission ~~or City Planner~~ shall approve a Planned Unit Development only if it finds that the Planned Unit Development will satisfy the criteria of this section including the following:

~~1. The Planned Unit Development is an effective and unified treatment of the development possibilities on the project site while remaining consistent with the Comprehensive Plan, and making appropriate provisions for the preservation of natural features such as streams and shorelines, wooded cover and rough terrain.~~

~~2. The Planned Unit Development will be compatible with the area surrounding the project site and with no greater demand on public facilities and services than other authorized uses for the land.~~

~~3. Financing is available to the applicant sufficient to assure completion of Planned Unit Development.~~

*a. The applicant has, through investigation, planning and programming, demonstrated the soundness of the proposal, the fact that it will result in a safe, functional and attractive development, and the ability to carry out the project as proposed.*

*b. The proposal conforms with all requirements found in Section 22 and Section 22.1 that are relevant to the property or properties upon which that development proposal is located or to the off-site facilities and services which are affected by the proposal, and any other implementing ordinances of the City in terms of location and general development standards, except those for which a specific deviation has been approved under this section.*

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*c. The project shall accrue benefits to the city and the general public in accordance with this section sufficient to offset any requested deviations to the zoning district.*

*d. The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points and additional street rights-of-way improvements.*

*e. The project will be compatible with the adjacent natural environment and resource areas, and shall compliment the character of the area.*

*f. The property is or can be supplied, at the time of development, with the following types of public facilities that are determined to be sufficient in their condition and capacity to support development of the property as anticipated by the PUD:*

- 1. Public sanitary sewerage collection facilities;*
- 2. Public domestic water distribution facilities;*
- 3. Storm drainage facilities;*
- 4. Public Streets;*
- 5. Parks and Recreational facilities.*

*In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a whole PUD project, nothing in this criterion shall prevent the approval of early phase of a PUD which can be supplied with adequate public facilities.*

*g. In the case of proposed commercial developments, that such development is needed at the proposed location to provide adequate commercial facilities of the type proposed; that traffic congestion will not likely be created by the proposed center, or will be obviated by presently proposed improvements and by demonstrable provisions in the plan for proper entrances and exits, and by internal provisions for traffic and parking; that such development will be an attractive and efficient center which will fit harmoniously into and will have minimal adverse effects upon the adjacent or surrounding development.*

*h. The proposal has met three of the above criteria objectives in this subsection.*

*i. Developments shall be designed to provide pedestrian and bicycle access and link with existing and planned pathways.*

*j. Designs such as detached garages to the rear of the residence shall be encouraged to reduce the conflict between automobiles and pedestrians. If an alley is available, it shall service the detached garage, if traffic impacts on other properties adjacent to the alley can be mitigated. If lot size, shape, topography, or traffic circumstances prohibit such relationships or render them impractical, attached garages may be permitted provided that the garage is located at least ten (10') feet behind the front wall of the house.*

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~~4. D. Potential Uses.~~ The following uses are allowed in a planned development if the planning commission or City Planner considers them appropriate for the particular development being proposed and if other applicable standards are satisfied: *Potential Uses in a residential zone. The following uses are allowed in a residential planned development if the Planning Commission considers them appropriate for the particular development being proposed and if other applicable standards are satisfied:*

- ~~a. 1.~~ Single-family dwellings, detached or attached, *row houses, on individual lots or in cooperative or condominium ownership;*
- ~~b. 2.~~ Duplexes and triplexes;
- ~~c. 3.~~ Multi-family housing developments;
- ~~d. 4.~~ *Manufactured home, mobile house, or modular home;*
- ~~e. 5.~~ Commercial uses supported mainly by residents of the planned development when such commercial uses require an area no larger than five percent of the area devoted to residential uses;
- ~~f. 6.~~ Non-residential uses permitted in the underlying zone as either an outright use or a conditional use.

5. Size of the Planned Unit Development Site. A tract of land to be developed as a Planned Unit Development shall contain not less than four (4) contiguous acres and be of a configuration that is conducive to a Planned Unit Development.

6. Density. The density of a planned development shall not exceed the density of the underlying zone, *if any, with uses permitted singly or in combination. When calculating density, the gross area of the PUD shall be used (total area including street dedications). Areas of common use may be included in calculating allowable density.*

*7. Deviations to be authorized. The Planning Commission may authorize the design and approval of PUD's which deviate from the strict standards of this Code. It is further provided that the nature and extent of potential Code deviations shall be limited to the limitations, restrictions and design standards which are listed below and pertain to:*

- a. The size, dimension, location, position and coverage of lots;*
- b. The location, size, height, yards and setbacks for buildings and other structures;*
- c. Off-street vehicle parking and loading;*
- d. Lot frontage, access, buffer yards and agricultural buffering;*
- e. Streets with respect to length, width, intersection standards, grades, curve radii, turnarounds, easements, street lighting, sidewalks, curbs and driveway approaches for streets within the PUD, provided they allow for adequate fire access.*

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*f. It is further provided that any deviations from the standards adopted in this Code shall be of an equivalent or better structural quality with respect to the amount, quality and installation of construction materials. It is also provided that, when deviations are proposed for the design of streets, the City Engineer shall have sole discretion whether said streets will be accepted as dedicated city streets or shall be held in private ownership and such determination shall be made at the time the Preliminary PUD Plan is approved. In no instance, shall this section be used to deviate from the standards of this Code, which apply to collector or arterial streets whether such streets occur adjacent to or within the PUD.*

*g. The overall residential housing density for the entire portion of the PUD, which is devoted to residential uses, may be increased by not more than thirty-five percent over the maximum density allowed in the underlying zone. Density bonuses shall be applied in seven (7%) percent increments by the Planning Commission; satisfied by the applicant's design.*

*h. One or more additional uses may be approved without the need to comply with the conditional use permit process or other criteria as part of the PUD provided that the amount of land devoted to uses other than those permitted outright in the underlying zone shall not exceed twenty percent of the gross acreage of the entire PUD is satisfied.*

*i. The percentage of land within the PUD allowed for other uses shall be computed by multiplying the gross area of the PUD by a factor of 0.2 and rounding the result down to the nearest whole number.*

8.G. Dimensional and Bulk Standards.

~~a.1.~~The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a Planned Unit Development is proposed do not apply within a Planned Unit Development. Such standards may be less than the minimums set forth in this ordinance, provided that the residential density, open space, and other requirements of this section are satisfied.

~~b.2.~~ No building shall be located closer than 20 feet from any street right-of-way within the planned development. Other setbacks may be established by the Planning Commission to provide adequate light, ventilation, privacy, and other characteristics.

~~c.3.~~ If the spacing between main buildings is not equivalent to the spacing, which would be required between buildings similarly developed under this Ordinance on separate parcels, other design features shall provide light, ventilation and other characteristics equivalent to that obtained from the spacing standards.

~~d. 4.~~ Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection outside the boundary lines of the development comparable to that otherwise required of development in the zone.

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~~e. 5.~~ The maximum building height shall, in no event, exceed those building heights prescribed in the applicable zoning district in which the Planned Unit Development is proposed, except that a greater height may be approved if surrounding open space within the Planned Unit Development, building setbacks, and other design features are used to avoid any adverse impact due to a greater height.

9. H. Open Space: Common Areas.

~~a. 1.~~ In all planned developments, forty percent (40%) of the total land area shall be devoted to open space. ***This open space may be in the form of yards, buffers, setbacks, common open areas, or recreational facilities.*** Of this 40%, seventy-five percent (75%) of this area shall be common *or shared* open space, and the remaining twenty-five percent (25%) of said open space may be utilized privately by individual owners or users of the planned development. **Notwithstanding the previous standards, the Planning Commission may increase or decrease the open space requirements depending on the particular site and the needs of the development.**

~~b. 2.~~ No open area may be accepted as common open space within a Planned Unit Development unless it meets the following requirements:

~~a. 1.~~ The location, shape, size and character of the common open space is suitable for the planned development.

~~b. 2.~~ The common open space is for amenity, recreational, or other common functionality purposes and the uses authorized are appropriate to the scale and character of the Planned Unit Development, considering its size, density, expected population, topography, and the number and type of dwellings provided.

~~c. 3.~~ Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.

~~d. 4.~~ The development schedule which is part of the development plan coordinates the improvement of the common open space, and the construction of buildings and other structures in the common open space with the construction of the primary structures in the Planned Unit Development.

~~e. 5.~~ If buildings, structures or other improvements are to be made in the common open space, the developer provides a bond or other adequate assurance that the buildings, structures and improvements will be completed. The City Manager shall release the bond or other assurances when the buildings, structures and other improvements have been completed according to the development plan.

~~c. 3.~~ Land shown on the final development plan as common open space shall be conveyed under one of the following options:

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~~a.~~ 1. To a public agency, which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it.

~~b.~~ 2. To an association of owners or tenants, created in accordance with the laws of the state, which shall adopt and impose articles of incorporation and bylaws, and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space and other common elements.

~~c.~~ 3. No common open space may be put to a use not specified in the final development plan unless the final development plan is amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved.

~~d.~~ 4. If the common open space is not conveyed to a public agency, the covenants governing the use, improvement and maintenance of the common open space shall authorize the City to enforce their provisions at the City's discretion, and shall require City Council ratification of any amendments after initial approval.

