

**ORDINANCE NO. 705**

**AUMSVILLE DEVELOPMENT ORDINANCE**

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## SECTION 1.00

### **Definitions**

1.00 Definitions

## SECTION 1.00

### **Definitions**

General. For the purpose of this ordinance, certain terms or words used in this ordinance shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is mandatory, the word "may" is permissive.

The word "used" or "occupied" include the words "intended, designed, or arranged to be occupied."

The word "lot" includes the words "plot" and "parcel."

Some definitions apply to specific Sections and are noted with a ( ) after the definition. For example, Recreational Vehicle applies to recreational vehicles in general, while Recreational Vehicle (Flood) is applicable to those recreational vehicles located in a Flood Hazard area.

Abut: Contiguous to, for example, two lots with a common property line. However, "abut" does not apply to buildings, uses, or properties separated by public rights-of-way.

Abutting Property Owners and Occupants (Mobile Food Service): An owner or occupant of property which abuts the subject site, excluding public right-of-way.

Access: The place, means, or way by which pedestrians or vehicles shall have ingress and/or egress to a property or parking space.

Accessible Route (Mobile Food Service): A continuous unobstructed path of travel connecting all publicly accessible elements and spaces of a building or facility.

Accessory Dwelling Unit (ADU): An interior, attached, or detached structure with meal preparation, bathroom, and sleeping areas that is subordinate to and used in connection with or is accessory to a single-family dwelling on the same lot or parcel.

Accessory Structure: Attached or detached, subordinate building, the use of which is incidental to the main building or use of the land. An accessory structure does not include habitable living space.

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

Administrative Official: The City Administrator is designated by Council as the Administrative Official to administer and enforce this ordinance. The City Administrator may designate others to provide assistance.

Alteration: Any change or repair which would affect or materially change a building.

Appeal: A request for a review of a decision that interprets and applies any provision of this ordinance.

Area of Shallow Flooding: A designated Zone AO, AH, AR/AO, or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard."

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

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

Basement/Cellar: That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. If such portion of a building is not a basement, then it shall be considered a story. (See Section 1, Story; see also Illustrations.)

Block: An area of land containing one or more lots or parcels surrounded by streets, railroad rights-of-way, unsubdivided acreage, or combination thereof.

Buildable Area: The portion of a lot remaining after the required yards have been provided.

Child Day Care Home: The home of a childcare provider of 12 or fewer children. For state of Oregon requirements contact the Children's Services Division.

Child Day Care Center: A facility which provides childcare, pre-school, or kindergarten for 13 or more children.

Clearances (Mobile Food Service): Clearances as referenced in this section are measured

horizontally from the outside edge of the subject property line to any obstruction on the ground greater than one-half inch in height, or to an adjacent projection.

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

Commission: The City of Aumsville Planning Commission.

Council: The City of Aumsville City Council.

Covenant: A written agreement or promise under seal between two or more parties especially for the performance of some action.

Criteria: A general rule or specific standard on which a judgment or decision can be based.

Cul-de-sac: A short street which has one end open to traffic and being terminated by a vehicle turnaround.

Density: The number of living units per acre of land.

Development: Any man-made change to improved or unimproved real estate, including but not limited to construction, installation or change of a building or other structures, land division, establishment or termination of a right to access, storage on the land, drilling and site alteration not limited to land surface mining, dredging, paving, excavation, or clearing.

Development (Flood): Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development Permit: A permit issued by the City for a particular development in compliance with this ordinance and the Comprehensive Plan.

Development Plan: A plan adopted by the Commission for the guidance of growth and improvement of the city. The Commission may make adjustments in any such plan from time to time to meet unanticipated problems and conditions affecting the public and landowners.

Development Site: A tract of land either unsubdivided or consisting of two or more contiguous lots of record which on the effective date of this ordinance or subsequently, came under single or common ownership and continued to be so owned at the time a development permit was applied for.

Dwelling: A building or part thereof designed for, used for residential occupancy, and containing one or more dwelling units.

Dwelling, Accessory: See Accessory Dwelling Unit.

Dwelling, Multiple-Family: A residential building or group of buildings on a single lot containing three or more dwelling units.

Dwelling, Single-Family: A detached residential dwelling unit.

Dwelling, Single-Family Attached: A residential dwelling unit that is attached by a common wall to another dwelling unit at the lot line to a similar unit on a separate lot.

Dwelling, Duplex: A residential building containing two dwelling units.

Dwelling Unit: One or more rooms constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, physically separated from any other room or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities that meet city design standards.

Easement: A record interest in land owned by another that entitles its holder to a specified limited use.

Family: An individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) not related by blood or marriage, living together in a dwelling unit. Family shall include two or more handicapped persons as defined in the Fair Housing Amendments Act of 1988 living as a single housekeeping unit. (According to the Act "handicapped" means: with respect to a person; (1) a physical or mental impairment which substantially limits one or more of such person's major life activities; (2) a record of having such an impairment; or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

Flood or Flooding:

- (A) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - 1. The overflow of inland or tidal waters.
  - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
  - 3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (A)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (B) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or



by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (A)(1) of this definition.

Flood Elevation Study: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): See "Flood elevation study."

Flood Plain: The area adjoining a stream that is subject to inundation by a regional flood.

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

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 a designated height. Also referred to as "Regulatory Floodway."

Floodway Fringe: The area of the flood plain lying outside of the floodway.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

Garage, Private: A detached accessory building or portion of a dwelling for the parking or temporary storage of resident vehicles or supplies and in which no business, occupation, or service is provided for or is in any way conducted except as permitted by an approved home occupation.

Garage, Public: A building, other than a private garage, used for the care, repair, or equipping of motor vehicles, or where such vehicles are parked or stored for compensation, hire, or sale.

Group Care Facility: A private institution maintained and operated for the care, boarding, and training of sixteen or more persons who require special care, but does not include correctional homes, detention facilities, or residential homes.

Hazardous Material and Merchandise: Any substance or material that is flammable, explosive,

radioactive, toxic, or in quantities or types exceeding amounts normally associated with residential uses.

Height of Building: The vertical distance from the average elevation of the finished grade to the highest point of the building's wall. (See Illustrations).

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure (Flood): Any structure that is:

- (A) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (C) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

Home Occupation: For the purpose of this ordinance, Home Occupation is defined in Ord. 702.

Hotel/Motel: Transient lodging, transient lodging facilities, short-term rentals, and/or any structure, or any portion of any structure, which is occupied, used, intended, and/or designed for transient occupancy for 30 days or less, for dwelling, lodging, or sleeping purposes.

House of Worship: A church, mosque, synagogue, temple, meeting house, or other nonresidential building used primarily for religious worship. A house of worship may include accessory buildings for related religious activities, but not kindergarten through grade 12 school facilities.

Kennel: Any lot or premises on which four or more dogs and/or cats over the age of four months are kept for sale, lease, boarding, or racing.

Land Division: The creation of a lot or parcel of land through the process of subdividing or partitioning land.

Landscaping or Landscaped Area: The lawn, groundcover plants, shrubs, annuals, perennials, and trees, or desirable native vegetation. It includes landscape elements, including any combination of mature living plants such as trees, shrubs, plants, vegetative ground cover, or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains, or the like. It also includes irrigation systems, mulches, decorative rock ground cover, topsoil, and re-vegetation or the preservation, protection, and replacement of trees.

Loading/Unloading Space: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

Lot: A unit of land created by subdivision.

Lot Frontage: The front of a lot is the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yard in this section.

Lot Lines: (See Illustrations)

- (A) Front: The line separating the lot from the street and/or city right-of-way. Where no street separations exists, it is the lot line which the architecturally designed front of the building faces; and in the case of a corner lot, a line separating the lot from the street on which the improvements or contemplated improvements will face. In the case of a flag lot, the line running parallel to the access road shall be considered the front yard line and shall be used to calculate front yard setback requirements.
- (B) Rear: A lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, the rear lot line, for building purposes, shall be assumed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.
- (C) Side: Any lot line which is not a front or rear lot line. Interior side lot lines separate lots. Exterior side lot lines separate a lot from the right-of-way.

Lot Measurement: (See Illustrations)

- (A) Lot Area: The total area measured on a horizontal plane within the lines of a lot.
- (B) Lot Depth: The horizontal distance between the front line and the rear lot line measured at a point halfway between the side lot lines.
- (C) Lot width: The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Lot Types: (See Illustrations)

- (A) Corner Lot: Any lot located at the intersection of two or more streets.
- (B) Interior Lot: A lot other than a corner lot. Through lots abutting two streets may be referred to as double frontage lots.

Lot of Record: A lot which is part of a subdivision or a lot or parcel described by metes and bounds, which has been recorded in the office of the County Clerk.

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.

Magazine Parking: A physical situation where two or more parking spots abut at the ends of the parking spots such that a vehicle parked in one spot cannot move unless a vehicle parked in the other spot moves out of the way.

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 not constructed in accordance with federal manufactured housing construction and safety standards (HUD code), in effect after June 15, 1976.
- (B) Manufactured Home:
  - 1. For any purpose other than that set forth in subparagraph (2) of this paragraph, "manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976; or
  - 2. For purposes of implementing any contract pertaining to manufactured homes between the City and the federal government, "manufactured home" has the meaning given the term in this contract.

"Manufactured dwelling" does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 and 455.450 or any unit identified as a recreational vehicle by the manufacturer.

Manufactured Dwelling (Flood): A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

Manufactured Dwelling Park or Subdivision (Flood): A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Manufactured Home Park: Any place where four or more manufactured 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 manufactured homes, or manufactured home space,

or keep the same 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 home park does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured home per lot if the subdivision was approved pursuant to Section 20.

Mature Living Plant: Does not include seedlings, seeds, plugs, or small plant starts. Shrubs and plants must be mature size 3- to 10-gallon containers; grass must be established sod, except as provided within Section 23.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

Medical Clinic: A building where one or more healthcare providers licensed by the State of Oregon provide medical care. Further, there will be a licensed healthcare professional on duty (on premise) during all hours open to patients/clients. All medical care shall be in compliance with all local, state, and federal laws/regulations. A properly licensed professional includes: MD, DD, DC, DO, NP, ND, Acupuncturist, LMT, or other licensed health care professional.

Mobile Food Cart (Mobile Food Service): A vehicle that is propelled, or can be pulled or pushed down a sidewalk, street, or highway, on which food is prepared, processed, or converted, or is used in selling and dispensing food to the customer.

Modification, Major: A major modification to an approved permit or other land use decision includes one or more of the changes listed below:

- (A) A change in land use;
- (B) An increase in the number of dwelling units;
- (C) An increase in the floor area proposed for nonresidential use by more than 25% where previously specified;
- (D) A reduction of more than 30% of the area reserved as open space;
- (E) A reduction to specified setback requirements by more than 25%, or to a degree that the minimum setback standards of the land use zone cannot be met; or
- (F) Changes similar to those listed, which are likely to have an adverse impact on adjoining properties.

Modification, Minor: A modification to a permit or other land use decision that is not a major modification.

Modular Home: Factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the state, modular homes shall be subject to the same standards as site-built homes.

Native Plants: Individual plants native to the area but does not include grass or invasive species.

New Construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City and includes any subsequent improvements to such structures.

Non-Conforming Structure: A structure that was lawfully placed prior to the effective date of current standards for the structure but does not comply strictly with the current standards.

Non-Conforming Lot: A unit parcel land legally created as a lot prior to the effective date of current land division standards but does not conform to current standards for the lot size, area, or dimensions for the zone in which it is located.

Non-Conforming Use: A use that was lawfully established prior to the adoption of current list of allowed uses in a zone and that does not comply with uses.

Operator of Mobile Food Cart (Mobile Food Service): Any person, partnership, corporation, association, or other business entity operating a mobile food unit.

Owner: The owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel of property under written contract.

Parking Area, Public: An open area, building, or structure, other than a street or alley used for the parking of automobiles, and other motor vehicles, but not to include trucks, and available for use by the public or by persons patronizing a particular building or establishment.

Partition: Dividing of a lot or parcel into 2 or 3 parcels in a calendar year.

Plat: The map, drawing, or chart on which the plan of subdivision or partition is presented and which is submitted for approval and which in final form would be recorded.

Property Owner (Mobile Food Service): Owner or agent of a private property where mobile food units are proposed to be located.

Public Need: A conclusion based on the presentation of factual evidence which demonstrates that a particular request for a change is in the best interest of the public, for social, economic, and environmental reasons.

Recreational Vehicle: A vehicle with or without motive power; that is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes; and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for

use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities.

Recreational Vehicle (Flood): A vehicle which 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; and
- (D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regional Flood: Inundation during periods of higher than normal stream flows, high tides, or combination thereof, that has a one percent chance of occurrence in any single year (100 Year Flood).

Reserve Strip: A strip of land, usually 1 foot in width, reserved across the end of a street and terminating at the boundary of a subdivision or a strip of land between a dedicated street of less than full width and adjacent acreage, in either case reserved or held for future street extension and widening.

Residential Facility: A private institution providing care, treatment, training for 6 to 15 individuals who need not be related, but does not include correctional homes, detention facilities, or residential homes.

Residential Home: Means a residence for 5 or fewer unrelated persons who are physically or mentally handicapped and for staff persons in addition to residents.

Right-of-Way: The area between boundary lines of a street or other easement.

Setback: The distance between a structure foundation and a lot line. Setback distance shall be measured perpendicular to all portions of a lot line.

Signs: see Section 19.00, Signs.

Special Flood Hazard Area: See "Area of special flood hazard" for this definition.

Start of Construction (Flood): Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. 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 dwelling 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 foundations 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 a 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.

Story: That portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar, or unused under-floor space shall be considered a story. (See Definitions, Basement/Cellar. See also Illustrations).

Street: A public road; or right-of-way dedicated, deeded, or condemned, other than an alley; which affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road, and other thoroughfare. The word "street" shall include all arterial highways, freeways, traffic collector streets, road systems, and local streets.

Structure: Anything constructed or built, 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.

Structure (Flood): For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Subdivision: Dividing a parcel of land into 4 or more lots.

Substantial Conformance: When a final plat meets all the conditions of preliminary plat approval and no characteristic that met City standards in the approved preliminary plan is varied to the extent that a City standard is no longer met. The final plat also has no more lots than approved in the preliminary plan; streets are generally in the same number, location, and alignment as approved in the preliminary plan; and open spaces are generally in the same location and of the same size as was in the approved preliminary plan.

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 (Flood): Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified



- by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (B) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Trailers, Travel or Vacation: A vehicle equipped with wheels for highway use that is intended for occupancy which is not being used for residential purposes and is being used for vacation and recreation purposes. For the purposes of this ordinance, a travel trailer shall not be considered as a mobile home.

Vehicle: A unit designed and built to transport people or objects from one place to another.

Wrecking or Junk Yard: A lot used for the storage or sale of used automobile parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, garbage and misc. metals or parts.

Variance (Flood): A grant of relief by the City from the terms of a flood plain management regulation.

Violation (Flood): The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Yard: Any open space, which is required, created, or is maintained on a lot.