*d.* 4. The development schedule which is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of primary structures in the planned development.

*e.* **Where a PUD has open spaces, parking areas or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and in no event shall any lot or unit be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:**

**1. If the PUD is a planned community under ORS Chapter 94, the declaration and plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Commission before being recorded in the official records of Tillamook County.**

**2. If the PUD is a condominium under ORS Chapter 100, the declaration and plat for the condominium shall have been recorded in the official records of Tillamook County and a copy of the recorded declaration and plat shall be submitted with the Final PUD Plan. A condominium declaration and plat that has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Tillamook County is not required to be reviewed and approved by the Planning Commission and the Planning Commission shall have no authority under this Subsection to require changes thereto.**

**3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually**

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*maintained for their intended purposes. The legal documents, in such instance, shall be submitted to the Planning Commission for approval as part of the Final PUD Plan before being recorded in the official records of Tillamook County.*

*4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be proportional with the development of housing and other elements intended for private ownership. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.*

*5. Land shown on the Final Development Plan as a common element shall be conveyed under one of the following options:*

*a. To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.*

*b. To an association of owners created pursuant to ORS Chapters 94 and 100 or as otherwise created under Subsection 17.64.090(3), in which instance the City shall be made a party to the legal document which establishes the association and such document shall provide that the association cannot be terminated or discontinued without the City's prior consent, and that the City may enforce any and all of its provisions.*

10. I. Transportation.

a. Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Minor streets within planned developments shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

b. Streets in a planned development *may* be dedicated to public use. All streets will be constructed in accordance with City Public Works design standards unless an alternative is accepted by the Planning Commission based upon the applicant's engineer attestation as to its equal functionality, safety, and durability.

c. All uses shall comply with access, parking, and loading standards as shown in Section 25 of this ordinance. *The Planning Commission may authorize exceptions where warranted, or may specify additional requirements when appropriate.*

11. J. Signs. All signs larger than eight (8) square feet within a planned development are subject to approval of the Planning Commission. The Planning Commission shall consider each such sign on its merits based on the aesthetic impact on the area, potential traffic hazards, and the need for the sign.

12. K. Compatibility with Adjacent Development. If topographical or other barriers near the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Planning Commission shall require buildings in the planned development to be setback an adequate distance, as determined by the Planning

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Commission, from the perimeter and/or require an attractively designed and maintained buffer in the form of vegetation, fencing, walls, and/or berms.

~~13. M.~~ Utility Easements. Easements necessary for the orderly extension and maintenance of public utilities may be required as a condition of approval.

~~14. O.~~ Accessory Uses in a Planned Unit Development. In addition to the accessory uses typical of the primary uses authorized, accessory uses approved as a part of a Planned Unit Development may include the following uses:

- a. Golf courses;
- b. Private park, lake or waterway;
- c. Recreation area;
- d. Recreation building, club house or social hall;
- e. Other accessory structures which the Planning Commission finds are designed to serve primarily the tenants of the Planned Unit Development, and are compatible to the design of the Planned Unit Development.

~~15. Q.~~ Review Procedures.

a. 1. Planned developments will be reviewed in two phases; a preliminary development plan phase and a final development plan phase. However, pre-application review of the project before these phases is required.

b. 2. The preliminary development plan will include the information and procedures specified in subsection 6, of this Section. If the proposed planned development involves subdividing land, the preliminary plat shall be reviewed concurrently with the preliminary development plan.

*1. a. Planning Commission Action. The Planning Commission shall act upon the application for a Planned Unit Development within 120 days of a determination of complete application by the City Planner, **excluding such time as may be required to complete any necessary zoning amendment.** A Public hearing shall be held in accordance with provisions in Section 27 as modified by this section.*

*2. **Planned Unit Development is a limited land use decision and shall be conducted in accordance with ORS 197.195, excepting that the Planning Commission may take verbal testimony. Pursuant to ORS 197.195, only those submitting written testimony during the 14-day comment period shall have the right to appeal said decision.***

3. In taking action, the Planning Commission may approve, approve with conditions or deny the Planned Unit Development based on the Preliminary Development Plan. Any Planned Unit Development authorized shall be subject to all conditions imposed. Any approval of a Planned Unit Development granted hereunder, shall be exempted from other provisions of this Ordinance only to the extent specified in

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said authorization. Any approval of a preliminary Planned Unit Development granted hereunder, shall lapse and become void unless, within 18 months after the final granting of approval, or within such other period of time as may be stipulated by the Planning Commission as a condition of such approval, construction of the buildings or structures involved in the development has begun and diligently pursued. The Planning Commission may further impose other conditions limiting the time within which the development or portions thereof must be completed.

4. The decision of the Planning Commission shall be final unless appealed to the City Council according to the procedures set forth in Section 33.

c. 3. Within three (3) months to a year following the approval of the preliminary development plan, or approval of the plan with conditions, the applicant shall file with the City a final development plan containing in final form the information required in the preliminary plan. This plan may be for the entire development or, when submission in stages has been authorized, for the first stage of the development.

d. 4. If the City Planner finds evidence of a material deviation from the preliminary development plan, the City Planner shall advise the applicant to submit an application for amendment of the Planned Unit Development to the Planning Commission. An amendment shall be considered in the same manner as an original application. If no significant deviation from the preliminary development plan is found, the City Planner will approve the final planned development.

~~L. Final Plat Approval of City Planning Commission/ City Manager or Designate The City Planning Commission, under quasi-judicial review, shall examine the proposed plat to determine whether it conforms to the tentative plan and with all changes permitted and all requirements imposed as a condition of its acceptance. If the City Planning Commission does not approve the proposed plat, they shall advise the subdivider of the changes or additions that must be made for this purpose, and shall afford him the opportunity to make the same. If the City Planning Commission determines that the plat conforms to all requirements, it shall approve same, but before certifying its approval thereon, it shall be required that the subdivider file the agreement and bond, or make the deposit, required in Section 8 of this Section and when the agreement and bond have been filed as approved and prescribed, the City Planning Commission approval shall be endorsed upon the plat by execution of the appropriate certificate as prescribed by law. The approval of the plat does not constitute or affect an acceptance by the public of the dedication of any street or other easement shown on the plat.~~

~~M. Filing of Final Plat. A subdivider shall, without delay, submit the plat for signatures of other public officials required by law. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.~~

***e. Approval of final PUD plan; Approval criteria. The following provisions shall govern the submittal and approval of a Final PUD Plan:***

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*1. Filing Requirements; Time Extensions: Within twelve months following final approval by the Planning Commission of the Preliminary PUD Plan, the applicant shall file a Final PUD Plan on forms supplied by the City. The Final PUD Plan shall contain in final form all information and materials required by the Preliminary PUD Plan approval. However, there shall be no burden to demonstrate compliance with the above approval criteria and no findings of fact and conclusions of law for these criteria are required in order for the Planner to approve a Final PUD Plan. The Final PUD Plan shall incorporate all conditions imposed by the Planning Commission at the time the Preliminary PUD Plan was approved. In its sole discretion and upon the written request by an applicant, the Planning Commission may extend the time for filing a Final PUD Plan for one additional twelve-month period or such lesser period as may be established by the Planning Commission.*

*2. Phased PUD: Time Limit Between Phases: The Final PUD Plan may be submitted for the entire project or on a phase-by-phase basis consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Subsection shall prevent the Planner from approving a Final PUD Plan in phases provided that the Final PUD Plan complies with all other requirements of this Chapter. If the Planner approves a Final PUD Plan for the first phase of a PUD having approved multiple phases, such approval shall perfect the applicant's rights under this Section to complete subsequent future phases. However, it is further provided that after Final PUD Plan approval for the first phase and for each successive phase thereafter, no more than five years shall elapse between the approval of phases. If more than five years pass between the Final PUD Plan approval of any two PUD phases, the Planning Commission may, without consent of the owners of the PUD, initiate action to terminate undeveloped portions of the PUD under the public hearing provisions of Section 27. Nothing in this Subsection shall prohibit or limit the ability of the Planning Commission to establish time periods within which substantial construction of a PUD or any phase thereof is required to occur after a Final PUD Plan has been approved.*

*3. Final Plat for Land Division: Application for the approval of a Final PUD Plan may occur before, after or concurrent with the approval of a final plat for a land division by the City Planner. However, it is further provided that no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved.*

*4. Final PUD Plan Approval Criteria: A Final PUD Plan shall be approved by the Planner or Planning Commission if they conclude that compliance exists with each of the following criteria:*

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*a. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in subsection*

*b. The Final PUD Plan is substantially consistent with Preliminary PUD Plan and the conditions, if any, which were attached by the Planning Commission to the approval of the Preliminary PUD Plan. An applicant may seek written clarification from the Planner or Planning Commission regarding whether any anticipated differences between the Preliminary and Final PUD Plans meet the test of being substantially consistent. In no instance shall a Final PUD Plan be approved if inconsistencies with the approved Preliminary PUD Plan exist in any of the ways listed below, and when such inconsistencies are found to occur, these shall result in the need to approve a revision to the approved Preliminary PUD Plan.*

*1. The exterior boundaries of the PUD shall not change except for slight deviations which are the result of correcting boundary errors or inconsistencies that are found to exist at the time the PUD property is surveyed.*

*2. The number of housing units shall not be increased and in no instance shall the number of housing units be decreased by more than two percent.*

*3. There are new deviations to provisions of this Code which were not approved by the Planning Commission as part of the Preliminary PUD Plan.*

*5. Engineering construction plans.*

*a. Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by a qualified engineer registered in Oregon. The required engineering plans shall be submitted to and approved by the City before the start of construction.*

*b. Unless specifically authorized by the Planning Commission at the time of Preliminary PUD Plan approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the City or other public entity to which ownership of said facilities or utilities will be conveyed. The procedures for engineering design, plan approval and inspection shall in all respects be the same as for land divisions under this Code.*

*6. Zoning Clearance and Building permits: Development and operation of a PUD.*

*a. All site, building and construction plans submitted for the purpose of obtaining building and other site improvement permits shall be consistent with the approved Final PUD Plan. In addition to other provisions of the Tillamook Municipal Code and law, the City shall have authority under this Section to*

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*ensure the successful completion of all public improvements. The development and operation of the PUD shall conform in all respects with the approved Final PUD Plan.*

16. R. Control of the Development After Completion. The final development plan shall continue to control the Planned Unit Development after it is finished, and the following shall apply:

~~a. 1.~~ The building official in issuing a Certificate of Completion of the Planned Unit Development shall note the issuance *to the City* on the recorded final development plan.

~~b. 2.~~ After the Certificate of Completion has been issued, the use of the land and the construction, modification or alteration of a building or structure within the Planned Unit Development shall be governed by the approved final development plan.

~~c. 3.~~ After the Certificate of Completion has been issued, no change shall be made in development contrary to the approved final development plan without approval of an amendment to the plan, except as follows:

~~1. a.~~ Minor modifications of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the final plan and do not increase the cubic footage of a building or structure.

~~2. b.~~ A building or structure that is totally or substantially destroyed may be reconstructed without approval of an amended Planned Unit Development if it is in compliance with the purpose and intent of the final development plan.

~~d. 4.~~ An amendment to a completed Planned Unit Development may be approved by the Planning Commission if it is required for the continued success of the Planned Unit Development, if it is appropriate because of changes in conditions that have occurred since the final development plan was approved, or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related land use regulations.

*e. Revision of a preliminary or final PUD plan. The revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval, provided that:*

*1. For changes deemed by the Planner to be minor, the Planner shall exercise appropriate discretion to limit and waive the submittal of any of the required filing materials that are deemed to be excessive, repetitive or unnecessary based upon the scope and nature of the proposed PUD revisions; and*

*2. At the sole discretion of the Planner, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan; and*

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*3. The burden of proof and supporting findings of fact and conclusions of law for the criteria shall be strictly limited to the specific nature and magnitude of the change.*

~~4. 5.~~ No modification or amendment to a completed Planned Unit Development is to be considered as a waiver of the covenants limiting the use of the land, buildings, structures and improvements within the area of the Planned Unit Development; and all rights to enforce these covenants against any change permitted by this section are expressly reserved.

17. S. Commercial/Industrial P.U.D. In addition to the criteria contained in subsection 6 of this section, a P.U.D. within a Commercial or industrial zone shall be subject to the following standards:

- ~~a. 1.~~ The principal uses conducted on the site are either outright or conditional uses for the respective zone. Conditional uses shall meet the review criteria of Section 27.
- ~~b. 2.~~ Secondary uses shall be directly related to the principal use, or provide support services including, but not limited to, transportation, housing, commercial service and commercial retail.
- ~~c. 3.~~ Secondary uses should be limited to 30% of the buildable area within the P.U.D.

18. Termination of a PUD. *A PUD may be terminated by action of the Planning Commission subject to the following procedures:*

*a. If substantial construction or development of the PUD has not occurred or if no lots or units therein have been sold, the PUD may be terminated by filing with the City a written petition signed by the owner or owners who control a majority interest in the land covered by the approved PUD. Upon receipt of a petition submitted by the PUD owners, the Planning Commission shall consider the matter in open meeting and may declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and, after the Final Order is signed, the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall in no way affect other land use actions taken by the City which concern the PUD property.*

*b. If substantial construction or development of the PUD has occurred or if lots or units within the PUD have been sold, the PUD may be terminated by filing with the city a written petition signed by the owner or owners who control a majority interest in the land covered by the approved PUD. Upon receipt of the petition, the Planning Commission shall give public notice of the proposed PUD termination and conduct a public hearing on the matter. The Planning Commission may declare the PUD terminated if it concludes that the termination will not produce greater than minimal harm to the public health, safety or general welfare. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and, after the Final Order is signed, the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD*

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*shall in no way affect other land use actions taken by the City which concern the PUD property.*

**12. Monuments.**

***A. In addition to requirements of state law and other provisions of this Ordinance, permanent monuments of a type approved by the city shall be set in the following locations:***

- 1. At each boundary corner of the subdivision, at the beginning and end of the property line curves and at any other points required by the city.***
- 2. At intersections of street center line tangents or offsets therefrom, and where such intersect on private property, at the beginning and end of the center line curve or offsets therefrom.***

***B. Any required monument that is disturbed or destroyed before acceptance of all improvements shall be replaced by the applicant.***

***C. Complete field notes, in a form satisfactory to the city, showing references, ties, locations, elevations, and other necessary data relating to monuments and bench marks set in accordance with the requirements of this ordinance shall be submitted to the city, to be retained by the city as a permanent record.***

## SECTION 2230 – SITE PLAN REVIEW

1. Purpose. The purpose of the Site ~~Development Standards~~ **Plan Review process** is to bring under special review those projects involving building design and the development of land where inappropriate development may cause a conflict between uses in the same adjoining district by creating unhealthful or unsafe conditions, and thereby adversely affecting the public health, safety, and general welfare.
2. Objectives
  - A. Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of development.
  - B. Discourage monotonous, drab, unsightly, dreary and inharmonious design.
  - C. Conserve the City's natural beauty and visual character and charm by ~~e~~nsuring structure signs, and other improvements are property related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures, signs and other improvements, and;
  - D. Protect and enhance the City's appeal to tourists and visitors, and thus support business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.
3. Types of Development Requiring **Site Plan Review** Approval.
  - A. An administrative site plan review shall be conducted when plans are made in the R-0, C-C, C-N, C-H, I-L, I-G Zone District for:
    - 1) Conversions of residences to commercial uses.
    - 2) Expansion of existing commercial, industrial, or public facility uses and structures if the expansion is less than 50% of the existing structure or less than 10,000 square feet (whichever is smaller) and exceeds 50% of the market value before improvement or repair is started  
[Note: if the exterior structural addition, extension or relocation of, or to, an existing structure does not equal or exceed 50% of the market value of the structure before the improvement or repair is started, Site Plan Review approval is not required].
    - 3) Previously approved site plan reviews that are null and void **after one year** and no changes are proposed.
  - B. A site plan review shall be conducted before the City Planning Commission when plans are made in the R-0, P & S-P, C-C, C-N, C-H, I-L, I-G Zone District:
    - 1) ~~For a new structure, exceeding 120 square feet in size, on a vacant/undeveloped piece of property.~~
      - 1) **For all new developments, expansion and major modification of existing developments, except it shall not apply to:**

SECTION 2230 – SITE PLAN REVIEW

- a. Single-family detached dwellings;
  - b. Manufactured homes on individual lots;
  - c. A duplex, which is not being reviewed as part of any other development;
  - d. Minor modifications;
  - e. Home occupations
- 2) For expansion of an existing structure, which is greater than 50% of the existing structure or greater than 10,000 square feet and exceeds 50% of the market value before improvement or repair is started.
- 3) ~~For a multi-family dwelling have five or more units.~~
- C. A site plan review within the TC Overlay District shall be conducted before the City Planning Commission, as specified below:
- ~~1) For a new structure.~~
  - ~~2) For an exterior structural addition, exterior extension, exterior remodeling, or other exterior development that requires a building permit or other permit required by this Ordinance, site plan review shall be required for development which equals or exceeds 10% of the market value of the structure before the improvement or repair is started. County assessment records shall be used as the basis for establishing market value.~~
  - ~~3) For an exterior structural addition, exterior extension, exterior remodeling or other exterior development that requires a building permit or other permit required by this Ordinance which has a market value below the threshold established above, compliance with the standards in this section shall be processed by administrative action. In processing administrative requests, the Director *Planner* may waive selected submittal requirements if they are not necessary to determining compliance with this chapter. In addition, the Director *Planner* may forward any request to the Planning Commission for review if the scale or nature of the proposal merits broader review.~~
- D. A site plan review shall be conducted in conjunction with any conditional use permit in any zone district of the City of Tillamook.

4. Site Plan Review Requirements.

Planning Commission Authority. The Planning Commission shall approve, approve with conditions or disapprove, the site plans for all buildings or structures in those zoning districts where Site *Plan Review* Standards are *is* required, except those eligible for administrative review as listed in subsection 5 of this Section.