Yard, Front: The yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel to the foundation of the main building.

Yard, Side: The yard between the primary building and the side lot line extending from the front yard to the rear property line.

Yard, Rear: The yard extending across the full width of the lot, between the rear property line and the nearest point of the primary building on the same lot.

[Section 1 amended by [Ord. No. 711](#), passed December 12, 2022.]

[Section 1 amended by [Ord. No. 722](#), passed October 23, 2023.]

## SECTION 2.00

### **Establishment of Zones: Provisions for Official Zoning Map**

- 2.01 Official Zoning Map
- 2.02 Official Zoning Map Changes
- 2.03 Official Zoning Map Copies
- 2.04 Replacement of Official Zoning Map

## SECTION 2.00

### **Establishment of Zones: Provisions for Official Zoning Map**

- 2.01 Official Zoning Map. The city of Aumsville is hereby divided into zones as shown on the Official Zoning Map which together with all explanatory matter, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map of the City of Aumsville shall be identified by the signature of the Mayor, attested by the Administrative Official, and bearing the seal of the City under the following words: "THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP REFERRED TO IN SECTION 2.00 OF ORDINANCE NUMBER 702 OF THE CITY OF AUMSVILLE, OREGON" together with the date of the adoption of this ordinance.

- 2.02 Official Zoning Map Changes. If, in accordance with the provisions of this ordinance, changes are made in zone boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by Council, with an entry on the Official Zoning Map, as follows: "ON (date), BY OFFICIAL ACTION OF THE CITY COUNCIL, THE FOLLOWING CHANGES WERE MADE IN THE OFFICIAL ZONING MAP: (cite nature of change)," which entry shall be signed by the Mayor and attested by the City Administrator.

- 2.03 Official Zoning Map Copies. The Official Zoning Map, which shall be located in city hall, shall be in the final authority as to the current zoning of land and water areas, buildings, and other structures in the City.

- 2.04 Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendments.

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendments.

## **SECTION 3.00**

### **Rules for Interpretation of Zone Boundaries**

3.01 Rules

## SECTION 3.00

### **Rules for Interpretation of Zone Boundaries**

- 3.01 Rules. Where uncertainty exists as to the boundaries of zones as shown on the Official Zoning Map, the following rules shall apply:
- (A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
  - (B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - (C) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
  - (D) Boundaries indicated as following railroad lines shall be construed to be midway between the train tracks.
  - (E) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
  - (F) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
  - (G) The Commission shall interpret the zoning boundaries.
  - (H) Where a zone boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Commission may adjust the line without resorting to a rezone procedure.
  - (I) Specific Description. Where a plan map designation or zoning action referenced a specific property description, that description shall establish the boundary. Where two or more property descriptions establish conflicting boundaries, the most recent description shall govern.

## **SECTION 4.00**

### **Application of Zoning Regulations**

- 4.01 Purpose and Intent
- 4.02 Minimum Requirements
- 4.03 Maintenance of Ordinance Requirements
- 4.04 Effects on Other Requirements
- 4.05 Establishment of Major Zoning Districts
- 4.06 Overlay Districts
- 4.07 Access
- 4.08 Conformance and Permits Required
- 4.09 Authorization or Similar Uses
- 4.10 Non-Conforming Uses
- 4.11 Non-Conforming Building
- 4.12 Non-Conforming Lot or Parcel Lot

## SECTION 4.00

### **Application of Zoning Regulations**

- 4.01 Purpose and Intent. The purpose of this ordinance is to implement the City of Aumsville Comprehensive Plan, as acknowledged by the Land Conservation and Development Commission on May 3, 1979, through the coordination of the regulations governing the use and development of land; and, it is further the intent that all use and development of land within the City of Aumsville be consistent with the adopted Comprehensive Plan and with all other applicable county, state, and federal regulations.
- 4.02 Minimum Requirements. In interpreting and applying the provisions of this ordinance within each zone, the provisions shall be minimum requirements and shall apply uniformly to each class or kind of structure or land.
- 4.03 Maintenance of Ordinance Requirements. No lot area, yard, or other open space, required off-street parking or loading area, or other site condition existing on or after the effective date of this ordinance shall be reduced in area, dimension, or size below the minimum required by this ordinance, nor shall any site condition which is required by this ordinance for one development be used to meet a requirement for any other development, except as authorized.
- 4.04 Effects on Other Requirements. This ordinance shall not repeal, impair, or modify private covenants or other public laws, except that it shall apply whenever it imposes stricter regulations.
- 4.05 Establishment of Major Zoning Districts. All lands within the City of Aumsville is within one of the zoning districts as set forth in this ordinance and shown on the Official Zoning Map. Abbreviated notations of the district has the same meaning as the entire classification title.
- 4.06 Overlay Districts:
- (A) Overlay districts may be combined with any major zoning district.
  - (B) The requirements of an overlay district apply in addition to the major zoning district.
  - (C) Conflicts of regulations and standards are resolved to the more restrictive requirements.
- 4.07 Access. Every dwelling and every main building other than a dwelling on a lot with less than 30 feet of public street frontage shall have direct vehicular access to a public street or approved private street. Provisions related to access spacing standards between streets and/or driveways is provided in Section 22 Supplementary Zone Regulations, Access Spacing Standards.
- 4.08 Conformance and Permits Required. No new building structure or manufactured home

shall be used or occupied; and no building or part shall be erected, constructed, moved, altered, or enlarged unless in conformity with all the regulations specified for the zone in which it is located, and then only after applying for, securing, and complying with all permits, agreements, licenses and paying the fees required by all laws and this ordinance. The granting of a permit by the City shall not constitute a representation, guarantee or warranty of the suitability of lands, practicability or safety of any structure, use, or other plan proposed.

- 4.09 Authorization or Similar Uses. The Commission, City Administrator, or other person designated by the City Administrator may permit in a zone, a use not listed in this ordinance, provided the use is of the same general type as the uses permitted there by this ordinance. However, this section does not authorize a use specifically listed in another zone or which is of the same general type and is similar to a use specifically listed in another district.
- 4.10 Non-Conforming Uses. A non-conforming use may be continued, but not replaced by another non-conforming use. A non-conforming use, if discontinued for a period of six months, may not be resumed.
- 4.11 Non-Conforming Building. A non-conforming building may be continued and maintained but shall not be altered or expanded. All maintenance and repairs shall conform to applicable building code requirements. A non-conforming building damaged or destroyed by fire, flood, wind, or other acts of God may be restored if such restoration conforms to all applicable building code requirements and provided a building permit for the restoration shall be obtained within one year from the date of the destruction of the building.
- 4.12 Non-Conforming Lot or Parcel Lot. If, at the time of adoption of the applicable standards, a lot or parcel, or the aggregate of contiguous lots or parcels held in a single ownership, has an area or dimension that does not meet minimum size requirements, the lot, parcel, or aggregate holdings may be developed subject to all other requirements, and providing, if there is an area deficiency, residential use shall be limited to a single-family residence.



## SECTION 5.00

### **RS – Residential Single-Family**

Purpose: The single-family residential zone is intended to preserve and protect the development of residential uses that are exclusively owner occupied, single lot development that enhances the livability of the City. It is further intended and recognized that certain accessory uses and activities will be permitted and that there are compatible and necessary uses to be permitted only through a public hearing process that will insure their acceptability by the public.

- 5.01 Uses Permitted Outright
- 5.02 Accessory Uses and Structures
- 5.03 Conditional Uses
- 5.04 Minimum Lot Area
- 5.05 Minimum Lot Width
- 5.06 Maximum Lot Coverage
- 5.07 Minimum Setbacks
- 5.08 Maximum Height of Structure
- 5.09 Parking
- 5.10 General Requirements

## SECTION 5.00

### **RS – Residential Single-Family**

#### 5.01 Uses Permitted Outright:

- (A) Single-family dwellings;
- (B) Accessory Dwelling Unit (one per detached single-family dwelling), subject to the provisions in Section 22;
- (C) Public right-of-way;
- (D) Home occupations;
- (E) Child day care home;
- (F) Residential home;
- (G) Manufactured home.

#### 5.02 Accessory Uses and Structures, subject to Section 22, including:

- (A) Garages and carports;
- (B) Garden;
- (C) Fences and Walls (subject to Section 22);
- (D) Home occupations;
- (E) Greenhouses, hot houses;
- (F) Utility buildings.

#### 5.03 Conditional Uses:

- (A) Parks and playgrounds;
- (B) Schools;
- (C) Private swimming pool;
- (D) Public and semi-public uses and structures;
- (E) Child day care center;
- (F) House of worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 22;
- (G) Residential facility;
- (H) Other similar developments that the City may find to be similar to those listed as permitted in this zone and which are not inconsistent with its purpose.

5.04 Minimum Lot Area: 7,000 square feet.

5.05 Minimum Lot Width: 70 feet.

5.06 Maximum Lot Coverage: 45 percent, all principal and accessory structures.

#### 5.07 Minimum Setbacks:

- (A) Front: 20 feet
- (B) Side, Interior: 5 feet – one story; 8 feet – two stories
- (C) Side, Adjacent to Street: 20 feet
- (D) Rear: 5 feet – one story; 8 feet – two stories

5.08 Maximum Height of Structure: 35 feet or 2 ½ stories for approved public and semi-public uses.

5.09 Parking:

- (A) A minimum of 2 off-street parking spaces are required for each single-family residence;
- (B) One off-street parking space is required for an Accessory Dwelling Unit with an area under 400 square feet. Two off-street parking spaces are required for an Accessory Dwelling Unit with an area equal to or in excess of 400 square feet. Required parking for Accessory Dwelling Units is in addition to the parking requirement for the primary single-family dwelling.
- (C) Public and semi-public uses requiring off-street parking shall be determined by the Commission based upon the requirements of Section 18.00, Off-Street Parking and Loading, of this ordinance.

5.10 General Requirements. Single-family dwellings, Accessory Dwelling Units, and manufactured homes shall meet the following requirements:

- (A) It is required that the owner of the property and of the owner of the ADU be the same person(s).
- (B) Dwelling units except for ADU shall be not less than 1000 sq ft.
- (C) Dwellings shall have a pitched roof with a slope of not less than 3/12 (i.e., a vertical rise of 3 inches for every 12 inches of horizontal run/span).
- (D) Dwellings shall utilize design features 4, 8, and 11, and at least three of the other design features below to provide visual relief along the front of the home:
  - 1. Dormers
  - 2. Roof gables (excluding dormer gables) with a minimum 18" projection
  - 3. Recessed entries
  - 4. Covered porches entry with same roofing as home
  - 5. Pillar or posts at front entry
  - 6. Bay or Bow windows
  - 7. Eaves (minimum 18" projection)
  - 8. Offsets on building face and roof (minimum 16")
  - 9. Shutters, as a matched pair for windows, either decorative, fixed, or movable
  - 10. Balconies or decks of at least 2-foot depth and 5 feet in width, accessed by a door and enclosed by railing or parapet
  - 11. Exterior wall (or portion) and/or chimney of brick, stone, composite, masonry, or other similar materials
- (E) External systems for heating and cooling shall be installed only at ground level, and not within the required front yard.
- (F) All hitches, travel light/clearance lights, wheels, axles are to be removed from the exterior of dwellings.
- (G) A manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.
- (H) A manufactured home shall be placed on an excavated, prepared level site and supported on a continuous concrete footing. After setting and blocking, the home

shall be enclosed at the entire perimeter with a standard finish concrete block set on the continuous concrete footing. After backfilling as required, the bottom of the home shall be no more than 12 inches above the surrounding finished grade. All foundation, blocking, pier, and footing requirements in addition to those outlined in this paragraph shall conform to Marion County Building Code requirements.

- (I) A manufactured home shall incorporate not fewer than four architectural features per dwelling unit from 1-11 below. Applicants are encouraged to use those elements that best suit the proposed building style and design.
1. Covered front porch: not less than six feet in depth and not less than 30 percent of the width of dwelling, excluding the landing for dwelling entrance
  2. Dormers: minimum of two required for each single-family dwelling and one each for other dwellings; must be a functional part of the structure, for example, providing light into a living space
  3. Recessed entrance: not less than three feet deep
  4. Windows: not less than 30 percent of surface area of all street-facing elevation(s)
  5. Window trim: minimum four-inch width (all elevations)
  6. Eaves: overhang of not less than 12 inches
  7. Decorative top: e.g., cornice or pediment with flat roof or brackets with pitched roof
  8. Offset: offset in façade or roof
  9. Bay window: projects from front elevation by 12 inches
  10. Balcony: one per dwelling unit facing street
  11. Other: feature not listed but providing visual relief or contextually appropriate design similar to options 1-11, as approved by the Aumsville Planning Commission through a Type II procedure

A manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.

[Section 5 amended by Ordinance No. 725 passed September 9, 2024.]

## SECTION 6.00

### **RM – Residential Multi-Family**

Purpose: It is the intent of the RM – Residential Multi-Family zone to provide for more concentrated and diverse living arrangements.

- 6.01 Uses Permitted Outright
- 6.02 Accessory Uses and Structures
- 6.03 Conditional Uses
- 6.04 Minimum Lot Area
- 6.05 Minimum Lot Width
- 6.06 Maximum Lot Coverage
- 6.07 Minimum Yard Requirements
- 6.08 Maximum Height of Structure
- 6.09 Parking
- 6.10 General Requirements
- 6.11 Manufactured Home Parks General Requirements
- 6.12 Manufactured Home Park Minimum Site Requirements
- 6.13 Standards of Mobile Homes in Manufactured Home Parks

## SECTION 6.00

### **RM – Residential Multi-Family**

#### 6.01 Uses Permitted Outright:

- (A) Single-family dwelling;
- (B) Accessory Dwelling Unit (one per detached single-family dwelling), subject to the provisions in Section 22;
- (C) Duplexes; triplexes;
- (D) Apartments;
- (E) Rooming and boarding houses;
- (F) Public right-of-way;
- (G) Home occupations;
- (H) Child day care home;
- (I) Residential home;
- (J) Manufactured home, subject to the general requirements of Section 6.11;
- (K) Manufactured home parks;

Proposed manufactured home parks must satisfy the requirements set forth in Sections 6.12, 6.13, and 6.14 of this ordinance, and these criteria must be addressed at the public hearings by the applicant when processing an application for site development review; and within manufactured home parks only the following uses are permitted outright:

1. Manufactured homes, if lawfully connected to City water supply systems and sewage disposal systems and placed on a designated manufactured home space;
  2. A caretaker dwelling, recreation building, a manager office, or other general use buildings needed for operations typical of a manufactured home park.
- (L) Residential facilities.

#### 6.02 Accessory Uses and Structures: (Subject to Section 22)

- (A) Garages and carports;
- (B) Off-street parking lots;
- (C) Storage buildings or areas for boats, campers, and trailers;
- (D) Fences and Walls (Subject to Section 22);
- (E) Gardens, greenhouses, and hot houses.

#### 6.03 Conditional Uses:

- (A) Group care facilities;
- (B) Public and semi-public uses and structures;
- (C) Hospitals;
- (D) All uses listed under Section 5, (Residential Single-Family);
- (E) House of worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including, but not limited to, the uses set forth in Section 22;
- (F) Single-family attached dwelling: In addition to the criteria of Section 14, conditionally permitted single-family attached dwellings shall not be approved

unless the proposal satisfies the following specific criteria:

1. The minimum lot size shall be 4,200 square feet.
  2. Attached single-family dwellings shall meet the requirements of enclosing a space of not less than 1,000 square feet.
  3. Each dwelling shall have a garage.
- (G) Other similar developments that the City may find to be similar to those listed as permitted in this zone and which are not inconsistent with its purpose.

6.04 Minimum Lot Area:

- (A) 8,000 square feet;
- (B) 1,000 square feet for each dwelling unit over 2;
- (C) Group care facilities; 8,000 square feet plus 500 square feet for each patient/resident over 4.
- (D) Single-family attached dwellings: 4,200 square feet, subject to approved conditional use (See Section 6.03).

6.05 Minimum Lot Width:

- (A) 80 feet.
- (B) Single-family attached dwellings: 40 feet.

6.06 Maximum Lot Coverage:

- (A) 50 percent.

6.07 Minimum Yard Requirements:

- (A) Front: 20 feet;
- (B) Side, Interior: One story, 5 feet;  
Two story, 7 feet;  
Three story, 8 feet;  
Four stories and above, 8 feet plus 1 foot for each story over 3.
- (C) Rear Yard: 10 feet plus 1 foot for each story over 3.
- (D) Single-Family Attached Dwelling: No setback is required along the interior lot line where the unit is attached to an adjacent single-family attached unit on a separate lot.

6.08 Maximum Height of Structure:

- (A) Residential: 35 feet or 3 ½ stories;
- (B) Approved Public and Semi-Public Uses: 70 feet or 6 stories.

6.09 Parking:

- (A) A minimum of 2 off-street parking spaces are required for each dwelling unit;
- (B) One off-street parking space is required for an accessory dwelling unit with an area under 400 square feet. Two off-street parking spaces are required for an accessory dwelling unit with an area equal to, or in excess of 400 square feet. Required parking for accessory dwelling units is in addition to the parking requirement for the primary single-family dwelling.
- (C) Public and semi-public and conditional uses requiring off-street parking shall be

determined by the Commission based upon the requirements of the Off-Street Parking and Loading section of this ordinance (See Section 18.00).

- 6.10 General Requirements. Multifamily dwellings, Single-family dwellings, attached single family dwellings, accessory dwelling units, duplexes, and manufactured homes shall meet the following requirements:
- (A) Dwellings shall have a pitched roof with a slope of not less than 3/12 (i.e., a vertical rise of 3 inches for every 12 inches of horizontal run/span)
  - (B) Dwelling units except for ADU shall be not less than 1000 sq ft
  - (C) Dwellings shall utilize design standards 4, 8, and 11 and at least three of the other design features below to provide visual relief along the front of the home:
    - 1. Dormers
    - 2. Roof gables (excluding dormer gables) with a minimum 18" projection
    - 3. Recessed entries
    - 4. Covered porches entry with same roofing as home
    - 5. Pillar or posts at front entry
    - 6. Bay or Bow windows
    - 7. Eaves (minimum 18" projection)
    - 8. Offsets on building face and roof (minimum 16")
    - 9. Shutters, as a matched pair for windows, either decorative, fixed, or movable
    - 10. Balconies or decks of at least 2-foot depth and 5 feet in width, accessed by a door and enclosed by railing or parapet
    - 11. Exterior wall (or portion) and/or chimney of brick, stone, composite, masonry, or other similar materials
  - (D) External systems for heating and cooling shall be installed only at ground level and not within the required front yard.
  - (E) All hitches, travel light/clearance lights, wheels, axles are to be removed from the exterior of dwellings.
  - (F) A manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.
  - (G) A manufactured home shall be placed on an excavated, prepared level site and supported on a continuous concrete footing. After setting and blocking, the home shall be enclosed at the entire perimeter with a standard finish concrete block set on the continuous concrete footing. After backfilling as required, the bottom of the home shall be no more than 12" above the surrounding finished grade. All foundation, blocking, pier, and footing requirements in addition to those outlined in this paragraph shall conform to Marion County Building Code requirements.
  - (H) A manufactured home shall incorporate not fewer than four architectural features per dwelling unit from 1-11 below. Applicants are encouraged to use those elements that best suit the proposed building style and design.
    - 1. Covered front porch: not less than six feet in depth and not less than 30 percent of the width of dwelling, excluding the landing for dwelling entrance;
    - 2. Dormers: minimum of two required for each single-family dwelling and one each for other dwellings; must be a functional part of the structure, for example, providing light into a living space
    - 3. Recessed entrance: not less than 3 feet deep



4. Windows: not less than 30 percent of surface area of all street-facing elevation(s)
  5. Window trim: minimum 4-inch width (all elevations)
  6. Eaves: overhang of not less than 12 inches
  7. Offset: offset in façade or roof
  8. Bay window: projects from front elevation by 12 inches
  9. Balcony: one per dwelling unit facing street
  10. Decorative top: e.g., cornice or pediment with flat roof or brackets with pitched roof
  11. Other: feature not listed but providing visual relief or contextually appropriate design similar to options 1-11, as approved by the Aumsville Planning Commission through a Type II procedure
- (H) A manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.

6.11 Manufactured Home Parks General Requirements:

- (A) All manufactured home parks shall consist of a minimum of 5 acres.
- (B) Each manufactured home space shall contain not less than 2,500 square feet. Streets, play areas, service areas, or other areas required by this ordinance shall not be considered as providing any part of the required manufactured home space.
- (C) The maximum density of a manufactured home park shall not exceed 12 manufactured home spaces per gross acre.
- (D) A manufactured home park shall be built to state and federal standards in effect at the time of construction, including American Disabilities Act standards.
- (E) No manufactured home in the park shall be located closer than 10 feet from another manufactured home, or from a general use building in the park. No accessory building or other building or structure on a manufactured home space shall be closer than 6 feet from an accessory building or other building or structure on another manufactured home space. No manufactured home shall be located closer than 16 feet to the boundary of a private street located within the park. Accessory buildings adjacent to property lines see Setback Measurement in Section 22.
- (F) There shall be no outdoor storage of furniture, tools, equipment, building materials, or supplies belonging to the occupants or management of the park.
- (G) The land, which is used for park purposes, shall be surrounded except at entry and exit places, by a sight-obscuring fence or hedge not less than 6 feet in height. The fence or hedge shall be maintained in a neat appearance.
- (H) If the park provides for 25 or more manufactured home spaces, each vehicular way in the park shall be named and marked with signs which are similar in appearance to those used to identify public streets in the city. A map of the named vehicular ways shall be provided to the City for notification to appropriate agencies.
- (I) If a manufactured home space or permanent structure in the park is more than

300 feet from a public fire hydrant, the park shall have water supply mains designed to serve fire hydrants and fire hydrants shall be provided within 300 feet of such space or structure. Each hydrant within a park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the city.

6.12 Manufactured Home Park Minimum Site Requirements:

- (A) The road system of the park shall be paved, improved with curb and gutter, and connected to an existing public street according to plans approved.
- (B) The improvements of driveways, walkways, streets, drainage, and other utilities shall conform to adopted state standards or to adopted city standards, whichever is more restrictive.
- (C) The minimum surfaced width of the roads within the park shall be:
  - 1. 24 feet where no parking is allowed;
  - 2. 30 feet if parking is allowed on one side only; and
  - 3. 36 feet if parking is allowed on both sides.
- (D) A minimum of 200 square feet per manufactured home space of outdoor recreation area shall be provided which may be in one or more locations in the park.
- (E) A minimum of 100 square feet per manufactured home space for unoccupied recreational vehicles or other equipment storage used by park residents shall be provided. Such areas are to be surfaced and drained, fenced, and lighted and maintained in a neat and orderly manner.
- (F) Each designated space, recreation building, managers office, or other public or private structure shall be serviced by underground services of water, sewer, and power.
- (G) A minimum of 4-foot-wide walkways shall connect each manufactured home space with public streets, adjacent public sidewalk systems, common areas, and recreation areas.
- (H) All streets and walkways within the park shall be lighted at night to provide a minimum of 0.35-foot candles of illumination.
- (I) Manufactured home pads and placement shall be in accordance with state building codes requirements.
- (J) At each entrance to a manufactured home park, a permanent, non-illuminated sign not to exceed 32 square feet shall be allowed. Such sign shall display the name of the park and shall show by map the layout of the sites and addresses or space number of each manufactured home.
- (K) Manufactured home spaces shall be indicated on the development plan and each space clearly identified by number of the site. Such spaces shall not exceed the density and coverage limitations of this ordinance. In the design of a manufactured home park, it shall be demonstrated that planned spaces can reasonably accommodate a variety of manufactured home types with accessory structures and required setbacks.
- (L) All common areas within a manufactured home park, exclusive of required buffer areas, buildings, and roadways, shall be landscaped and maintained. All

manufactured home spaces shall be landscaped within 6 months of manufactured home placement.

- (M) Manufactured home parks shall be designed to include 2 off-street parking spaces for each manufactured home space, which may include a garage or carport space and the driveway. In addition, one guest space shall be provided for every 5 manufactured home spaces in a park, which shall be provided in bays of at least 4 spaces. Office and common buildings shall be provided with 1 space for each 300 square feet of floor area which may be combined with required guest parking if located within 300 feet of such building.

6.13 Standards of Manufactured Homes in Manufactured Home Parks. A manufactured home in a manufactured home park, in addition to conforming to state installation standards, shall conform in the following:

- (A) The manufactured home shall bear the Department of Housing and Urban Development insignia indicating compliance with manufactured home construction standards in effect at the time of manufacture and with a date not previous to June 15, 1976.
- (B) Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the manufactured home shall meet the Department of Housing and Urban Development Standards for manufactured home construction evidenced by the insignia.
- (C) Each manufactured home shall contain not less than 500 square feet of space as determined by measurement of the exterior of the unit exclusive of any trailer hitch device.
- (D) Each manufactured home shall be provided with a continuous skirting and shall be tied down with devices that meet state standards and tie-down devices.

[Section 6 amended by Ordinance No. 711 passed December 12, 2022, Ordinance No. 722 passed October 23, 2023, and Ordinance No. 725 passed September 9, 2024.]

## SECTION 7.00

### **CL – Commercial**

Purpose: The CL – Commercial zone is intended to maintain the business and limited commercial activities to one area of the city, and to encourage the placement of a variety of new businesses that offer a greater service to the residents of the city.

- 7.01 Uses Permitted Outright
- 7.02 Accessory Uses and Structures
- 7.03 Conditional Uses
- 7.04 Minimum Lot Area
- 7.05 Minimum Lot Width
- 7.06 Maximum Lot Coverage
- 7.07 Yard Requirements
- 7.08 Maximum Height of Structure
- 7.09 Parking and Loading
- 7.10 Business District

## SECTION 7.00

### **CL – Commercial**

#### 7.01 Uses Permitted Outright.

The following uses are permitted outright subject to the provisions of Site Development Review (Section 21).

- (A) Beauty or barber shop;
- (B) Medical and dental offices;
- (C) Banks;
- (D) Furniture and appliance stores;
- (E) Drugstores;
- (F) Food stores;
- (G) Sporting goods stores;
- (H) Hardware;
- (I) Television, video, stereo, computer, and radio sales and service;
- (J) Self-service laundromat or cleaners or pick-up and delivery station;
- (K) Professional or business office or any use that is demonstrated to the satisfaction of the City to be of a similar character and impact;
- (L) Restaurant;
- (M) Public right-of-way;
- (N) Small animal clinic
- (O) Child day care center;
- (P) Retail establishment of similar character and impact as the above;
- (Q) Apartments above a permitted ground floor commercial use.
- (R) Residential facilities;
- (S) A classroom and small instruction facility; other than a public or private elementary, middle, or high school or college or university, or house of worship (see Section 7.03).
- (T) Mobile Food Services. See also Section 27.

#### 7.02 Accessory Uses and Structures. (See Setbacks in Section 22)

No accessory uses or structures containing more than 600 square feet of floor area are permitted outside of the main building or use without site development review approval by the City.

#### 7.03 Conditional Uses.

The following uses are permitted as conditional uses in accordance with Section 14. They are also subject to the provisions of Site Development Review (Section 21):

- (A) Automobile service station, garage, or car wash;
- (B) Any establishment selling alcohol to be consumed on the premises;
- (C) Amusement and recreation related businesses, such as bowling alley, pool halls, video arcades, skating rinks, miniature golf, motion picture theaters;
- (D) Equipment sale or rental yard;
- (E) Hotel and motel;
- (F) Public and semi-public uses;

- (G) Gymnasium, athletic and health facilities;
- (H) House of worship;
- (I) Retail or wholesale or research and development laboratory facility which meets the following additional requirements:
  1. Total square footage of all areas for such use not to exceed 2,000.
  2. Is not industrial use in nature.
- (J) Other similar developments that the City may find to be similar to those listed, as permitted in this zone, and which are not inconsistent with its purpose.

7.04 Minimum Lot Area: None.

7.05 Minimum Lot Width: 20 feet.

7.06 Maximum Lot Coverage: None.

7.07 Yard Requirements:

- (A) Front: 3 feet or facing any street (See Section 22);
- (B) Where the commercial zone abuts a residential zone, interior yards shall be provided equal to the minimum of the abutting residential yard(s).

7.08 Maximum Height of Structure: 6 stories or 70 feet.

7.09 Parking and Loading: See the Parking and Loading section of this ordinance (Section 18.00).

7.10 Business District:

- (A) The Business District is defined as all commercial zoned properties contained within the following boundaries:
  1. West of the railroad tracks, east of 5th Street, south of Church Street, and north of the Mill Race.
  2. West of 5th Street, East of 11th Street, South of Church Street, and north of Washington Street.
- (B) Business District Design Standards. Buildings in the Business District must adhere to the following additional requirements:
  1. Orientation. Primary structures shall be oriented toward, and provide a public entrance onto, the adjacent street.
  2. Landscaping/pedestrian amenities. If a building is set back from an adjacent street, at least 50% of the setback area shall be improved with pedestrian and landscaping amenities. Permitted landscaping and pedestrian amenities include plants, planters, shrubbery, benches, tables, etc.
  3. Siding materials. At least 20% of the ground floor façade facing the street shall be of a masonry construction, with the remaining solid finish in wood or masonry, or such other material indistinguishable in appearance from wood or masonry. Such wood type siding as horizontal lap, shingle, and board and batten are acceptable. Acceptable wood substitutes such as vinyl, aluminum, and pressed wood product shall only be permitted as a horizontal

- lap siding; vertical aluminum siding shall be prohibited. Such masonry type siding as brick and stone are acceptable; stucco material or concrete blocks are prohibited. Acceptable masonry substitutes include masonry veneer and split concrete or other similar material formed to simulate rock or brick.
4. Windows. At least 20% of the ground floor façade facing the street shall contain window coverage.
  5. Unpainted or un-textured concrete or masonry, metal buildings, and unpainted metal are prohibited.
  6. The use of roof or façade offsets or breaks is encouraged. Roof planes should be varied. Façade lines should be broken at least every 40 feet on all building sides.
  7. All mechanical equipment to be screened from view in a manner consistent with the design of the structure and site.
  8. The color palette should be simple and consistent within projects. Colors should be compatible with neighboring development. Bright or primary colors shall be limited to accent elements.
  9. Fencing shall be either black chain link, wrought iron, or similar. Other fences shall be permitted only through site development review and consistent with design standards.
  10. All storage of materials and merchandise shall be located within a building; outdoor storage shall be prohibited unless otherwise permitted through a site development review.