5.7 Application for Site Plan Review. A request for site plan review may be initiated by a property owner or authorized representative. The application shall be filed with the Planning Department, accompanied by a filing fee as determined by the Tillamook City fees schedule

## SECTION 2230 – SITE PLAN REVIEW

~~listed in Section 10 (8), and by a written statement addressing each of the Criteria and Standards as listed above in Subsection 6 of this Section 22. The applicant shall also pay the cost of publication and notification as required by Section 10 (3). One (1) copy of the site plan shall be submitted for preliminary approval, and a pre-application conference needs to be scheduled, prior to acceptance of the application, as per the following subsection 8.~~

**6.8 Preliminary Site Plan Approval.** A site plan for the total parcel shall be prepared and one (1) copy shall be submitted to the City Planner for review, at the time a pre-application conference is held. If, at the time of the pre-application conference, the City Planner finds that the site plan meets ~~the~~ ***all submittal*** requirements of ~~Section 22 (5) & (6)~~, the application shall be prepared for the Planning Commission for review and a hearing, according to the ***relevant*** application procedures ***described in Section 10***. Additional materials may be requested that are essential to the proposed use, site or its relationship to surrounding properties.

7. Site Plan Procedures. The site plan shall be drawn to scale and indicate the following:

A. Site Plan to locate where appropriate:

- 1) Structures, both existing and proposed
- 2) Driveways
- 3) Landscaped areas
- 4) Off-Street vehicle and bicycle parking spaces
- 5) Points of egress and ingress, including on-site traffic movement
- 6) Loading areas
- 7) Utility service and drainage areas
- 8) Pedestrian pathways and internal circulation
- 9) Fences and walls
- 10) Relationship of site to abutting properties

B. Landscape Plan

- 1) Topography, existing grades, elevation and proposed grades
- 2) Existing trees
- 3) Species, size and location of plant materials

C. Architectural Drawings

- 1) Floor Plans
- 2) Any other improvements
- 3) Elevations (existing and proposed)

D. Exterior Surface Specifications

- 1) Type
- 2) Color
- 3) Texture
- 4) Elevations
- 5) Any other improvements

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E. Exterior Lighting

- 1) Type
- 2) Height
- 3) Area of illumination

F. Sign Plan

- 1) Location
- 2) Size
- 3) Design
- 4) Material
- 5) Color
- 6) Method of illumination, if lighted

G. Traffic Capacity Plan

- 1) Points of egress and ingress, including on-site traffic movement
- 2) Off-street parking
- 3) A carrying capacity plan detailing trips and general traffic generated by the business activity of full development.
- 4) Vision clearance areas

8. Criteria

- A. All of the above-listed objectives have been satisfied;***
- B. All negative environmental and historical impacts have been mitigated;***
- C. All development, parking, signage, and utility standards have been met; and***
- D. There is adequate public utility capacity available (or can be made available by the developer) to service the impacts of the development.***

~~and Standards. Each of the following must be addressed by the applicant in order for the Site Plan Review application to be considered complete:~~

~~A. Preservation of Landscape. The existing landscape shall be preserved in natural state, in so far as practicable, by minimizing tree and soil removal, and any other grade changes shall be in keeping with the appearance of developed areas. For all landscaping, live material shall be predominantly used.~~

~~— B. Landscaping Requirement~~

~~—— 1) New Construction~~

~~———— a) Commercial and industrial development shall provide an amount of landscaping which equals 10% of buildable area in landscaping. Public and semi-public developments shall provide an amount of landscaping, which equals 15% of buildable area. Placement of required landscaping shall not be restricted to within the buildable area, but may be located within the required setback areas.~~

~~———— b) Multi-family and mobile park development shall provide an amount of landscaping which equals 10% of buildable area in landscaping in addition to open space requirements. Placement of required landscaping shall not be~~

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~~restricted to within the buildable area, but may be located within the required setback area.~~

### ~~2) Existing Buildings and Structures~~

- ~~a) Existing buildings which expand into an undeveloped area, including the building upwards of a structure shall devote the same percentage of landscaping as is listed for new construction in Section 22, 6b. Exceptions may be made in the case where a structure covers the entire lot area, or when expansion of a structure does not exceed 10% of the square footage of the existing building's ground floor area.~~

### ~~3) Landscaping Requirement Prior to Occupancy~~

- ~~a) All landscaping required and approved by site review for Sections b.1 and b.2 aforementioned shall be installed prior to issuance of occupancy certificates. Exceptions to this would be an alternate schedule authorized by the Planning Commission, including cases where a project is being accomplished in phases. In the case of each phase development, all landscaping must be completed for the phase being developed prior to issuance of an occupancy certificate. Exception may be made due to adverse weather conditions upon application to City Manager.~~

### ~~4) Height and Size~~

- ~~a) Height and screening may be emphasized through the planting of deciduous trees. If deciduous trees are used, they should have straight trunks, be fully branched, have a minimum caliper of 1 1/4 inches, and a minimum height of eight (8) feet at the time of planting. Deciduous trees can be supplied bare root provided the roots are protected against damage. Each tree is to be adequately staked.~~
- ~~b) Evergreen trees and shrubs must be balled and burlapped or in suitable containers in which the tree or shrub has grown for one (1) year. If balled and burlapped, the ball of each tree or shrub shall be firm and burlap sound; no loose ball or made ball will be acceptable. Each tree shall be a minimum of six (6) feet in height, fully branched, and adequately staked at the time of planting.~~
- ~~c) Ground cover shall be supplied in a minimum 4" size container. Ground cover plantings shall be planted on a maximum of 30" on center and 30" between rows. Rows of plants are to be staggered for a more effective covering. If a 2 1/4" container is used, planting 18" on center may apply within the above guidelines.~~
- ~~d) Shrubs shall be supplied in one gallon containers or 9" 10" burlap balls with a minimum spread of 12" to 15"~~

### ~~5) Off-Street Parking Areas~~

~~Landscaping shall be used to define, soften and screen the appearance of off-street parking areas from public rights of ways.~~

- ~~a) Evergreen and/or deciduous plant material shall have a minimum height at the time of planting of 18"–24".~~

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~~b) Parking lot plants and/or berms shall be designed to allow surveillance of the lot from the street at several points.~~

~~6) Special Features~~

~~Exposed storage areas, trash receptacles, service areas, truck loading areas, utility buildings and similar accessory areas and structures shall be subject to setbacks, screen plantings and other screening methods to prevent their being incongruous with existing surrounding properties.~~

~~7) Live Material, Compatibility and Maintenance~~

~~All live material used for landscaping must be compatible with climate and soil conditions prevalent to the coastal areas; thus reducing the risk of costly replacement. All landscaping required and approved through site review shall be continually maintained, including necessary watering, weeding, pruning and replacement.~~

~~8) Alternatives~~

~~Occasionally strict adherence to the above landscaping specifications may be unduly harsh or found to be in conflict with a particular development plan. A developer may therefore propose alternatives for Commission consideration. Deviations from specified requirements must be shown to the Commission's satisfaction that they are not in conflict with the overall intent of this section, which is to promote adequate and pleasing landscaping for development.~~

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~~C. Signs. As per Section 24.~~

~~D. Color Exterior Structures.~~

~~The use of color on buildings, structures, and accessory uses shall be in keeping with the surrounding environment and uses. An appropriate list of colors will be provided by the Commission upon request.~~

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~~F. Utility Service.~~

~~1) It shall be encouraged that whenever feasible, electric, telephone and other utility lines shall be located underground.~~

~~2) Utility lines and installations remaining above the ground shall be located to the rear of the site so as to have a harmonious relationship to adjacent and abutting properties and the site.~~

~~3) Solid waste disposal containers shall be screened and placed away from public view in an areas as indicated in site plan (as per subsection 6b(6)).~~

9. Additional Materials for submittal.

A. Traffic Capacity Analysis\*

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- 1) The ~~Planning Commission~~ **Planner** may require a proposed development to submit a detailed Traffic Capacity Plan.
- 2) The following requirements are to be dealt with as part of the total Site Development Plan for high traffic generating developments adjacent to highway:
  - a) The analysis shall include alternatives for access to the development from highways, country roads, and city streets.
  - b) The analysis of alternative access should include:
    - (1) Existing daily and P.M. peak hour counts by traffic movements at intersections affected by generated traffic from the development.
    - (2) Projected daily and P.M. peak hour volumes for these same intersections and proposed access points when the development is in full service. This shall be shown by the use of traffic flow diagrams.
- 3) A determination of the existing levels of service and projected levels of service at each intersection and access points studies. These determinations shall be in conformance with nationally accepted capacity manuals or equivalent manuals.
- 4) An analysis of the need for traffic signals. This should include a traffic warrant computation based on the National Manual on Uniform Traffic Control Devices.
- 5) A complete analysis of the trip generation for the development, following the "1976 Institute of Transportation Engineer's Information Report" Trip Generation or the most current information.
- 6) The recommendation made in the analysis should be specific, and should be based on a minimum level of service "D" when the development is in full service. As an example, if a traffic signal is recommended, the recommendation should include the type of signal control and what movements should be signalized. If storage lanes for right and left turns are needed, the recommendation should include the amount of storage needed. If several intersections are involved for signalization, and an interconnect system is considered, specific analysis should be made concerning progression of traffic between intersections.
- 7) The analysis should also include considerations for bicycle and pedestrian usage of the development.