## SECTION 8.00

### **I – Industrial**

Purpose: It is the intent of the I – Industrial zone, commensurate with the availability of water and sewer facilities, to help attract industrial and commercial users that are diversified, non-polluting, and of the greatest opportunities for residents of the city for employment while strengthening the City’s tax base.

- 8.01 Uses Permitted Outright, but not Limited to
- 8.02 Conditional Uses
- 8.03 Industrial Performance Standards
- 8.04 Minimum Lot Area
- 8.05 Minimum Lot Width
- 8.06 Maximum Lot Coverage
- 8.07 Maximum Height of Structure
- 8.08 Yard Requirements
- 8.09 Parking and Loading



## SECTION 8.00

### **I – Industrial**

#### 8.01 Uses Permitted Outright, but not Limited to:

- (A) Agriculture and Forestry:
  - 1. Agriculture production crops;
  - 2. Forest nurseries and tree seed gathering and extracting.
- (B) Construction:
  - 1. Construction including building construction general contractors.
- (C) Manufacturing:
  - 1. Grain mill products;
  - 2. Food preparation and kindred products;
  - 3. Textile mill products;
  - 4. Cabinet or carpentry shop;
  - 5. Paperboard containers and boxes;
  - 6. Printing, publishing, and allied industries;
  - 7. Glass, pottery, and related products;
  - 8. Cut stone and stone products;
  - 9. Cutlery, hand tools, and general hardware;
  - 10. Heating equipment and plumbing fixtures;
  - 11. Manufactured housing;
  - 12. Miscellaneous fabricated metal products;
  - 13. Metalworking machinery and equipment;
  - 14. Office, computing and accounting machines;
  - 15. Refrigeration and service industry machinery;
  - 16. Measuring, analyzing, and controlling instrument, photographic, medical and optical goods, watches and clocks.
- (D) Transportation and Electric Services:
  - 1. Railroad transportation;
  - 2. Local and suburban transit and interurban highway passenger transportation;
  - 3. Motor freight transportation and warehousing;
  - 4. Transportation services;
  - 5. Electric services.
- (E) Retail and Wholesale Trade:
  - 1. Agriculture equipment sales and service, wholesale or retail;
  - 2. Automobile, motorcycle, boat, trailer or truck rental, sales and service;
  - 3. Lumber or building supplies equipment storage or sales, retail;
  - 4. Storage or sales of frozen or refrigerated food;
  - 5. Warehouse or wholesale distribution and sales factory;
  - 6. Eating and drinking places;
  - 7. Mobile Food Services. See also Section 27.
  - 8. Mini-storage warehouses available to the public, including indoor or outdoor recreational vehicle storage.

- (F) Services:
  1. Veterinary services;
  2. Mailing, reproduction, commercial art and photography, and stenographic services;
  3. Cleaning and maintenance services to dwellings and other buildings, not elsewhere specified;
  4. Welding repair;
  5. Industrial machinery service;
- (G) Public Administration:
  1. Public and semi-public uses and structures.
- (H) Other Uses:
  1. Utilities - truck and equipment storage and parking and material storage yard;
  2. Accessory buildings, structures, and uses normal and incidental to the uses permitted in this district;
  3. Dwelling unit or guest room for a caretaker or watchman on the premises being cared for or guarded;
  4. Public right-of-way;
  5. Other similar developments which the City may find to be similar to those listed as permitted in this zone and which are not inconsistent with its purpose.

8.02 Conditional Uses:

- (A) Agriculture:
  1. Soil preparation services;
  2. Crop services;
- (B) Manufacturing:
  1. Dairy products;
  2. Canned and preserved fruits and vegetables;
  3. Leather and leather products;
  4. Transportation equipment;
  5. Millwork, veneer, plywood, and structural wood members;
  6. Rubber, concrete, gypsum, and plastic products;
  7. Rolling, drawing, and extruding of nonferrous metals;
  8. Metal forgings and stampings;
  9. Engines and turbines;
  10. Farm and garden machinery and equipment;
  11. Energy plant.
- (C) Services:
  1. Laundry, cleaning, and garment services;
  2. Research and development laboratories;
  3. Vocational schools.
  4. Automotive repair, services, and garages;
  5. Child day care home and center;
  6. Tire retreading and vulcanizing shop;
- (D) Other Uses:

1. Recycling depots;
2. Planned industrial unit development;

8.03 Industrial Performance Standards. The discharge of solids, liquids, or gases which are detrimental to the public health, safety, and welfare causing injury to human, plant, or animal life or to property is prohibited in this industrial zone. In an I zone no land or structure shall be used or occupied unless therein continuing compliance with the following standards:

(A) Heat, glare, and light:

1. All operations and facilities producing heat, glare, or light, including exterior lighting, shall be so directed or shielded by walls, fences, evergreen plantings, that such heat, glare, or light is not reflected onto adjacent properties or streets.

(B) Noise:

1. No noise or sound in an I zone shall be of a nature which will constitute a nuisance as documented by the chief of police.

(C) Sewage:

1. No categorical wastewater discharges are allowed. Adequate provisions shall be in place for the disposal of sewage and waste materials and such provisions shall meet the requirements of the City of Aumsville sewage disposal system.

(D) Vibration:

1. No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at or beyond the property line for the use concerned.

8.04 Minimum Lot Area: None.

8.05 Minimum Lot Width: None.

8.06 Maximum Lot Coverage: None.

8.07 Maximum Height of Structure: 70 feet.

8.08 Yard Requirements: See landscaping requirements section 23.00.

8.09 Parking and Loading: See the Parking and Loading section of this ordinance (Section 18.00).

[Section 8 amended by [Ord. No. 722](#), passed October 23, 2023.]

## SECTION 9.00

### **P- Public**

- 9.01 Purpose
- 9.02 Permitted Uses
- 9.03 Conditional Uses
- 9.04 Minimum Lot Area
- 9.05 Minimum Lot Width
- 9.06 Maximum Lot Coverage
- 9.07 Building Setbacks
- 9.08 Maximum Height of Structure
- 9.09 Signs
- 9.10 Parking and Loading

## SECTION 9.00

### **P- Public**

- 9.01 Purpose: To recognize existing public land uses and to provide for the development of public services.
- 9.02 Permitted Uses. All uses listed below are subject to site development review procedures pursuant to Section 21 of this ordinance.
- (A) Public and private utility buildings and structures, including electric substations, telephone exchanges, and communications antennas or towers.
  - (B) Publicly owned and operated facilities or structures, including government offices and stations, and public use buildings.
  - (C) Governmental, educational, administrative, or public facility uses, including:
    - 1. Public parks and recreation areas.
    - 2. Public schools, including elementary, middle, and high schools.
    - 3. Public storage yards for machinery, equipment, and other materials.
    - 4. Sewer system and lagoon areas.
    - 5. Water system facilities.
    - 6. Uses clearly accessory and subordinate to the above.
- 9.03 Conditional Uses. All uses listed below are subject to conditional use approval procedures pursuant to Section 14 of this ordinance and require site development review pursuant to Section 21.
- (A) Public or private airport or heliport.
  - (B) Other similar developments that the City finds are similar to those listed as permitted in this zone and that are not inconsistent with its purpose.
- 9.04 Minimum Lot Area: Sufficient area to provide for the use and minimum required setbacks.
- 9.05 Minimum Lot Width: None.
- 9.06 Maximum Lot Coverage: None.
- 9.07 Building Setbacks. The following setbacks shall apply to development within the public zone:
- (A) Any yard abutting a residential zone: 10 feet
- 9.08 Maximum Height of Structure: 50 feet.
- 9.09 Signs. Signs shall be subject to the requirements in Section 19.
- 9.10 Parking and Loading. Parking and loading shall be subject to the requirements in Section 18.

[Section 9 amended by [Ord. No. 722](#), passed October 23, 2023.]

## SECTION 10.00

### **ID – Interchange Development Zone**

10.01	Purpose
10.02	Permitted Use
10.03	Conditional Uses
10.04	Prohibited Activities
10.05	Performance Standards
10.06	Minimum Lot Area and Dimensions
10.07	Maximum Height of Structure
10.08	Setbacks
10.09	Design Requirements
10.10	Landscaping
10.11	Signs
10.12	Parking and Loading
10.13	Transportation Impact Analysis
10.14	Site Development Review Required
10.15	IAMP Compliance Required

## SECTION 10.00

### **ID – Interchange Development Zone**

- 10.01 Purpose: To provide for industrial, commercial, and office uses on property located at the State Highway 22 interchange. The transportation amenities offered by Highway 22 will be a factor in attracting industrial and commercial users. However, the community views the interchange area as the key entry point into the City. For this reason, the quality of the site design will be emphasized. In providing for the development of the interchange area, it is essential that the principal function of the intersection be preserved.
- 10.02 Permitted Use. The following uses are permitted, subject to a site development review and conformance with the provisions in this Section. In interpreting this Section, following uses are permitted, subject to a site development review and conformance with the provisions of the Aumsville Development Ordinance:
- (A) Industrial-Related Activities
    1. Manufacturing: Light manufacturing, assembly, processing, packaging, treatment, fabrication of goods or merchandise, and similar uses.
    2. Research centers and laboratories.
    3. Telecommunication centers, including call centers.
  - (B) Retail and Services
    1. Offices.
    2. Restaurants, delicatessens, snack shops, and other types of eating and drinking establishments, including entertainment facilities accessory to the establishment.
    3. Banks and other financial institutions.
    4. Business services, such as photocopy and mailing centers.
    5. Hotels and motels; but excluding camping and recreational vehicle parks.
    6. Professional offices including, but not limited to, medical, dental, veterinary, engineering, and legal services. Veterinary clinics shall not provide on-site services for farm animals.
    7. Services, such as cleaning and maintenance services provided to dwellings and other buildings.
    8. Mobile Food Services (See also Section 27).
  - (C) Other Uses: Other uses, which the City may find to be similar to those listed as permitted in this zone that are consistent with its purpose.
- 10.03 Conditional Uses. The following activities are conditionally allowed in the ID zone:
- (A) Convenience stores.
  - (B) Service stations; but excluding repair facilities.
  - (C) Towing services; but excluding storage of vehicles.
  - (D) Retail activities that are designed to serve the community or region.
  - (E) Establishments serving liquor.
  - (F) House of worship

- (G) Gymnasium
- (H) Other uses determined by the Commission to be of similar character or to have similar impacts as those specified above.

Conditionally permitted uses shall not be approved unless the proposal satisfies the following criteria:

- (A) The proposal will be consistent with the provisions of the Development Ordinance, the underlying land use zone, and other applicable policies of the City.
- (B) Taking into account location, size, design, and operation characteristics, the proposal will have minimal adverse impact on the livability, value, and appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
- (C) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and meet the design standards.
- (D) The proposal will preserve assets of particular interest to the community.

10.04 Prohibited Activities. The following uses are prohibited in the ID Zone.

- (A) Agriculture and Forestry:
  - 1. Agriculture production crops;
  - 2. Forest nurseries and tree seed gathering and extracting.
- (B) Tanneries.
- (C) Energy plant.
- (D) Rendering plants.
- (E) Wrecking, demolition, junk yards, including recycling firms.
- (F) Waste transfer stations.
- (G) Chemical manufacturing plants
- (H) Cement, concrete, lime, or gypsum manufacturing.
- (I) Asphalt plants; aggregate plants.
- (J) Fertilizer manufacturing or distribution.
- (K) Manufacturing activities involving primary metal industries such as foundries/forge shops, smelters, blast furnaces, boiler-works, and rolling mills; manufacture of flammable, hazardous, or explosive materials; creosote and related products; coal tar and related products.
- (L) Storage warehouses. Storage rooms or buildings except as needed to support an approved use.
- (M) Manufacture or storage of oil, gasoline, or petroleum products for distribution, not including service stations.
- (N) Commercial outdoor recreational uses, amusement parks, or sports arenas, not including golf courses or country clubs.
- (O) Truck, trailer, heavy machinery, or farm equipment storage.
- (P) Any other use which is or can be operated in such a manner as to create a dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise or vibration, smoke, dust, dirt, or other forms of air pollution; electrical or other disturbance; glare; or other substance, condition, or element in such amount as to adversely affect the surrounding area or premises, as may be determined by the Commission.



10.05 Performance Standards. The discharge of solids, liquids, or gases which are detrimental to the public health, safety, and welfare causing injury to human, plant, or animal life or to property is prohibited in the ID Zone. Further, no land or structure shall be used or occupied unless therein continuing compliance with the following standards:

- (A) Heat, glare, and light: All operations and facilities producing heat, glare, or light, including exterior lighting, shall be so directed or shielded by walls, fences, evergreen plantings, that such heat, glare, or light is not reflected onto adjacent properties or streets.
- (B) Noise: No noise or sound shall be of a nature, which will constitute a nuisance as documented by the chief of police.
- (C) Sewage: No categorical wastewater discharges are allowed. Adequate provisions shall be in place for the disposal of sewage and waste materials and such provisions shall meet the requirements of the City of Aumsville sewage disposal system.
- (D) Vibration: No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at or beyond the property line for the use concerned.

10.06 Minimum Lot Area and Dimensions: None.

10.07 Maximum Height of Structure: 50 feet.

10.08 Setbacks:

- (A) Highway 22: 30 feet
- (B) Designated arterial or collector: 20 feet
- (C) Local Street: 15 feet
- (D) Side yard: 15 feet
- (E) Rear yard: 15 feet
- (F) Setback Exceptions: Notwithstanding the requirements set forth in this subsection, the following exceptions apply:
  - 1. Setbacks from any street may be reduced by 5 feet when landscaping, screening material, or other mitigation techniques are provided, to a degree greater than that called for in this section, which effectively screen the parking areas and building service areas from the street.
  - 2. Setbacks of up to zero feet along all local designated streets and property lines may be provided in commonly planned projects which exhibit characteristics of an urban village which includes extensive amenity areas, strong pedestrian, transit, and bicycle orientation, varied and high quality building materials, complex and interesting building massing, and extensive landscaping.

10.09 Design Requirements. Building design shall be subject to the following:

- (A) Building material should be of high quality and attractive appearance using matte texture earth tones. Masonry, brick, and stone in their natural state are preferred as principal cladding materials. Textured concrete, architectural block, stucco,

modulated in jointed patterns, and pre-cast concrete with appropriate detailing are also acceptable materials. Materials, detailing, and colors should be repeated on all building facades.