\* Oregon Department of Transportation, Highway Division, "Minimum Requirements for Traffic Report"

### H. ~~Surface/Storm Water Drainage~~

~~Adequate provisions shall be made to insure proper drainage of surface waters, to preserve natural flow of watercourses and springs, and to prevent soil erosion and flooding as per Section 20, Flood Hazard Overlay Zone.~~

### I. ~~Agricultural Areas~~

- 1) ~~All rear lot lines abutting the Tillamook County F-1 Zone shall be fenced.~~

## SECTION 2230 – SITE PLAN REVIEW

- ~~2) Additional setbacks and landscaping requirements may also be required as needed.~~
- ~~3) In conjunction with the abutting or adjacent Tillamook County F-1 Zone, as part of the requirements for development, the following declaratory statement be entered into the building permit and chain-of-title:~~

~~"The subject property is located adjacent to or abutting an area designated by Tillamook County and recognized by Tillamook City for agricultural uses. Accepted farm practices in these adjacent or abutting areas may create inconvenience for the owners of adjacent properties. However, Tillamook City does not consider it the agricultural operator's responsibility to modify farm practices to accommodate owners or occupants of surrounding property, with the exception of such operator's violation of existing federal and state or local laws."~~

### J. Historic Resources

- ~~1) Sites currently listed on the Statewide Inventory of Historic Sites and Buildings, as well as any future sites of historic importance, shall be subject to additional site review criteria.~~
- ~~2) In addition to the requirements of this section, any demolition, interior remodeling or alterations to an historic building, or development of an historic site shall be subject to ***an additional*** public hearing. ***At the time of mailing of the public notice***, the City shall give 45 days notice to the State historical Office and local historic interest groups of the proposed development in order to determine an appropriate course of action. The testimony of these groups shall be included in the staff report to the Planning Commission.~~

### K. Wetlands Planning Area

- ~~1) The intent of this subsection is to provide adequate protection for environmentally sensitive areas in all zones within the UGB. Areas of concern include perennial streams, sloughs, rivers, and wetlands with their associated fish and wildlife species and riparian wetland vegetation. The location of these areas is shown in the "Wetland Planning Map for the City of Tillamook City", adopted herein by this reference.~~
- ~~2) The following is a list of protection policies, as listed in Section 21 of this ordinance, for riparian vegetation:~~
  - ~~a) A setback of 50' shall be required for all buildings and construction that are not water dependent, on all wetlands, mainstreams of the Trask and Wilson Rivers, Hoquarten, Dougherty, and Hall Sloughs.~~
  - ~~b) Riparian vegetation shall be maintained in the above setbacks where it exists, and is encouraged to be re-established whenever practical.~~
  - ~~c) For streams and sloughs, setback measurements shall be measured horizontally from the ordinary high water line. For wetlands, setback measurements shall be measured horizontally from the line of non-aquatic vegetation.~~
  - ~~d) The applicant shall be responsible for obtaining any applicable development permits from State and Federal agencies.~~

## SECTION 2230 – SITE PLAN REVIEW

- ~~3) All structures shall be located outside of areas listed in (2) above, unless direct water access is required in conjunction with a water dependent use or if the Oregon Department of Fish and Wildlife determines that because of natural features such as topography, a narrower riparian area protects equivalent natural values.~~
- ~~4) Exemptions from (3) above and from the applicable setback requirement for the front or rear yard that is opposite the riparian area may be granted without a variance for uses on lots of record as of the date of adoption of this ordinance, where the combination of setbacks required by this section result in a buildable lot depth of less than 45 feet. Exemption from the riparian setback shall be minimum necessary to accommodate the proposed use after the yard opposite the riparian area has been reduced to a width of no less than ten feet.~~
- ~~5) In the event of a proposed development within a wetland or setback area, a copy of the proposed development as per Section 22 5(a-g) will be submitted to the O.D.F.W. for review.~~
- ~~6) O.D.F.W. shall have a 30-day review period from the date of application in which to provide written comments and recommendations on the proposed development. During this review period, no site alteration shall be allowed to take place. The recommendations issued by the O.D.F.W. will be presented as part of the staff recommendation and shall be followed by the appropriate reviewing body in determining the appropriate development action.~~

### **B.K**      Other Requirements

Any other such architectural or engineering data may be required by the Planning Commission *Planner* to permit the necessary findings that provisions of this Ordinance *Development Code* are complied with.

- ~~1) In coastal shorelands, proposals for structural shoreline stabilization shall be subject to structural stabilization standards in Section 3.140 of the Tillamook County Ordinance No. 33 (adopted by reference in Section 21 of the Tillamook City Zoning Ordinance).~~

~~L. Historic Architectural Design Guidelines for the Town Center Zone District: To create harmony between the existing architectural character and new elements introduced into the Town Center, all new structures, additions and uses should be compatible with the prevailing character of the surrounding area. Existing buildings in the downtown core reflect architectural styles that were popular as late as the 1940s. The most recognized features from this timeframe are:~~

- ~~◆ Buildings with no setback from the sidewalk.~~
- ~~◆ Uniform architectural rhythm of alternating columns and bays.~~
- ~~◆ Large storefront display windows at street level suitable for commercial use.~~
- ~~◆ Upper stories, typically for residential use, with “punched” masonry openings and double hung windows.~~
- ~~◆ Articulated parapets and cornices that vary from building to building~~
- ~~◆ Masonry as the predominant building material.~~

## SECTION 2230 – SITE PLAN REVIEW

~~Existing buildings should be restored to their historic forms. New buildings should be compatible with the historic forms described above. In an effort to promote quality design for new infill buildings and the rehabilitation of existing buildings, the following specific guidelines apply.~~

- ~~1) Retention of Original Construction. So far as practicable, all original exterior materials and details (including doors and windows) should be preserved.~~
- ~~2) Building Width.
  - ~~◆ The width should not exceed that which was traditional for the building styles of the Town Center.~~
  - ~~◆ The width should maintain the traditional scale and proportion of the building style and be visually compatible with adjacent historic buildings. Where building sizes will not be equivalent or comparable, larger building facades shall be broken down into units that resemble the size of existing storefront facades.~~~~
- ~~3) Roof Form. Roof forms contribute to the identity of the Town Center because historically they were flat with parapets, false fronts or gables concealed by a parapet or false front, in contrast to the pitched roofs in the residential neighborhoods. New construction and rehabilitation should maintain the traditional storefront architecture of the downtown in articulation of its roof forms along the street edge.

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  - ~~◆ Roof forms should be consistent with those commercial buildings of the historic period of the Town Center.~~
  - ~~◆ Parapet and flat roofs are recommended. Pitched roof forms associated with residential structures are not recommended, unless concealed by a parapet.~~
  - ~~◆ Detailing of the parapets with patterned or relief cornices and stepping is recommended.~~
  - ~~◆ Tile, shake shingle and thick composition roofs are strongly encouraged. Standing seam metal, corrugated metal, fiberglass, high contrast or brightly colored glazed tile, and crushed rock roofs are prohibited.~~~~
- ~~4) Commercial Storefront. The continuous commercial fronts of the Town Center make for a consistent, pedestrian friendly streetscape for a wide variety of businesses. The storefront is predominately made up of glazing with only structure and decoration revealed. The upper stories consist mostly of wall with “punched” window openings. New construction and rehabilitation should maintain the continuity of the multi-story buildings and the clear distinction between street level storefront and upper floor offices or residences through facade treatment and articulation.
  - ~~a) Entrances
    - ~~◆ Primary entrances should be recessed, glazed and oriented to the street rather than to a rear or interior alley.~~
    - ~~◆ Tiled floors should be used as they are highly effective in marking the recessed entrance.~~~~~~

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### ~~b) Windows~~

- ~~◆ Discourage introducing or changing the location or size of windows or other openings that alter the architectural rhythm, alignment or character of the original building.~~
- ~~◆ Except for transom windows, windows should not break the plane of the facade.~~
- ~~◆ Clear plate glass should be used for display windows, and they should be incorporated with transom windows.~~
- ~~◆ Storefront windows should be no closer than 18 inches from the ground (bulkhead height). The maximum bulkhead height for new construction should be 36 inches.~~
- ~~◆ Vertical, double hung windows, either singly or in groups, should be used on the upper levels.~~
- ~~◆ Use of painted wood or dark finished metal is preferable to “natural” aluminum.~~
- ~~◆ When considering new window fenestration (window size, size of window panes, mullion type window materials), it is important that the new design be sympathetic and compatible with the facade theme of the whole block.~~

### ~~c) Storefront Facades~~

- ~~◆ Vertical structural lines (columns, piers, window patterns) should be carried down to the ground. If the lower storefront materials are different, use similar colors and forms to integrate the building facade.~~
- ~~◆ Non-historic materials above or below storefront windows (such as small areas of decorative stone) should be replaced with material of craftsmanship, color and texture that distinguishes historic from other buildings.~~
- ~~◆ Street level columns and bays for display windows should be preserved or used. They should provide a clear visual division at the property line.~~
- ~~◆ Doors should be accentuated with simple details such as a handsome brass door pull, brass kickplate or an attractive painted sign.~~

~~5) Cornices and Architectural Detail. Cornices are important architectural elements. They give interest to the roofline, breaking up the flat lines of a straight parapet wall; they give a building its own individuality.~~

- ~~◆ Repair existing cornices; if they have been covered up, remove the applied materials and restore; if they have been removed, consider replacing.~~
- ~~◆ Sheet metal cap flashing should be kept to a minimum unless the building has a flat parapet wall.~~
- ~~◆ If a building has decorative architectural details, clean them to restore their original character or paint them in contrasting colors to accentuate them.~~