- (B) Unpainted or un-textured concrete or masonry, metal buildings, and unpainted metal are prohibited.
- (C) The use of roof or facade offsets or breaks is encouraged. Roof planes should be varied. Facade lines should be broken at least every 40 feet on all building sides.
- (D) All mechanical equipment to be screened from view in a manner consistent with the design of the structure and site.
- (E) The color palette should be simple and consistent within projects. Colors should be compatible with neighboring development. Bright or primary colors shall be limited to accent elements.

10.10 Landscaping. All rights-of-way and setbacks are to be landscaped and maintained by property owners as follows: (See also Section 23, Landscaping Design)

- (A) Sites shall include landscaped areas, hard surface landscapes, public plazas, walks, and sidewalks.
- (B) All setback areas shall be landscaped; parking or other physical improvements shall be prohibited within required setback areas.
- (C) Street trees: At least one tree per 40 lineal feet shall be provided between the sidewalk and back of curb. An additional tree and 10 shrubs per 40 lineal feet must be provided within 10 feet of the sidewalk.

10.11 Signs. Signs shall be subject to the provisions in Section 19. The following additional provisions shall apply to development within the ID zone. Where conflicts occur, the more restrictive regulations shall apply.

- (A) A sign plan is required for all development. All signs shall be architecturally integrated with the overall project design.
- (B) Permitted freestanding signs are limited to monument signs. Monument signs shall not exceed 32 square feet per face nor shall the sign area exceed 4 feet in height or 6 feet total for the sign structure, and the horizontal length shall not exceed 8 feet. A sign not complying with these provisions may be established through a Conditional Use Permit pursuant to provisions in Section 14.
- (C) Wall signs may not extend above roof line and shall be consistent throughout the project.

10.12 Parking and Loading. See the Parking and Loading section of this ordinance (Section 18). In addition to compliance with the provisions in Section 18, all lots exceeding 50 spaces shall include the following landscaping provisions:

- (A) At least 5% of the parking area shall be landscaped. The landscaping improvements may count toward the minimum landscaping requirements.
- (B) The ends of parking rows must have 6-foot-wide planting islands with a minimum of 2 shade trees and 8 shrubs.
- (C) Landscaped medians shall be required between every fourth parking row with at least 1 shade tree and 8 shrubs for every 30 lineal feet of median.

- 10.13 Transportation Impact Analysis. In addition to the site development review provisions in Section 21, the City may request a transportation impact analysis for development within the ID zone. This study shall be based on the requirements of the Oregon Department of Transportation.
- 10.14 Site Development Review Required. All new structures and change in use and any expansion of existing structures or uses shall be subject to a site development review.
- 10.15 IAMP Compliance Required. A new or expanded uses or structure is subject to the applicable provisions, if any, of an Interchange Area Management Plan. Notice of any proposed development in an area subject to an Interchange Area Management Plan.

[Section 10 amended by [Ord. No. 722](#), passed October 23, 2023.]

## **SECTION 11.00**

### **Administration and Enforcement**

- 11.01 Administrative Official
- 11.02 Building Permits
- 11.03 Application for Building Permits
- 11.04 Building Permit Applications and Renewal
- 11.05 Expiration of Building Permits and Renewal
- 11.06 Refund of Permits
- 11.07 Construction and Use to be as Provided in Applications, Plans, and Permits

## SECTION 11.00

### **Administration and Enforcement**

#### 11.01 Administrative Official.

- (A) The City Administrator is designated by Council as the Administrative Official to administer and enforce this ordinance. The City Administrator may designate others to provide assistance.
- (B) If any provisions of this ordinance or the Comprehensive Plan are being violated, the Administrative Official shall give written notice to the person(s) responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct.
- (C) Abatement and Penalty: A person violating a provision of this ordinance shall be subject to a fine of not more than \$1,000 dollars per day, as determined by a court of competent jurisdiction. A violation shall be considered a separate violation on each day it continues. The Administrative Official or the chief of police shall each have jurisdiction to enforce this ordinance by letter and/or citation. It is the responsibility of the city attorney to cause a person cited under this ordinance to appear before a court of competent jurisdiction for determination of appropriate action and/or fine.
- (D) See Section 12.

#### 11.02 Building Permits.

- (A) A permit shall be obtained before beginning construction, repairs, other than ordinary repairs, upgrades, or improvements using application forms furnished by the Administrative Official. Ordinary repairs are nonstructural repairs and do not include addition to, alteration of, or replacement or relocation of water supply, sewer, drainage or similar piping, electrical wiring, or mechanical or other work for which a permit is required by the Administrative Official.
- (B) No building permit shall be issued except in conformity with the provisions of the City of Aumsville's Comprehensive Plan and Development Ordinance, unless written communications are received from the Commission in the form of review, variance, or conditional use application, as provided by this ordinance.

#### 11.03 Application for Building Permits.

- (A) All applications for building permits shall be on forms provided by the City and shall be accompanied by such fees as are required and plans, drawn to scale, in duplicate or triplicate and containing:
  - 1. The actual dimensions and shape of the lot to be built upon;
  - 2. The locations on the lot of buildings already existing, if any, and the distances from all property lines; and
  - 3. The location and dimensions of the proposed building or alterations; and
  - 4. Other information as may be necessary to determine conformance with, and provide for the enforcement of this ordinance and the Comprehensive Plan.

- (B) A building permit application shall include all applicable fees established by Council resolution. Plans shall be distributed per the requirements of the building official. Plans shall be distributed per the requirements of the building official.

11.04 Building Permit Applications and Renewal.

- (A) Building permit applications are kept in the review process for a period of 180 days following the date of the application. If not issued within this time they shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Administrative Official.
- (B) Expired applications may be extended for a period not exceeding 180 days upon the written request of the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once.
- (C) Once an application has expired, it becomes invalid and all fees are forfeited.
- (D) Any fee erroneously paid or collected may be refunded. Refunds will be subject to the City's adopted fee schedule. No fee shall be refunded except upon written request by the original applicant, not later than 180 days after the date of the fee payment and before a permit has been processed. The Zoning Review Fee shall not be refunded and refund of other fees will be based on the review work completed.

11.05 Expiration of Building Permits and Renewal.

- (A) Permits are not transferable and expire by limitation and become null and void if:
  - 1. Work is not commenced within 180 days from the date the permit is issued, or
  - 2. Work is suspended or abandoned at any time after the work is commenced for a period of 180 days. The burden of proof to show that substantial work has been done rests with the property owner. Written notice of expiration shall be given to the permittee by the Administrative Official.
- (B) Any permittee holding an unexpired permit may submit a written request for an extension showing that circumstances beyond the control of the permittee have prevented action from being taken. The permit may be extended for not more than 180 days. No permit shall be extended more than once.
- (C) An expired permit must be renewed before any work can be recommenced. A new permit shall be first obtained with the fee determined by the Administrative Official.

11.06 Refund of Permits.

- (A) Any fee erroneously paid or collected may be refunded.
- (B) Refunds will be subject to the City's adopted fee schedule.
- (C) No fee shall be refunded except upon written request by the original permittee when no construction work has been done, not later than 180 days after the date of the fee payment. Once payment has been made by the City to Marion County, refund request must be made directly to Marion County Building Inspection.
- (D) No zoning review, state surcharge, or plans review fees shall be refunded.

11.07 Construction and Use to be as Provided in Applications, Plans, and Permits. Building permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violations of this ordinance.

## **SECTION 12.00**

### **Administrative Procedures**

- 12.01 Summary of Application Types and Review Procedures
- 12.02 General Procedures
- 12.03 Public Notice Requirements
- 12.04 Public Hearing Before the Planning Commission
- 12.05 Review and Public Hearings by Council
- 12.06 Appeal Provisions
- 12.07 Fees
- 12.08 Type IV Actions
- 12.09 Revocation of Decision



## SECTION 12.00

### **Administrative Procedures**

- 12.01 Summary of Application Types and Review Procedures. All development permits and land use actions are processed under the City's administrative procedures provided for in this section. There are four types of actions, each with its own procedures.
- (A) Type I-A Action. An administrative action reviewed by staff based on clear and objective standards. The notice of the decision is sent only to the applicant. Appeal is to the Commission. The following actions are processed under the Type I-A procedure:
1. Property Line Adjustment (Section 20)
  2. Home Occupation (Section 22)
  3. Sign Permit (Section 19)
  4. Non-Conforming Use (Section 4)
  5. Minor Modifications per definition contained in Section 1.
  6. Landscaping Plan that is not part of a Type II application.
- (B) Type I-B Action. An administrative action reviewed by staff based on clear and objective standards with a minimum level of discretion. Notice of the decision is sent to the applicant and those who submitted comments. Appeal is to the Commission. The following actions are processed under the Type I-B procedure:
1. Site development reviews for uses listed as "Uses Permitted Outright" within their respective zones. A Type II site development review shall not be required in the event a use in an existing building is replaced by a use listed as "Uses Permitted Outright" within their respective zones.
  2. Accessory Structures (Section 21).
  3. Partition (Section 20).
  4. Change of Use in an existing building.
  5. Building additions up to 600 sq ft.
- (C) Type II Actions. A Type II action is a quasi-judicial review in which the Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing are provided; see Section 12.02. Appeal of a Type II decision is to Council. The following actions are processed under a Type II procedure:
1. Conditional Use Permit (Section 14)
  2. Manufactured Home Park (Section 6)
  3. Similar Use (Section 4)
  4. Variance (Section 13)
  5. Site Development Review (Section 21)
  6. Major modifications to approved site plan (Section 21)
  7. Master Planned Developments (Section 28)
- (D) Type III Actions. A Type III action is a quasi-judicial process in which Council applies a mix of objective and subjective standards. The Commission has an advisory role. Public notice is provided and public hearings are held at the Commission and Council; see Section 12.03. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a

Type III procedure:

1. Annexation (Section 17)
  2. Zone Change (Section 16)
  3. Comprehensive Plan Map Amendment (Section 16)
  4. Subdivision (Section 20)
  5. Development Agreements, as set forth in ORS 94.504 to 94.528
- (E) Type IV Actions. A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Except as otherwise provided in Section 15 or Oregon laws regarding initiatives (e.g., ORS chapter 250), a private party cannot request a Type IV action. A Type IV application must be initiated by city staff, Commission, or Council. Public notices and hearing are provided in a Type IV process. The following actions are processed under a Type IV procedure:
1. Comprehensive Plan amendments and revisions.
  2. Development Ordinance amendments.
- (F) Applications requesting vacation of public rights-of-way shall be processed according to the applicable Oregon Revised Statutes.
- (G) Whenever an applicant requests more than one approval, including different approval types, the proceedings may be consolidated at the discretion of the City, so that one approval authority shall decide all applications. In such cases, the review procedure and approval authority will be that of the highest numbered approval type involved in the applications. Type IV legislative actions cannot be combined with Types I-III quasi-judicial actions.

## 12.02 General Procedures.

- (A) Procedure for Type I Review. Applications subject to administrative review shall be reviewed and decided by the Administrative Official.
1. Upon receipt of an application for a Type I land use action, city staff shall review the application for completeness.
    - (a) Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
    - (b) If incomplete, city staff 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 application shall be deemed complete either:
    - (a) Upon receipt of the missing information; or
    - (b) Upon receipt of some of the missing information and written notice from the applicant that no other information will be provided; or
    - (c) Upon receipt of written notice from the applicant that none of the missing information will be provided.
  3. On the 181<sup>st</sup> day after the application was first submitted the application is void if: as required under subsection (2) of this section, the applicant has been notified of the missing information and applicant has not responded appropriately.
  4. Referrals may be sent to interested agencies such as city departments, police and fire departments, school district, utility companies, and applicable

- state or federal agencies.
5. If the staff finds that the facts of the particular case require interpretation of existing standards, then a public hearing before the Commission shall be scheduled. The procedures for conducting the public hearing shall comply with the requirements in Section 12.03(A).
  6. Staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this ordinance.
  7. The City may place conditions related to ensuring the applicant complies with standards and requirements.
  8. A Type I land use decision may be appealed by the applicant to the Commission. The appeal shall be filed within 12 days from the date of the decision, following the provisions of Section 12.06.
  9. The timing requirements established by this section are intended to allow a final action, including resolution of any appeals, within 120 days of receipt of a complete application. The 120-day time period may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days.
  10. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this ordinance.
    - (a) The city staff shall notify Council of the timing conflict by the 95th day. Council may, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.
    - (b) Public notice may be mailed to affected parties as specified in Section 12.03(B).
    - (c) Council shall hold a public hearing on the specified date, if applicable, in accordance with the provisions of Section 12.05 and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.
- (B) Procedure for Type I-B Review. Applications subject to administrative review shall be reviewed and decided by the Administrative Official.
1. Upon receipt of an application for a Type I-B land use action, city staff shall review the application for completeness.
    - (a) Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
    - (b) If incomplete, city staff 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 application shall be deemed complete either:
    - (a) Upon receipt of the missing information; or
    - (b) Upon receipt of some of the missing information and written notice from the applicant that no other information will be provided; or
    - (c) Upon receipt of written notice from the applicant that none of the missing information will be provided.

3. On the 181<sup>st</sup> day after the application was first submitted the application is void if: as required under subsection (2) of this section, the applicant has been notified of the missing information and applicant has not responded appropriately.
4. Hearing Option. If city staff finds that the facts of the particular case require interpretation of existing standards, then a public hearing before the Commission shall be scheduled. The procedures for conducting the public hearing shall comply with the requirements in this section. Further, the City Administrator or designee may request a public hearing before the Commission. A public hearing may also be requested by the applicant.
5. Before making an Administrative Decision, the City shall mail notice to:
  - (a) All owners of record of real property within 100 feet of the subject site.
  - (b) Any person who submits a written request to receive a notice; and
  - (c) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, or required by State statute.
  - (d) The road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of decision for the application.
  - (e) The City may notify other affected agencies, as appropriate, for review of the application.
6. Notice of a pending Administrative Decision shall:
  - (a) Provide a 14-day period for submitting written comments before a decision is made on the land use application.
  - (b) Identify the specific land use decisions or decisions requested.
  - (c) Describe the street address or other easily understandable reference to the location of the site.
  - (d) List the relevant decision criteria by name and number of code sections.
  - (e) State the place, date, and time the comments are due, and the person to whom the comments should be addressed.
  - (f) Include the name and telephone number of a contact person regarding the Administrative Decision.
  - (g) State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
  - (h) State that all evidence relied upon by the City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City.
  - (i) State that after the comment period closes, the City shall issue an Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
7. Decision. The City Administrator or designee shall review the application and

shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this code. The City may place conditions related to ensuring the applicant complies with standards and requirements.

8. Notice of Decision. Within five working days after a decision is made, a Notice of Decision shall be sent by mail to:
    - (a) The applicant and all owners or contract purchasers of record of the site that is the subject of the application.
    - (b) Any person who submits a written request to receive notice or provides comments during the application review period.
    - (c) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
  9. Appeals and Reconsideration. All administrative land use decisions of the City Administrator or their designee may be appealed to the Commission. The appeal shall be filed within 12 days from the date of the decision, following the provisions of this section.
  10. The timing requirements established by this section are intended to allow a final action, including resolution of any appeals, within 120 days of receipt of a complete application. The 120-day time period may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days.
  11. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this ordinance.
    - (a) City staff shall notify the Council of the timing conflict by the 95<sup>th</sup> day. Council may, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.
    - (b) Public notice may be mailed to affected parties as specified in Section 12.03.
    - (c) Council shall hold a public hearing on the specified date, if applicable, in accordance with the provisions of this section and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.
- (C) Procedures for Type II and Type III Actions.
1. Upon receipt of an application for Type II or Type III land use action, city staff shall review the application for completeness.
    - (a) Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.
    - (b) If incomplete, city staff 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 application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:

- (a) Upon receipt of the missing information; or
  - (b) Upon receipt of some of the missing information and written notice from the applicant that no other information will be provided; or
  - (c) Upon receipt of written notice from the applicant that none of the missing information will be provided.
3. On the 181<sup>st</sup> day after the application was first submitted the application is void if: as required under subsection (2) of this section, the applicant has been notified of the missing information and applicant has not responded appropriately.
  4. Applications for more than one Type II or Type III land use action for the same property may, at the applicant's discretion, be combined and heard or reviewed concurrently.
  5. Referrals may be sent to interested agencies such as city departments, police and fire departments, school district, utility companies, post office, and applicable state or federal agencies.
  6. The public hearing shall be scheduled and notice shall be mailed or delivered to the applicant and adjacent property owners. Notice requirements shall comply with Section 12.03(B)
  7. Any staff report or written recommendations shall be available at least 7 days prior to the hearing. This report shall be mailed or delivered to the applicant and be available at city hall for all interested parties.
  8. The public hearing before the Commission shall comply with the provisions in Section 12.04.
  9. Approvals of any Type II or Type III action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:
    - (a) Conditions shall be designed to ensure compliance with applicable approval criteria may be related to the following:
      - i. Protection of the public from the potentially deleterious effects of the proposed use; or
      - ii. Fulfillment of the need for public service demands created by the proposed use.
    - (b) Changes or alterations to a condition of approval shall be processed as a major or minor modification, as applicable.
    - (c) Whenever practical, all conditions of approval required by the City shall be completed before the issuance of an occupancy permit. When an applicant provides information which demonstrates to the satisfaction of the Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Commission may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.
      - i. Types of Guarantees. Performance guarantees may be in the form of performance bond payable to the City of Aumsville, cash, certified check, time certificate of deposit, or other form acceptable to the City. The form must be approved by the city

- attorney and appropriate documents filed with the Administrative Official.
- ii. Amount of Guarantee. The amount of the guarantee must be equal to at least 110% of the estimated cost of the performance. The applicant must provide a written estimate acceptable to the City, which must include an itemized estimate of all materials, labor, equipment, and other costs of the required performance.
  - iii. Time Periods. The Administrative Official may grant a waiver of performance for a period not to exceed 6 months. A request for extension of any waiver granted must be submitted to and approved by Council.
10. The Commission or Council shall render a decision that either approves or denies the application. City staff shall prepare the decision in writing and include:
    - (a) A brief statement that explains the criteria and standards considered relevant to the decision;
    - (b) A brief statement of the facts relied upon in rendering the decision and an explanation or the justification for the decision based on the criteria;
    - (c) If applicable, any conditions placed on an approval; and
    - (d) Signature of the decision-maker's chair.
  11. A Type II land use decision may be appealed to Council by a person who participated in the decision. The appeal shall be filed within 12 days from the date of the final written decision, following the provisions of Section 12.06.

Type III land use applications are automatically reviewed by the Council.
  12. The timing requirements established by this section are intended to allow final action, including resolution of appeals, for all Type II or Type III land use actions (except Annexations and Comprehensive Plan Map amendments) within 120 days of receipt of a complete application. The 120-day time period may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days.
  13. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this ordinance.
    - (a) The City shall notify Council of the timing conflict by the 95<sup>th</sup> day. Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.
    - (b) Public notice shall be mailed to affected parties as specified in Section 12.03(B).
    - (c) Council shall hold a public hearing on the specified date, if applicable, in accordance with the provisions of Section 12.05 and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

12.03 Public Notice Requirements.

- (A) Type I Actions. Written notice of any Type I hearing shall be mailed or delivered to the applicant. An electronic copy shall be acceptable.
- (B) Type II and Type III Actions.
  - 1. Notice of any public hearings before the Commission or Council for a Type II or Type III land use action required by this ordinance shall be posted on the subject property at least 10 days prior to the public hearing.
  - 2. Written notice of the initial public hearing shall be mailed or delivered at least 20 days prior to the hearing date to the owners of property within 100 feet of the boundaries of the subject property. Where a multiple hearing application is scheduled, only a 10-day written notice shall be required.
  - 3. Notice of the hearing shall be printed in the Aumsville Newsletter, except for Annexations. Annexation notice of hearing shall be published in accordance with Oregon Revised Statutes. An affidavit of publication of the notice shall be made a part of the administrative record.
  - 4. Applicants for a Type II or III action shall be responsible for providing a certified list of property owners within the notice area, prepared by Marion County or a title company, within 100 feet of the subject property.
- (C) Type IV Actions. Notice of the time, place, and purpose of the first public hearing shall be mailed at least 20 days but not more than 40 days prior to the hearing date to all owners of property within the city whose property would be rezoned by a Type IV action. Notice of all hearings shall be published in the Aumsville Newsletter or other publication of general circulation within the city at least 10 days before the first public hearing.
- (D) Notice of Appeals. Notice of hearings on appeal to either the Commission or Council shall be pursuant to Subsection (B)(2) above, and shall include written notice at least 10 days prior to hearing to the appellant, the applicant, and any other individual who received notice of the original decision, and any others requesting notice.
- (E) Notice Requirements.
  - 1. Public notice shall:
    - (a) Explain the nature of the application and the proposed use or uses which could be authorized;
    - (b) Cite the applicable criteria from the ordinance and the plan which apply to the application at issue;
    - (c) Set forth the street address or other easily understood geographical reference to the subject property;
    - (d) State the date, time, and location of the hearing;
    - (e) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
    - (f) Include the name of the city representative to contact and the telephone number where additional information may be obtained;
    - (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are



available for inspection at no cost and will be provided at reasonable cost at least

20 days prior to the public hearing. Where a multiple hearing application is scheduled, only at least 10 days shall be required for availability of the above material;

- (h) State that a copy of any staff report will be available for inspection at no cost at least 7 days prior to the hearing and a copy will be available at reasonable cost;
  - (i) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.
- (F) Failure to Receive Notice. Failure to receive notice prescribed in this section does not invalidate a decision if the City can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio, and television.

#### 12.04 Public Hearing Before the Planning Commission.

##### (A) General Provisions.

1. A land use action that requires a public hearing by the Commission under the provisions of this ordinance shall be initially heard by the Commission within 60 days of the receipt of a complete application or appeal.
2. The Commission or Council may continue a public hearing for additional, information, testimony, decision, or to serve further notice. Upon recessing the hearing, the Commission or Council shall announce the time and place when the hearing will be resumed. When the hearing body reopens the record to admit new evidence or testimony, any person may raise new issues that relate to the new evidence, testimony, or criteria for decision-making which apply to the matter at issue.
3. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least 7 days after the hearing.
4. The decisions of the Commission on applications for Type II actions shall be final unless appealed to the Council pursuant to Section 12.06.
5. The recommendations of the Commission on applications for Type III actions shall be referred to the Council for final determination, pursuant to Section 12.05
6. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the Council or Commission, and the parties, an adequate opportunity to respond to each issue.
7. Appeal of a Type I action shall be heard by the Commission in accordance with provisions of Section 12.04. The Commission's decision is final unless further appealed to Council.

##### (B) Public Hearing Procedures.

1. Open Public Hearing: The presiding officer shall open the record, announce the nature and purpose of the hearing, and summarize the rules of conduct of the hearing and appeal rights.
2. Declaration of Interests: The presiding officer shall inquire whether any member of the Council or Commission has any conflicts of interest concerning the issue before the City. All Councilors and Commissioners are required to declare conflicts of interest, bias, and ex-parte contacts, and to state on the record whether they intend to participate in the decision. All declarations shall be made publicly at the commencement of the first public hearing following the date when the Councilor or Commissioner first learned of or had an interest which must be declared. A member shall declare whether the member can make an impartial decision on the matter before them.
3. Preliminary Matters: Immediately following the declaration of interest section of the hearing, the presiding officer shall determine if there are other preliminary matters that need to be addressed prior to taking testimony and evidence on the case. Preliminary matters may include issues such as the notice of the public hearing, jurisdictional questions, or procedural issues.
4. Opening Statement: Following the determination of all preliminary matters, the presiding officer shall read into the record an opening statement that includes the following:
  - (a) A description of the applicable substantive approval criteria.
  - (b) That testimony and evidence submitted at the hearing must be directed toward the approval criteria listed in the notice of public hearing and as read in item (4)(a) hereof, or to other criteria which the person believes to apply to the decision.
  - (c) A disclaimer that failure to raise an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.
  - (d) Note that any person may request either a continuance of the hearing if additional evidence in support of the application is presented, or that the record be left open for submission of additional evidence, then the record shall remain open for at least 7 days.
  - (e) Notify those who will be testifying to provide their name and full mailing address if they wish to receive the notice of decision, be notified of a continuance, appeal, or other action on the application.
5. Staff Report: A representative of the City shall present a staff report, summarizing the nature of the application, citing applicable standards and criteria, and making a recommendation with or without conditions as to whether the application should be granted or denied.
6. Applicant or Appellant: The applicant or appellant, or a person representing the applicant or appellant shall present evidence in support of the application or appeal. In cases where the appellant is other than the applicant, the burden of proof remains with the applicant to show that the land use application is entitled to approval. In such cases where the

appellant is not the applicant, the appellant shall testify first, followed by the applicant.

7. Proponents: Any person in favor of the application, followed by Commission/Council questions.
  8. Opponents: Any person opposed to the application, followed by Commission/Council questions.
  9. Governmental Agencies: A representative of any governmental agency or department may present testimony or other evidence concerning the application at issue.
  10. General Testimony: Any person who has not previously testified on the issue shall be given an opportunity to be heard.
  11. Applicant Rebuttal Summary: The applicant is to be allowed to summarize briefly the proposal and shall be given the opportunity to present rebuttal testimony or evidence.
  12. Questions from the Council or Commission: After recognition by the presiding officer, any member of the Council or Commission may direct questions to the applicant, staff, or any other party.
  13. Staff Summary: The city staff representative shall respond to any relevant questions from the testimony and summarize the actions required by the City.
  14. Closing the Hearing: Generally, the record will be closed at the conclusion of the hearing unless the presiding officer has declared that the record will be held open to receive additional evidence, or to continue the hearing to a date and time certain.
  15. Discussion by members and determination of the findings of fact.
  16. Decision, including any conditions of approval and a restatement of appeal procedures.
- (C) Evidence.
1. All evidence offered is included in the record unless the evidence is expressly rejected by the Commission or Council.
  2. The Commission or Council may take notice of judicially recognizable facts, and members may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Commission members may utilize their experience, technical competence, and specialized knowledge in evaluation of the evidence presented.
  3. All interested persons are entitled to an opportunity to be heard and to present evidence. The applicant is also entitled to present rebuttal.
- (D) Burden of Proof. The proponent(s) of a matter at public hearing before the Commission or Council has the burden of proving that the proposal complies with all applicable criteria. The proposal must be supported by substantial evidence in the whole record it conforms with the applicable provisions of this ordinance.
- (E) Record of Hearing. A record of the proceeding shall be made by written, mechanical, or electronic means. The record need not be transcribed except upon

request by Council or as provided in this section.

- (F) Limits on Oral Testimony. The presiding officer may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.
- (G) Exhibits. All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.
- (H) General Conduct of the Hearing. Each person appearing before the Commission and Council shall give their name and address. No person shall speak without obtaining the permission from the chair. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.

#### 12.05 Review and Public Hearings by Council.

##### (A) Hearings by Council.

1. Council shall hold public hearings on all Type III and Type IV actions.
2. The hearings shall follow ORS 197.763 procedures.
3. A final decision shall be made within the timeframe mandated by state law, unless the applicant agrees to extend the 120-day review period.
4. The decision of Council of a Type III or Type IV action is final and in accordance with Section 12.02(B)(9).

#### 12.06 Appeal Provisions. The appeal period starts on the date of the Notice of Decision.

##### (A) Appeals.

1. The Commission shall hear appeals of all Administrative Official decisions on a Type I Action.
2. The Council shall hear all appeals of Commission decisions.
3. The appeal must be perfected as required by Section 12.06. The action of the Administrative Official or Commission is final and the appeal shall not be heard if the appeal period has lapsed.
4. Submission of New Testimony and De Novo Hearings: Council may admit additional testimony and other evidence by holding a de novo hearing. Upon the decision to admit additional testimony or other evidence and to hear the entire matter de novo, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters at the initial hearing.
5. The Council may affirm, rescind, or amend the action of the Commission and may grant approval subject to conditions necessary to ensure compliance with the applicable approval criteria and the Comprehensive Plan. Council may also remand the matter back to the Commission for additional information, subject to the agreement of the applicant to extend the 120-day review period.

##### (B) Appeal Period.

1. The decision of the Administrative Official is final for a Type I land use decision unless a notice of appeal is received by the City within 12 days of the date of the final written decision, or unless Council, on its own motion, orders review within 12 days of the written decision. An appeal stays the proceedings in the matter appealed until the determination of the appeal. The 120-day deadline

- for final action by the City remains in effect unless the time period is voluntarily extended by the applicant.
2. The decision of the Commission for a Type II land use decision, or the appeal of a Type I decision, is final unless a notice of appeal is received by the City within 12 days of the date of the final written decision, or unless Council, on its motion, order review within 12 days of the written decision. An appeal stays the proceedings in the matter appealed until the determination of the appeal. The 120-day deadline for final action by the City remains in effect unless the time period is voluntarily extended by the applicant.
  3. All appeals from the Council's decision on a Type III or Type IV action shall be to the state Land Use Board of Appeals. The appeal must be perfected following applicable state law.
- (C) Form of Appeal. An appeal shall be made on forms provided by the City and shall state the alleged errors in the decision.
- (D) Transcript Fees. In addition to any cost or fees set forth in Section 12.07 below, the City may charge a fee for the preparation of any transcript that may be required for the appeal. The fee shall be determined based on the current city hall per page rate for the copying and personnel costs as an hourly rate equivalent to the salary plus benefits (computed at an hourly rate) of each employee involved in the preparation of the transcript.
- (E) Appeal Fee.
1. The appeal fee is determined based on the current city hall per page rate for the copying and personnel costs at an hourly rate equivalent to the salary plus benefits (computed at an hourly rate) of each employee involved in the appeal work; and
  2. The City shall estimate the cost of the appeal and receive a deposit from the appellant in that amount. The appellant shall be billed for actual costs more than the deposit or receive a refund for surplus deposit funds, whatever the case may be.