~~6) Awnings. Awnings provide a “ceiling” for pedestrian traffic, which helps to give a sense of enclosure to the street and protection from the elements. Awnings can also enliven the street, with color, texture, and an expression of a business “personality.”~~

## SECTION 2230 – SITE PLAN REVIEW

- ◆ ~~Awnings and canopies should fit within window bays so as not to detract from architectural features of the building or obscure transom windows above display windows~~
  - ◆ ~~Marquees may pass over vertical columns or pilasters. Awnings should not pass over vertical columns or pilasters.~~
  - ◆ ~~Awnings should have a slope of no more than 45 degrees (most now are about 60)~~
  - ◆ ~~The color of the awning should be compatible with the building.~~
  - ◆ ~~Flat, horizontal metal canopies suspended by chains or rods, if original, should be used as they provide cover for pedestrians and shade within the store.~~
  - ◆ ~~The use of internally illuminated, plastic, barrel awnings are prohibited as they detract from architectural features with incompatible materials that are out of scale.~~
- 7) ~~Signs. Signs should not be the dominant feature of a building or site, yet they are a key component in identifying businesses and contributing to the liveliness of the street with their individuality. Signs should allow for pedestrian and automobile traffic to identify businesses without detracting from the architecture or overpowering the streetscape.~~
- ◆ ~~Wall signs, window signs, canopy and blade signs attached to buildings should be compatible in scale without obscuring the architectural features. —~~
  - ◆ ~~Blade signs are encouraged; freestanding, plastic and internally illuminated acrylic sign faces are not recommended.~~
  - ◆ ~~Window signs should be at eye level to entice the pedestrian.~~
  - ◆ ~~The use of gold leaf window signs at an appropriate scale is recommended. —~~
  - ◆ ~~Historic product signs painted on building sides should be preserved when possible, as they contribute to the character of the commercial area. —~~
  - ◆ ~~**Murals are prohibited in the Town Center Zone District.** —~~
- 8) ~~Streetscape. The Town Center should be a pedestrian friendly environment resulting from a combination of features: storefronts, sidewalks, streetlights and other amenities. New construction and rehabilitation should contribute to making the Town Center an inhabitable place that is pleasant for walking, providing a buffer zone of parked cars between automobile traffic and pedestrians, while also reinforcing the rhythm of the street.~~
- ◆ ~~Places should be provided for public activities. Informational kiosks, historical markers, and flagpoles are encouraged.~~
  - ◆ ~~People should be provided with certain services: drinking water, places to sit and rest, places to stand out of the rain or sun. Benches should be accessible but out of pedestrian flow.~~
  - ◆ ~~Unightly signs and unused sign supports should be removed; signs better relating to the pedestrian should be installed.~~
  - ◆ ~~Streetlights and other sidewalk elements should be placed so as not to obscure line of vision of automobiles. Historically appropriate streetlights should be installed. —~~

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- ◆ ~~Garbage cans are unattractive and should not be part of the streetscape; trash receptacles should be attractive, serviceable, durable and easily maintained.~~

9) ~~Color. Color can dramatically affect the appearance of buildings and should be carefully considered in relation to the overall design of the building. Color can also affect the apparent scale and proportion of buildings by highlighting architectural elements such as doors and windows.~~

- ◆ ~~Historic masonry facades should not be painted.~~
- ◆ ~~Minimize the number of colors on the building's exterior in order to maintain a cohesive appearance with minimum visual distraction. Commercial buildings should use no more than three colors.~~
- ◆ ~~The color palette chosen for a building should be compatible with the colors of adjacent buildings in the Town Center. Subdued colors are recommended for the overall color scheme. A bright trim color may be appropriate if it can be shown to enhance the general appearance of the building.~~
- ◆ ~~Bright neon paint colors and large areas of intense white colors should be avoided.~~

10) ~~Rear Entrances.~~

- ◆ ~~Signs should be modestly scaled to fit the casual visual character of the alley or rear parking area.~~
- ◆ ~~An awning can soften rear facades and provide a pleasant protected space.~~
- ◆ ~~The rear entry door should be wood and glass similar to the front door.~~
- ◆ ~~Security lighting should be modest and should focus on the rear entry door.~~
- ◆ ~~Selective use of tree plantings, potted plants and other landscaping can subtly improve a rear facade.~~
- ◆ ~~Refuse containers and service facilities should be screened from view by solid masonry walls and landscaping to screen walls and help deter graffiti.~~

11) ~~Graphics. The graphics in the Town Center District chapter shall be used as a guide to compliance with the standards in this chapter.~~

***10. Phased Site Plan Development. The Planning Commission shall approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for site development review. All of the following criteria shall be satisfied in order to approve a phased site development review proposal:***

- A. All underground utilities are constructed during the initial phase of the development and the remaining public facilities are constructed in conjunction with or prior to each phase.***
- B. The development and occupancy of any phase is not dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable city or district standard.***

*C. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required by an approved development proposal.*

11. Final Site Plan Approval. Within ~~45~~ **60** days of ~~submission~~ **determination of completeness** of the application, after preliminary plan approval, the Planning Commission shall approve, approve with conditions, or disapprove, the site plan. In approving the plan, the Planning Commission shall find that all applicable provisions of this ~~Ordinance~~ **Development Code** are complied with. The decision of the Planning Commission shall be final unless appealed to the City Council.

~~10. Appeal. The applicant or any person withstanding may appeal a decision of the Planning Commission to the City Council on the form prescribed by the City. Such appeal shall be filed with the City Recorder within ten (10) days of the decision of the Planning Commission. The appeal shall be placed, if possible, on the agenda for the next regular Council meeting. The City Council shall review the site plan and shall approve, approve with conditions or disapprove the plan based on the considerations listed in subsection 6.~~

12. Revisions of Site Plans. Revisions made by the applicant to an approved site plan shall be made pursuant to the procedures set forth in this section. Where required Site Plan Approval has been granted, it shall be unlawful for any person to cause or permit the proposed construction, alteration, improvement or use in any manner except in complete and strict compliance with the approved site plan.

13. Time Limitation for Site Plan Review and Expiration of approval.

A. Site plan approval shall be null and void after one (1) year, unless a building permit been issued and substantial construction has taken place.

*B. The site development review approval by the City Planning Commission shall lapse if:*

*1. Substantial construction of the approved plan has not been completed within ~~a one-~~ **the agreed upon time period; or***

*2. Construction on the site is a departure from the approved plan.*

*C. The planner may, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided, that:*

*1. No changes are made on the original site development review plan as approved by the planning commission;*

*2. The applicant can show intent of initiating construction on the site within the one year extension period; and*

*3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.*

*D. Notice of the decision shall be provided to the applicant.*

## SECTION 31 - NON-CONFORMING USES *AND STRUCTURES*

A *structure or* use lawfully occupying a site on the effective date of ~~this~~ *the original zoning Ordinance dated July 28, 1980*, of or amendments thereto, which does not conform to the regulations for the district in which it is located, shall be deemed to be a non-conforming *structure or* use and may be continued, subject to the following regulations:

1. Routine maintenance and repairs may be performed on sites, the *structure or* use of which is non-conforming.
2. No *non-conforming structure or* use, shall be moved, altered or enlarged without permission of the Planning Commission unless required by law or unless the moving, alteration or enlargement will be performed in the elimination of the non-conformity.
3. No structure partially occupied by a non-conforming use shall be moved, altered or enlarged in such a way as to permit the enlargement of the space occupied by the non-conforming use, without permission of the Planning Commission.
4. The Planning Commission may grant an application for a change of use, filed in accordance with the provisions of *this ordinance*, if on the basis of the application and the evidence submitted, they make findings *that support the following criteria*:
  - A. That the proposed use is classified in a more restrictive category than existing or pre-existing use by the district regulations of this Ordinance. The classifications of a non-conforming use shall be determined on the basis of the *zoning* district in which it is first permitted, provided that a conditional use shall be deemed to be in a less restrictive category than a permitted use in the same district.
  - B. That the proposed use will not more adversely affect the character of the *zoning* district in which it is proposed to be located than the existing or pre-existing use.
  - C. That the change of use will not result in the enlargement of the space occupied by a non-conforming use, except that a non-conforming use of a building may be extended throughout those parts of a building which were designed or arranged for such use prior to the date when such use of the building became non-conforming provided that no structural alterations, except those required by law are made.
5. If a non-conforming use has been changed to a conforming use, or if the non-conforming use of a building, structure, or premises ceases for the period of one (1) year or more, said use shall be considered abandoned, and said building, structure or premises shall thereafter be used only for uses permitted as a matter of right or as a conditional use in the district in which it is located.
6. If a structure containing a non-conforming use is destroyed by any cause, it may be rebuilt for that use subject to the requirements that, if the structure is not returned to that use within one (1) year from the date of destruction, a future use on the site shall conform to the Ordinance.