#### 12.07 Fees:

- (A) Purpose. Fees are for the purpose of defraying administrative costs.
- (B) General Provisions.
1. Fees shall be payable at the time of application and shall be as set forth by ordinance or resolution of Council. There shall be no fee required for an application initiated by the Commission or Council.
  2. The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, will constitute an incomplete application.
  3. Fees are not refundable unless the application or appeal is withdrawn before the notification of the hearing. Refund of any fees will be based on the review work completed.
  4. Council may reduce or waive the fees upon showing of just cause to do so.

#### 12.08 Type IV Actions:

- (A) Initiation. Type IV may be initiated by:
  - 1. Majority vote of Council.
  - 2. Majority vote of the Commission.
  - 3. Initiative petition, in accordance with ORS 250.305 and Section 15 of the development ordinance.
- (B) Procedure for Type IV Actions.
  - 1. Public Hearings by Commission.
    - (a) A public hearing shall be held by a majority of the Commission on all proposed amendments to this ordinance and on all legislative amendments to the zoning maps. The Commission may continue any hearing in order to make a reasonable decision. Notice shall be as specified in Section 12.03.
    - (b) Amendments shall be considered and acted upon by the Commission. If the Commission fails to act on the action, and no extension is granted by Council, Council may act upon the amendment.
  - 2. Public Hearing by Council. Following Commission action, Council shall hold a public hearing to consider the applicable criteria and the Commission's recommendation on proposed amendments. Notice shall be as specified in Section 12.03.
  - 3. Time Requirement. The 120-day deadline for final action by the City does not apply to any Type IV action.

#### 12.09 Revocation of Decision.

- (A) Compliance with Conditions. Compliance with the conditions of approval imposed by the Administrative Official, Commission, or Council in approving a permit or other land use decision is required. Any departure from the conditions of approval and approved plans constitutes a violation of this ordinance.
- (B) General Provisions.
  - 1. The Administrative Official may initiate a revocation of any permit or other land use decision for failure to comply with a condition of approval. A hearing on the revocation shall be conducted by the Commission as a Type II hearing and in accordance with the procedures for a Type II hearing.
  - 2. Final decisions regarding Comprehensive Plan text or map amendments, development ordinance text amendments, or zone changes are not subject to revocation.

[Section 12 amended by [Ord. No. 711](#), passed December 12, 2022.]

[Section 12 amended by [Ord. No. 722](#), passed October 23, 2023.]

## SECTION 13.00

### **Variances**

Purpose: It is the purpose of this section, subject to the restrictions and provisions of this ordinance, to vary or modify the strict application of any of the regulations or provisions, except for use of property.

- 13.01 Purpose Statement
- 13.02 Commission
- 13.03 Application
- 13.04 Public Hearing
- 13.05 Criteria for Granting a Variance
- 13.06 Findings
- 13.07 Limiting Variances
- 13.08 Notice
- 13.09 Limit on a Variance Permit
- 13.10 Appeals
- 13.11 Resubmission of Variance Application

## SECTION 13.00

### Variances

- 13.01 Purpose Statement. The development standards in this Development Code protect the public health, safety, and welfare by establishing standard setbacks, maximum building heights, and other development standards that apply to various uses. For lands or uses with unique characteristics, the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements only. Economic hardship shall not be the basis for a variance request, neither shall a variance be approved as a means to establish a use not otherwise permitted in the zone.
- 13.02 Commission. The Commission is authorized to conduct public hearings on applications for variances within the limits, spirit, and intent of this ordinance, and as will not be contrary to the public interest, and are applied reasonably to maintain and not abolish the distinctive classifications created by this ordinance. The Commission may approve, deny, or conditionally approve any application for a variance permit.
- 13.03 Application. A property owner may initiate a request for a variance by filing with the Administrative Official on a form provided and paying the appropriate posted fee.
- 13.04 Public Hearing. Public hearings before the Commission shall be in accordance with the procedures in Section 12, Administrative Procedures.
- 13.05 Criteria for Granting a Variance. A variance from the numerical standards of this ordinance shall not be granted unless ALL of the following circumstances exist:
- (A) Compliance with the applicable requirement or standard of this ordinance would:
    - 1. Create a hardship due to one or more of the following conditions:
      - (a) The physical characteristics of the land, improvements, or uses that are not typical of conditions in the zoning district; or
      - (b) Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district; or
      - (c) That the special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this ordinance by the applicant.
    - 2. Not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located.
  - (B) Strict adherence to the requirement or standard is unnecessary because the proposed variance will reasonably satisfy both of the following objectives:
    - 1. Granting the variance will not create significant adverse effects to the appearance, function, or safety of the use or uses on the subject property; and
    - 2. Granting the variance will not impose limitations on other properties in the area, including uses which would be allowed on vacant or underdeveloped properties.



(C) Approval of this application will allow the property to be used only for the purposes authorized by the zoning district.

- 13.06 Findings. Before the Commission shall grant or deny a request for a variance, the Commission shall develop specific findings of fact that support or do not support the criteria set forth in Section 13.05. If it is determined by the Commission that the criteria set forth in Section 13.05 are not met, the Commission shall deny the request for variance.
- 13.07 Limiting Variances. In granting any variance, the Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance. Under no circumstances shall the Commission grant a variance to allow a use not permissible under the terms of this ordinance in the zone involved, or any use expressly or by implication prohibited by the terms of this ordinance.
- 13.08 Notice. Within 10 days after a decision the Administrative Official shall provide the applicant with written notice of the decision of the Commission.
- 13.09 Limit on a Variance Permit. Unless otherwise provided in the final decision granting a variance, a variance granted pursuant to this Section shall run with the land and associated approvals granted in conjunction with the variance. Further, the variance shall automatically transfer to any new owner or occupant subject to all conditions of approval.
- 13.10 Appeals. Appeals from the decision of the Commission shall be in accordance with the procedures in Section 12, Administrative Procedures.
- 13.11 Resubmission of Variance Application. An application for a variance that was denied wholly or in part by the Commission may not be resubmitted for a period of 1 year from such denial, unless approved by the Administrative Official upon showing of good cause.

## SECTION 14.00

### Conditional Uses

Purpose: In addition to development intended for a zone there are uses that are specified as conditional uses because of their public convenience, necessity, unique nature, or their effect on the Comprehensive Plan. A conditional use listed in a zone may be permitted, enlarged, or altered provided that the conditional use would be reasonably compatible with and have minimal impact on the livability and appropriate development of an abutting property surrounding neighborhood, and to the purpose and intent of the Comprehensive Plan.

- 14.01 Commission
- 14.02 Administrative Official
- 14.03 Application
- 14.04 Public Hearing
- 14.05 Criteria for Granting a Conditional Use
- 14.06 Permit Conditions
- 14.07 Existing Conditional Uses
- 14.08 Conditional Use and Concurrent Variances
- 14.09 Notice
- 14.10 Appeals
- 14.11 Time Limit of a Conditional Use Permit
- 14.12 Resubmission of a Conditional Use Application

## SECTION 14.00

### Conditional Uses

- 14.01 Commission. The Commission is authorized to conduct public hearings on an application for a conditional use. In addition to conditions imposed to ensure compliance with the standards, criteria and requirements expressly required by this ordinance, the Commission may impose additional conditions the Commission considers necessary to protect the best interest of the affected zone and the city as a whole.
- 14.02 Administrative Official. The Administrative Official is authorized to set for public hearing before the Commission those written applications for a conditional use permit.
- 14.03 Application. A property owner may initiate a request for a conditional use permit by filing with the Administrative Official on forms provided and paying the appropriate posted fee.
- 14.04 Public Hearing. Public hearings before the Commission shall be in accordance with the procedures in Section 12, Administrative Procedures.
- 14.05 Criteria for Granting a Conditional Use.
- (A) The proposal will be consistent with the provisions of the Development Ordinance, the underlying land use zone, and other applicable policies of the City.
  - (B) Taking into account location, size, design, and operation characteristics, the proposal will have minimal adverse impact on the livability, value, and appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
  - (C) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.
  - (D) The proposal will preserve assets of particular interest to the community.
- 14.06 Permit Conditions. The Commission when permitting a new conditional use or the alteration of an existing conditional use, may impose those conditions it finds necessary to avoid detrimental impact and to otherwise protect the best interest of the surrounding area and the city as a whole (See Section 12). These conditions may include, but are not limited to, the following:
- (A) Limiting the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor.
  - (B) Establishing a special yard or other open space, lot area, or dimension.
  - (C) Limiting the height, size, or location of a building or other structure.
  - (D) Designating the size, number, location, and nature of vehicle access points.
  - (E) Increasing the amount of street dedication, roadway width, or improvements within the street right-of-way.
  - (F) Designating the size, location, screening, drainage, surfacing, or other improvements of a parking area or truck loading area.

- (G) Limiting or otherwise designating the number, size, location, height, and lighting of signs.
- (H) Limiting the location and intensity of outdoor lighting and requiring its shielding.
- (I) Requiring diking, screening, landscaping, or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.
- (J) Designating the size, height, location, and materials for a fence.
- (K) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- (L) Other conditions to permit the development of the City in conformity with the intent and purpose of the conditional classification of uses.

14.07 Existing Conditional Uses. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, a change in the use or in lot area or an alteration of structure shall conform with the requirements for a conditional use development permit.

14.08 Conditional Use and Concurrent Variances. Variances may be processed concurrently and in conjunction with a conditional use application and when so processed will not require an additional public hearing or additional filing fee.

14.09 Notice. Within 10 days after a decision has been rendered with reference to a conditional use permit, the Administrative Official shall provide the applicant with written notice of the decision of the Commission.

14.10 Appeals. Appeals from the decision of the Commission shall be in accordance with the procedures in Section 12, Administrative Procedures.

14.11 Time Limit of a Conditional Use Permit. The term of an approved conditional use development permit is 2 years. The Commission may extend such term for a period not to exceed 1 additional year, if upon written application, justification can be found and approved by the Commission.

14.12 Resubmission of Conditional Use Application. An application that was denied wholly or in part by the Commission may not be resubmitted for a period of 1 year from such denial, unless approved by the Administrative Official upon showing of good cause.

## SECTION 15.00

### **Amendments**

Purpose: Changes and amendments to the comprehensive plan and development regulations will be necessary from time to time. It is the purpose and intent of this section that amendments include changes and revisions to the adopted Development Ordinance and other legally adopted land use control documents, and corrections and changes in the Official Zoning Map, zone designations, and adjustments to zoning district boundaries.

- 15.01 Commission
- 15.02 Administrative Official
- 15.03 Application
- 15.04 Public Hearing
- 15.05 Criteria of Recommending an Amendment
- 15.06 Final Action by the Council
- 15.07 Record of Amendments
- 15.08 Effective Date of Amendments
- 15.09 Appeals
- 15.10 Limitations of Reapplication
- 15.11 Protest Petitions

## SECTION 15.00

### **Amendments**

- 15.01 Commission. The Commission is authorized to conduct public hearings on all amendments to development regulations. The Commission shall consider amendments if initiated by the Commission, either on its own or at the request of Council, or upon the petition of a majority of the property owners in the area proposed for change. A recommendation by the Commission shall be forwarded to Council.
- 15.02 Administrative Official. The Administrative Official is authorized to set for public hearing before the Commission, written petitions of property owners for amendments, and those initiated by either the Commission or Council.
- 15.03 Application. The request by a property owner (other than the City) for an amendment to this ordinance or zoning map shall be accomplished by filing an application with the Administrative Official using forms prescribed and paying the posted fee.
- 15.04 Public Hearing. Public hearings before the Commission shall be in accordance with the procedures in Section 12, Administrative Procedures.
- 15.05 Criteria of Recommending an Amendment:
- (A) The requested change is in conformance with the City's adopted Comprehensive Plan.
  - (B) That there was a mistake or an update needed in the original ordinance or map.
  - (C) That the conditions in the area have changed since adoption of the ordinance and/or zoning map.
  - (D) The amendments will not interfere with the development or value of other land in the vicinity.
  - (E) The amendment will not be detrimental to the general interest of the City and that there is a public need for the amendment.
  - (F) That there is no other appropriately zoned property that could be used.
  - (G) That the amendment will not over-burden existing and future capacity of public facilities.
  - (H) That the amendment complies with applicable state and federal laws and regulations.
  - (I) That the amendment complies with the Urban Growth Boundary and Policy Agreement existing between the City and Marion County.
- 15.06 Final Action by Council. The Commission, having conducted a public hearing on the proposed amendment shall within 15 days after the hearing, recommend to Council approval, disapproval, or modified approval of the proposed amendment. After receiving the recommendation of the Commission, Council shall hold a public hearing on the proposed amendment.

- 15.07 Record of Amendments. The Administrative Official shall maintain records of amendments to the text and zoning map of this ordinance.
- 15.08 Effective Date of Amendments. Amendments are final following the action and order resulting from the public hearing by Council
- 15.09 Appeals. Appeals from any action by Council may be taken as provided by Oregon law.
- 15.10 Limitation of Reapplication. Denials of a proposed amendment shall not be reconsidered within 1 year following a previous denial.
- 15.11 Protest Petitions. When a proposed amendment affects the zoning classification of property, and in case a protest against such change is signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent, or in the rear thereof extending 300 feet therefrom, or of those directly opposite thereto extending 150 feet from the street frontage of such opposite lots, then such amendment shall not become effective except by the favorable vote of 3/4 of the entire governing body.

## **SECTION 16.00**

### **Zone Change**

- 16.01 Zone Change
- 16.02 Initiation of a Zone Change
- 16.03 Notice of Public Hearing for Zone Change
- 16.04 General Conduct of Hearing
- 16.05 Action by the Commission
- 16.06 Final Action by Council
- 16.07 Continuances
- 16.08 Effective Date of Zone Change
- 16.09 Appeals



## SECTION 16.00

### **Zone Change**

- 16.01 Zone Change. A zone change is a reclassification of any area from one zone or district to another. A proposed zone change must be reviewed and a recommendation made by the Commission. A zone change must be made by an ordinance enacted by Council. All zone changes will have at least two public hearings; one before the Commission and one before Council. A zone change also requires a Comprehensive Plan amendment if the zone change does not comply with the Comprehensive Plan Map.
- 16.02 Initiation of a Zone Change. A zone change and proceedings of such a change may be initiated as one of the following:
- (A) A zone change may be initiated by resolution by Council. Council shall not initiate any proceedings unless the zone change is in the public interest. In such a case, the Administrative Official shall refer the resolution to the Commission, and set a date, time, and place for the hearing as provided in Section 16.03.
  - (B) A zone change may be initiated by a property owner or by persons purchasing property under contract. Procedure for a zone change by petition is as follows:
    1. The application shall set forth the names of the owners of all property within 250 feet of the boundary of the property proposed for a zone change, the mailing addresses, and the description of their properties as it appears on the most recent assessment and tax roll of Marion County, or as it appears in the deed records of the county, if such records be later. Property owned by the City shall not be deemed as part of the affected area.
    2. The application shall contain a description of the property sought for a zone change and shall be accompanied by a plat showing the location of all property in the affected area.
    3. Attached to the application shall be the affidavit of the person(s) preparing the application and list of names and addresses of owners therein and that no name of any property owner in the affected area is omitted from the list. The certificate of an abstract or title company duly incorporated under the laws of Oregon shall be deemed a compliance with this provision. A petition must be filed within 60 days after the making of such affidavit or certificate. All property owners signing the petition shall acknowledge the same before a Notary Public or some other official authorized to make acknowledgments, and the certificate of the Notary Public or other official shall be attached to the petition; or in lieu of having the signers of the petition acknowledge before a Notary Public or other officer, the person(s) circulating the petition may execute and file with the petition an affidavit to the effect that such person(s), or as he certified, that each name was signed freely, voluntarily, without undue influence of any nature, and under no misrepresentation as to facts.