## SECTION 31 - NON-CONFORMING USES

7. Nothing contained in this Ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a valid permit exists prior to the adoption of this Ordinance and subsequent amendments thereto, except that if the designated use will be non-conforming, it shall be *considered* a discontinued use if not in operation within one (1) year of the date of issuance of the building permit.
8. The Planning Commission may grant an application for the expansion of a non-conforming use existing at the date of passage of this Ordinance when filed in accordance with the provisions of *this ordinance*. Permission may be given if, on the basis of the application and the evidence submitted, the Commission makes findings *that support the following criteria*:
  - A. That the proposed expansion will not more adversely affect the character of the district in which it is proposed to be located than the existing or pre-existing use.
  - B. That there is public need for the expansion of such use.
9. If an existing non-conforming use, or portion thereof not housed or enclosed within a structure, occupies a portion of a lot or parcel of land on the effective date hereof, the area of such use may not be expanded, nor shall the use, or any part thereof, be moved to any other portion of the property not theretofore regularly and actually occupied by such use; provided, that this shall not apply where such increase in area is for the purpose of increasing an off-street parking or loading facility to the area specified in this Ordinance for the activity carried on in the property; and providing further, that this shall not be construed as permitting unenclosed commercial activities where otherwise prohibited by this Ordinance.
10. A building or structure lawfully occupying a site on the effective date of this Ordinance or amendments thereto, which does not conform to the setback or coverage regulations for the district in which it is located, shall be deemed to be a non-conforming structure and may be continued, subject to the following regulations:
  - A. If a building or structure, in existence on the effective date of this Ordinance and subject to any yard, location or coverage restriction imposed by this Ordinance, fails to comply with such restriction, such building or structure may be enlarged or altered to the extent that such alteration or enlargement does not itself encroach upon a required area of the building or structure that it violated the coverage restriction; but this right shall be subject to all other restrictions contained in this Ordinance.
  - B. If a non-conforming structure is destroyed by any cause other than a willful act by the owner(s) or his agent, it may be rebuilt within the foundation and building outlines of that pre-existing structure subject to the requirement that, if destruction exceeds 50 percent of its assessed value as indicated by the records of the County Assessor and it is not returned to use within (1) year, a future structure on the site shall conform to this Ordinance. The willful removal or destruction of the structure by the owner(s) or his agent does not entitle the right to replace the structure to its original form and, hence, any new structure on the property must conform to the lot requirements as specified for the applicable zoning district.

## SECTION 32 - VARIANCES

1. ***Purpose.*** *The purpose of this section is to assure that* variances may be granted as provided in this section where practical difficulties, unnecessary hardships and results inconsistent with the general purposes of this Ordinance may result from the strict application of certain provisions. This section shall not be used to allow a use that is not permitted by this ordinance for the district in which the land is located. ***In granting a variance, the City may impose conditions similar to those provided for conditional uses to protect the best interests of the surrounding property, the neighborhood or the city as a whole.***
2. ***Authorization to Grant or Deny Variances.*** The Planning Commission may authorize variances from the requirements of the Ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this Ordinance would cause an undue or particular hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located.

In granting a variance, the City may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this Ordinance. The conditions to an authorized variance shall also be a part of the public record ***on the deed*** and be a part of the requirements for an issuance of a ***Zoning Clearance*** permit.

~~Conditions~~ 3. ***Application.*** *The property owner or his authorized agent may make application for a variance from the provisions of this Ordinance by filing an application, on a form and in a manner prescribed by the City in Section 4, with the Planning Department at least forty days prior to the meeting date the matter is intended to be considered.*

*Such application shall be accompanied by a legal description of the property, plans and elevations necessary to show the proposed development, a filing fee in the amount established by general resolution of the City Council, a map showing the subject property and surrounding properties and current property owners within two hundred fifty feet of the property subject to such variance application, a statement, plans and supportive evidence that all of the following conditions in subsection 5 below exist.*

4. ***Burden of Proof.*** *In order for the City Planning Commission to grant a variance, all the conditions and circumstances listed in subsections A, B, C and D of subsection 5 must be found to exist. The specific findings by the Planning Commission in granting a variance must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the variance from the provisions of this title. If no evidence is produced concerning any or all of the findings listed in subsections A, B, C and D of subsection 5, the application must be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any variance application.*

5. ***Criteria for Granting a Variance.*** No variance shall be granted unless it can be shown that ALL of the following conditions exist:

## SECTION 32 - VARIANCES

- A. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same district or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control.
  - B. The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same district or vicinity.
  - C. The authorization of the variance shall not be materially detrimental to the purposes of this Ordinance, be injurious to property in the district or vicinity in which the property is located or be otherwise detrimental to the objectives of any city development plan or policy.
  - D. The variance requested is the minimum variance from the provisions and standards of this Ordinance which will alleviate the hardship.
- ~~4. Application for Variance. A request for a variance may be initiated by a property owner or his/her authorized agent by filing an application in accordance with the provisions of Section 4.~~
6. Before a variance is granted, the proposed variance shall be considered by the Planning Commission at a public hearing, or administratively by staff. Notice of said hearing or administrative action shall be provided as per Section **4 of this Ordinance**.
  7. Action of the Planning Commission. ***The City Planning Commission*** shall make its findings and ***conclusions available*** ~~decision~~ in writing within ~~45~~**10** days after the ~~hearing~~**decision** on the proposed variance. ***Upon the filing of said order with the City Recorder, the order shall be in full force and effect. An order denying the variance shall be entered and filed in a like manner, with the necessary findings, where the planning commission, based on the standards specified herein, determines that the variance should not be granted.***
  - A. ~~The Secretary of the Planning Commission shall notify the applicant in writing of the Planning Commission's action within five (5) working days after the Planning Commission has rendered its decision.~~ ***The Commission, at the time of a public hearing, or staff, in the case of an administrative action,*** may attach conditions to an authorized variance, which it feels are necessary to protect the public interest and carry out the purpose of this Ordinance.
  - B. The conditions to an authorized variance shall also be part of the public record and be a part of the requirements for an issuance of a building permit. ***The variance shall not be effective if any such express condition is not fulfilled or is violated or if the activity of the applicant exceeds any express limitation in the variance. It shall be unlawful for any person to cause or permit the use of any property in violation of the express conditions or limitations of any variance granted with respect to such property.***
8. Appeal. ***Appeal of a decision made by the Planning Commission shall be filed and conducted in accordance with Section 33.***
9. ***The following type of variance application can be handled administratively:***

SECTION 32 - VARIANCES

- A. Deviation from the minimum building setback of not more than twenty percent (20%).*
- B. Deviation from the building height limitation of not more than ten percent (10%)*
- C. Deviation from a residential accessory dwelling living area of not more than five percent (5%).*
- D. Expansion of a conditional or nonconforming use by not more than twenty percent (20%) of the gross building volume.*

10. Time Limit on and Extension of Approval of a Variance.

- A. Authorization of a variance shall be void after six months if:
  - 1. A building permit has not been issued and substantial construction has not taken place; or*
  - 2. Construction on the site is a departure from the approved plan.**
- B. The City Planner, in the case of an administrative action, or Planning Commission, may, upon written request by the applicant, grant that authorization may be extended for an additional six months; provided, that:
  - 1. No changes are made on the original approved variance;*
  - 2. The applicant can show intent of initiating construction on the site within the six month extension period; and*
  - 3. There have been no changes to the applicable comprehensive plan policies and Zoning ordinance provisions on which the approval was based.**
- C. Notice of the decision regarding the extension shall be provided to the applicant.*

*11. Effect. No building or zoning permit shall be issued in any case where a variance is required until fourteen days after the decision of the City Planning Commission is filed with the city recorder, and then only in accordance with the terms and conditions of said approval. An appeal from the action of the commission shall automatically stay the issuance of the building or other permit until such appeal has been completed and the council has acted thereon.*

*12. Time Limitation. In the case where an application is denied by the planning commission, or denied by the City Council on appeal from the planning commission, unless specifically stated to be without prejudice, it shall not be eligible for resubmittal for the period of one year from the date of said denial unless, in the opinion of the planning commission, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.*

**13. ~~Revocation~~**

## SECTION 32 - VARIANCES

- ~~A. The planning commission, on its own motion, may revoke any variance for noncompliance with conditions set forth in the granting of said variance after first holding a public hearing and giving notice of such hearing as provided in Sections above. The foregoing shall not be the exclusive remedy.~~
- ~~B. If an established time limit for development expires and no extension has been granted, the variance shall be considered void.~~

## SECTION 33 - APPEALS, GENERAL

The Planning Commission shall have the power to hear appeals from administrative decisions, and to declare the meaning and intent, and interpret the provisions of the ~~Ordinance~~ ***Development Code***, ***unless a corresponding interpretation has been made by Resolution of the City Council***. In thus resolving ambiguities on appeal, the Planning Commission shall so interpret the ~~Ordinance~~ ***Development Code*** as to carry out Section 1, of this Section. In the event of an ambiguity in this ~~Ordinance~~ ***Development Code*** affecting enforcement thereof, the City Council shall have the power to hear and decide appeals from Planning Commission interpretations, and to declare the meaning and intent, and interpret the provisions of the ~~Ordinance~~ ***Development Code***. In thus resolving ambiguities on such appeal the City Council shall so interpret the Ordinance as to carry out Section 2, of this Section. Final action on an application for a permit, limited land use decision, ***conditional use permit, variance***, or zone change, including resolution of all appeals, shall be taken by the governing body of the City within 120 days after the application is deemed complete (according to ORS 227.180).

### 1. Appeal to Planning Commission.

- A. Any appeal from a decision of the administration, shall be based on a specific issue about the criteria and/or standards raised in the administrative decision that pertains to this Ordinance, and shall be filed with the Planning Commission within ***fourteen*** (14) days of ***written notice (signed and mailed)*** of the administrative decision. The Commission shall consider such appeal ***on the record*** and render its decision within sixty (60) days of the receipt of the appeal. Any action of the Planning Commission interpreting any uncertainty or ambiguity may be in the form of a ***final order***, and shall be signed by the President or presiding member of the Commission and filed with the City Recorder.

Notice of the ***appeal*** public hearing shall be ~~by one publication in a newspaper of general circulation in the City, not less than four (4) days nor more than ten (10) days prior to the date of the hearing~~ ***the same as that required for the original decision, but shall include other interested parties who may testified during the original decision.***

- B. The action of the Planning Commission shall be final and an appeal shall not be heard by the City Council if the appeal period has lapsed.

### 2. Appeal to City Council.

- A. The appellant must be an interested party who has participated either orally or in writing in previous Planning Commission proceedings pertaining to the decision under appeal. The appeal must be made within ten (10) days of the ***written notice of decision*** ~~action~~ of the Planning Commission, in writing to the Tillamook City Council. All appeals shall be made in writing, based on a specific issue about the criteria and/or standards raised during the Planning Commission Hearing, dated and signed by the appellant. Such appeal shall be filed with the appropriate fee listed in Section 4 of this Ordinance within ***fourteen*** (14) days after the ***written notice of decision*** ~~action~~ of the Planning Commission with the City Recorder.

## SECTION 33 - APPEALS, GENERAL

The City Council shall consider such appeal and render its decision within sixty (60) days of the receipt of the appeal. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant. Notice of the ~~public~~ **appeal** hearing shall be *the same as that required for the original decision, but shall include other interested parties who testified during the original decision* ~~by one publication in a newspaper of general circulation in the City, and sent to those who attended the Planning Commission Hearing, not less than four (4) days nor more than ten (10) days prior to the date of the hearing.~~

### B. City Council – *Land Use* Hearings Procedures.

- 1) It shall be the duty of the City Council, upon receiving an application of Appeal of a Decision by the Planning Commission, to receive and examine available information, including Planning Commission transcripts per Section 4, and conduct a hearing on behalf of the applicant or other interested party. Individual Council Members may tour the site at any time prior to the Council rendering its decision, **and must disclose *exparte* contact**, but there is no requirement that Council Members do so. The Mayor may call a special City Council Meeting to tour the site should he/she determine a unique need exists due to site characteristics or complexity of proposed development. A written decision will be rendered within thirty (30) days of the hearing and will be considered final. In no case, however, shall this decision and preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application (ORS 227.178).
- 2) The City Council shall review only the record of the prior proceeding(s), and may ask for clarification or additional information from the participating parties as it relates to the record. Full disclosure of both parties must be made at the Planning Commission level and additional ~~non-related~~ issues of ~~law~~ **evidence** or fact shall not be accepted nor considered, **nor added to the record**.
- 3) The City Council shall establish and issue rules of procedures and standards for the conduct of hearings.
- 4) The City Council may affirm, rescind, or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the Comprehensive Plan **and the Zoning Ordinance**. The City Council may also remand the matter back to the Planning Commission for additional information subject to the agreement of the applicant to extend the 120-day review period.
- 5) The City Council shall make and enter findings from the record and conclusions thereof which support its decision; and the findings and conclusions shall set forth and demonstrate the manner in which the decision ~~recommended~~ shall be carried out, as well as the implementation of the goals and objectives of the Comprehensive Plan, the Zoning Ordinance, and other official policies and objectives of the City.

## SECTION 34 - REVOCATION OF PERMITS, PLANS OR VARIANCES

### 1. Revocation of Permits, Automatic if not used.

Any Planned Unit Development Permit, Conditional Use Permit, Home Occupation Permit, Change of Use Permit, Site Plan Approval, or Variance granted in accordance with the terms of this Ordinance shall be deemed ~~revoked~~ **null and void** if not used within one (1) year from the date of approval or such time as specified by the Planning Commission. Said permit shall not be deemed used until the applicant has actually obtained a building permit, and commenced construction there under. ~~Site Plan Approval shall be deemed revoked if not used within six (6) months from the date of approval or such time as specified by the Planning Commission.~~

### 2. Revocation for Non-Compliance with Conditions.

Any Planned Unit Development Permit, Conditional use Permit, Home Occupation Permit, Change of Use Permit, Site Plan Approval, Variance **or other land use action, as listed in this ordinance**, granted in accordance with the terms of this Ordinance may be ~~revoked~~ **null and void** if any of the conditions or terms of such permit or variance are violated, or if any law or ordinance is violated in connection therewith. If, after notice and hearing, a Planned Unit Development Permit is revoked for a substantial violation of any of its conditions, the City Council may reconsider any zone change granted in connection with the Planned Unit Development and restore the zoning existing prior to such revocations, but any such proposed change of zone shall follow the procedures otherwise specified for zone changes herein.

### 3. Public Hearing.

The Planning Commission shall hold a public hearing on any proposed revocation after giving written notice to the permittee and to other owners of property as set forth in Section 4. The Planning Commission shall render its decision within forty-five days after the conclusion of the hearing. In case the permittee is not satisfied with the action of the Commission, they may appeal the Planning Commission decision to the City Council in the manner provided in Section 4 and Section 33.

## SECTION 36 35 - ENFORCEMENT AND PENALTIES

1. Enforcement. It shall be the duty of the City Manager to enforce this Ordinance. All departments, officials and public employees of the City of Tillamook City, vested with the duty or authority to issue permits shall conform to the provisions of this ~~Ordinance~~ **Development Code** and shall issue no permit, certificate, or license for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this ~~Ordinance~~ **Development Code**. Any permit, certificate or license issued in conflict with the provisions of this ~~Ordinance~~ **Development Code**, unintentionally or otherwise, shall be void.
2. Penalties for Violation. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this ~~Ordinance~~ **Development Code** shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$1,500.00 ~~or by imprisonment in the County Jail for a term not to exceed 100 days or both such fine and imprisonment~~. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this ~~Ordinance~~ **Development Code** is committed or continued by such a person, firm or corporation and shall be punishable as herein provided.
3. Injunctive Relief. The foregoing sanctions shall not be exclusive, and where the public health, safety, morals, or general welfare will be better served thereby, the City Manager may institute such proceedings for injunctive relief against a continuing violation as may be authorized by the statutes of the State of Oregon. In the enforcement of provisions prohibiting nuisances caused by odor, sound, vibration and the like, the City Manager may seek injunction against the specific device, activity or practice causing the nuisance.
4. Evidence. In any prosecution for causing or maintaining any condition or use of, or activity on, or constructing, moving or maintaining any structure on, any premises in violation of this ~~Zoning Ordinance~~ **Development Code**, a person in possession or control of the premises, as owner or lessee at the time of the violation or continuance thereof, shall be presumed to be the person who constructed, moved, caused or maintained the unlawful activity, use, condition or structure. This presumption shall be rebuttable and either the City or the defendant in such prosecution shall have the right to show that the offense was committed by some person other than, or in addition to, an owner or lessee or other person in possession or control of the premises; but this shall not be construed as relieving a person in possession and control of property from any duty imposed upon him by this ~~Ordinance~~ **Development Code**. For the purposes hereof, the person to whom the premises are taxed according to the records of the Tillamook County Assessor shall be prima facie the person in possession or control of the premises. Where premises on which the violation is committed are commercial or industrial premises on which a sign is situated identifying the commercial or industrial activity conducted thereon, or displaying the real or assumed business name of a person or proprietor thereof, the same shall constitute prima facie evidence that the person whose name is thus displayed is in possession or control of the premises as owner or lessee, but this shall not be construed to relieve from responsibility any agent, manager, employee or other person who actually committed the violation.
5. Abatement. Where, because of the absence of the responsible person, or persons from the City or from the State, as the case may be, the courts of the City of Tillamook City or the State of

## SECTION 35 - ENFORCEMENT AND PENALTIES

Oregon cannot secure effective jurisdiction over the person or persons responsible for the cause or continuation of a structure or condition erected or maintained in violation of this ~~Ordinance~~ *Development Code*, or where the City Council deems it important to the public interest that the unlawful structure or condition be removed or corrected without delay, the City Council may, after notice and hearing, order the removal of the unlawful structure or condition and, if such removal or correction is not effected within the time prescribed in the order, the City Manager shall cause such abatement, going upon the premises with such men or equipment as may be necessary and the City Council shall thereafter by ordinance assess the cost of abatement against the real property. The lien of the assessment shall be enforced in the same manner as in the case of street improvement liens. Notice of hearing shall be sufficient if give thirty (30) days in advance of the hearing, either by personal delivery or by mailing the same to the last known address of the owner of the property as shown by the County Assessor's records. The order shall be served upon the owner or responsible person in the manner prescribed for the notice of hearing, and the owner or responsible person shall have such period of time after service of the order, but less than thirty (30) days, as the City Council may deem to be reasonably necessary to accomplish the requirements of the order. The notice of hearing and the abatement order shall contain a notice to the property owner, or other person served, that the City of Tillamook City shall not be responsible for the condition or storage of the component parts of, or personal property situated within, the structure following abatement by the City. The remedy of abatement shall be in addition to, and not in lieu of, the other remedies prescribed in this section.