4. An application for a zone change shall be filed with the Administrative Official, who shall, within 5 days, check the application and determine whether the same is signed by the property owners requesting a zone change and contains the required plat and list of names. The Administrative Official shall then fix the public hearing date before the Commission as provided in Section 16.03.

16.03 Notice of Public Hearing for Zone Change. Whenever a resolution proposing a zone change is adopted by Council, or whenever the Commission initiates any such change, or an application is submitted by a property owner is deemed sufficient, the Administrative Official shall set the proposed change for a public hearing before the Commission, giving notice to all persons particularly interested and to the general public. The hearing shall be set within 30 days of the filing of the request. The notice shall set forth the time and place of the hearing and the nature of the zone change proposed. Such notice shall be given in the following manner:

- (A) When the zone change or reclassification of property is proposed by Council or the Commission, notice of the public hearing shall be given by posting the notice in three conspicuous places within the affected area within not less than 10 days prior to the date of the hearing.
- (B) For a zone change or reclassification proposed by a petition, a post card or letter containing the notice shall be mailed not less than 20 days prior to the date of the hearing to each property owner within the affected area; provided, that failure of any such owner to receive any notice shall not affect the validity of the proceedings.
- (C) For a zone change that would limit or prohibit uses previously allowed in the zone, written notice shall be provided to the owner of every property in the zone as shown in the county tax roll. The notice shall:
  1. Contain the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice: This is to notify you that Aumsville has proposed a land use regulation that will affect the permissible uses of your land.
  2. Contain substantially the following language in the body of the notice: On (date of public hearing), (city) will hold a public hearing regarding the adoption of Ordinance Number \_\_\_\_\_. The City has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

16.04 General Conduct of Hearing. Refer to Section 12 of this ordinance.

16.05 Action by the Commission. After its final public hearing on a proposed zone change, the Commission shall forward to Council its decision and include in its decision, findings of fact to support the public health, safety, and welfare by relating to, but not limited to the following:

- (A) That the change is in conformance with the Aumsville Comprehensive Plan, or that there was a mistake in the amended plan, or conditions in the area have

changed since adoption of the amended plan. This includes both the plan map, and the goals, objectives, and policies of the plan.

- (B) That there is a public need for the proposed use or zone.
- (C) That this need will best be met by a zone change of the property in question as compared with other property.
- (D) That there is no other appropriately zoned property in the city that could be used.
- (E) That the range of uses allowed by the proposed zone will not over-burden existing and future capacity of public facilities.

When the report of the Commission is filed with Council on any proposed zone change, the Administrative Official shall set the date, time, and place for the hearing, a brief description of the property for which a zone change is sought, and the nature of the zone change sought. The Administrative Official shall also give notice of the public hearing by posting a notice in three conspicuous places within the affected area and by publishing such notice in a local newspaper of general circulation in Marion County not less than 3 times in any daily newspaper or not less than 1 time in any other newspaper at least 7 days prior to the public hearing. At the hearing before Council, all persons who are affected by the proposed change, or are of the general public, shall be afforded an opportunity to be heard, either by counsel, in person, or by written testimonial.

16.06 Final Action by Council. Any zone change or reclassification of property shall be by ordinance, which shall be passed by Council. Any denial of a proposed zone change shall be by resolution. Whenever any premises are reclassified as to zone, or a new zone established, or boundary lines of a zone changed, the Official Zoning Map shall be changed.

16.07 Continuances. Any hearing before the Commission or Council may be continued from time to time.

16.08 Effective Date of Zone Change. After a public hearing is held by Council, the zone change shall be effective 30 days following the adoption of the ordinance.

16.09 Appeals. An appeal from a decision of Council is to the Land Use Board of Appeals as provided by state law.

## SECTION 17.00

### **Annexations**

Purpose: Land within the Urban Growth Boundary (UGB) of the City of Aumsville, as indicated on the City's Comprehensive Plan Map, is considered available for annexation. This section provides for a timely and orderly process to determine and adjust city limits boundaries to best meet the needs of the City.

- 17.01 Commission
- 17.02 Administrative Official
- 17.03 Application
- 17.04 Public Hearings
- 17.05 Criteria to be Applied
- 17.06 Final Action by Council
- 17.07 Record of Annexation
- 17.08 Effective Date of Annexation
- 17.09 Limitation of Reapplication

## SECTION 17.00

### **Annexations**

- 17.01 Commission. The Commission is authorized to conduct public hearings on all proposed annexations and shall forward its findings, conclusions, and recommendations to Council within 15 days following the closing of the public hearing.
- 17.02 Administrative Official. The Administrative Official shall set the public hearing before the Commission a petition for annexation.
- 17.03 Application. Other than a City-initiated annexation, an annexation petition shall be accomplished by filing the petition with the Administrative Official, using forms prescribed and paying the posted fee.
- 17.04 Public Hearings. Public hearings before the Commission and Council shall be in accordance with the procedures in Section 12, Administrative Procedures. Marion County shall be notified of all annexation applications and be provided the opportunity to review and comment.
- 17.05 Criteria to be Applied:
- (A) The annexation proposal complies with the City Comprehensive Plan, or amendments to that effect can be achieved.
  - (B) The annexation will provide development that is at present unable to be met by existing available land in the city.
  - (C) There is a present and future capacity of public services to accommodate future development of the annexed area.
  - (D) The annexation is in the best interest of the City.
  - (E) If an election is required, the majority of eligible voters called upon to vote have consented to the annexation.
  - (F) The property is located adjacent to the Aumsville city limits.
- 17.06 Final Action by Council. After receiving the findings, conclusions, and recommendation of the Commission, Council shall set and hold a public hearing on the proposed annexation. Council may approve the annexation if it concludes that it complies with the criteria described in Section 17.05 and any requirements of state law. If an election on the annexation is required, Council shall submit the proposed annexation to the voters of the area proposed for annexation or the voters of the City, or both, at a general election or at a special election to be held for that purpose.
- 17.07 Record of Annexation. The Administrative Official shall maintain records of annexations to the City's Comprehensive Plan text and map and the City's zoning map.

- 17.08 Effective Date of Annexation. An annexation is final on the date it is filed with the Oregon Secretary of State. The City will file an annexation ordinance with the Secretary of State within 30 days of the expiration of the appeal period following the City Council decision. If an appeal of Council's decision is filed, the City shall withhold filing of this document until the appeal is legally resolved.
- 17.09 Limitation of Reapplication. Reapplications for annexation shall not be reconsidered within 1 year following a final order by Council.

## **SECTION 18.00**

### **Off-Street Parking and Loading**

- 18.01 New and Existing Facilities to Provide Parking and Loading
- 18.02 Reduction of Required Parking Area
- 18.03 Parking Location, Shared Parking, and Driveways
- 18.04 Off-Street Vehicular Parking Requirements
- 18.05 Off-Street Automobile and Bicycle Parking Requirements
- 18.06 Off-Street Loading Requirements
- 18.07 Exceptions to Loading Requirements
- 18.08 Parking and Loading Development Standards
- 18.09 Parking and Loading Plan Required
- 18.10 Construction
- 18.11 Bicycle Parking
- 18.12 Parking and Storage of Certain Vehicles

## SECTION 18.00

### **Off-Street Parking and Loading**

- 18.01 New and Existing Facilities to Provide Parking and Loading. Off-street vehicular parking areas, off-street loading areas, and bicycle parking facilities shall be provided and maintained:
- (A) For any new building or structure erected.
  - (B) For additional seating capacity, floor area, guestrooms, or dwelling units added to any existing building or structure.
  - (C) When the use of the building or structure is changed and would require additional parking areas under the provisions of this ordinance. This change in parking shall only apply if the required increase exceeds 25% of the existing number of spaces.
  - (D) For handicapped: One parking space at each area of public access.
- 18.02 Reduction of Required Parking Area. Off-street parking and loading areas which existed on the effective date of this ordinance shall not be reduced below the required minimum as set forth in this ordinance.
- 18.03 Parking Location, Shared Parking, and Driveways. Off-street parking and loading areas shall be provided on the same lot with the main building or structure or use, except that in any non-residential zone, parking areas may be located off the site of the main building, structure, or use if it is within 500 feet of such site on an adjacent parcel, provided the adjacent parcel is not a residential use in the commercial zone.
- (A) Off-Site Parking. Except for single-family, duplex, and multi-family dwellings, the vehicle parking spaces required by this section may be located on another parcel of land, provided the parcel is within a reasonable walking distance of the use it serves. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written instrument.
  - (B) Mixed Uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (e.g., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.
  - (C) Shared Parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operator show that the need for parking facilities does not materially overlap (e.g., uses primarily of daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing joint use.
  - (D) Credit for On-Street Parking. The amount of off-street parking required shall be reduced by one off-street parking space for every on-street parking space



adjacent to the development. On-street parking shall follow the established configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by City and/or County standards. On-street parking is not intended to replace off-street residential requirements. The following constitutes an on-street parking space:

1. Parallel parking, each 24 feet of uninterrupted curb;
  2. 45 degree diagonal, each with 10 feet of curb;
  3. 90 degree (perpendicular) parking, each with 10 feet of curb;
  4. Curb space must be connected to the lot which contains the use;
  5. Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and
  6. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces is permitted.
- (E) Shared Driveway Access: Where parking is provided for two or more uses, structures, or parcels of land, access needs may be satisfied by use of a common or shared driveway to the extent that the right of joint use is evidenced by a recorded deed, contract, or similar written instrument establishing joint use and maintenance.
- (F) Magazine Parking: Magazine Parking shall only count as one parking space for the purpose of determining conformance to the required number of parking spaces.

#### 18.04 Off-Street Vehicular Parking Requirements.

- (A) If several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements for the several uses computed separately.
- (B) Required parking shall be available for parking of operable passenger vehicles of residents, customers, and employees only, and shall not be used for the storage or display of vehicles or materials.

#### 18.05 Off-Street Automobile and Bicycle Parking Requirements.

- (A) Criteria Used in Determining Parking Requirements. The criteria used include the following:
1. Number of equivalent dwelling units.
  2. Square Footage of a Facility or Building. Unless otherwise noted, when square feet are specified, the area measured shall be the net floor area of the building's primary use, but shall exclude any space within a building used for off-street parking, loading, or service functions not primary to the use. For example, net floor area for a restaurant is limited to the dining area.
  3. Capacity or Number of Persons. When the requirements are based on the number of: (a) Employees — it shall be determined on the basis of the number of persons working on the premises during the largest shift at peak season; (b) Sleeping facilities or beds provided — it shall be determined on

the basis of the maximum number of persons to be accommodated or beds available.

4. Persons at Maximum Occupancy. The number used shall be determined on the basis of the maximum occupancy for the shift.

(B) Parking Requirements

Off-street parking for vehicles and bicycles shall be provided based on the following table. Vehicle parking space improvements shall comply with provisions in Section 18.03 and bicycle parking improvements shall comply with provisions in Section 18.11.

**VEHICLE AND BICYCLE PARKING SPACE REQUIREMENTS**

<b>Land Use Activity</b>		<b>Vehicle Spaces</b>	<b>Bicycle Spaces</b>	<b>Measurement</b>
A.	1, 2, and 3 family dwellings	2 spaces per dwelling unit	0	None
B.	Accessory dwelling units	2 spaces per ADU if equal to or over 400 square feet. 1 space per ADU if under 400 square feet.		
C.	Multi-family dwellings	2 spaces per dwelling unit	1	Per two dwelling units
D.	Hotel, motel, boarding house	1 space per guest room plus 1 space for the owner or manager	1	Per 20 guest rooms
E.	Club, lodge	Spaces sufficient to meet the combined minimum requirements of the heaviest uses being conducted, such as hotel, restaurant, auditorium, etc.	1	Per 20 vehicle spaces
F.	Hospital, nursing home	1 space per two beds and 1 space per 2 employees	1	Per 20 vehicle spaces
G.	Churches, auditorium, stadium, theater	1 space per 4 seats or every 8 feet of bench length	2	Per 20 vehicle spaces
H.	Elementary, junior high school	2 spaces per classroom, plus off-street loading facility	3	Per classroom
I.	High school	1 space per classroom and one space per employee, plus off-street loading	1	Per classroom
J.	Bowling alley, skating rink, community center	1 space per 100 sq. ft. plus 1 space per employee	1	Per 20 vehicle spaces

Land Use Activity		Vehicle Spaces	Bicycle Spaces	Measurement
K.	Retail store, except as provided in "L"	1 space per 400 sq. ft. plus 1 space per 2 employees	1	Per 20 vehicle spaces
L.	Service or repair shop, retail store handling exclusively bulky merchandise, such as automobiles or furniture	1 space per 800 sq. ft. of gross floor area, plus 1 space per 2 employees	1	Per 30 vehicle spaces
M.	Bank; office buildings; medical and dental clinic	1 space per 300 sq. ft. of gross floor area, plus 1 space per 2 employees	1	Per 20 vehicle spaces
N.	Eating and drinking establishment except a Mobile Food Vendor. See 18.05(S)	1 space per 4 seats or every 8 feet of bench length, plus 1 space per 2 employees	1	Per 20 vehicle spaces
O.	Wholesale establishment	1 space per 1,000 sq. ft. of gross floor area, plus 1 space per 700 sq. ft. of retail area	1	Per 30 vehicle spaces
P.	Municipal and governmental	1 space per 600 sq. ft., plus 1 space per 2 employees	3	Per 10 vehicle spaces
Q.	Manufacturing and processing:	One space per employee during the largest shift, <u>plus,</u>		
	1. 0-24,900 sq. ft.	1 space per 700 sq. ft.	3	Per 30 vehicle spaces
	2. 25,000-49,999 sq. ft.	1 space per 800 sq. ft.	3	Per 30 vehicle spaces
	3. 50,000-79,999 sq. ft.	1 space per 1,000 sq. ft.	3	Per 30 vehicle spaces
	4. 80,000-199,999 sq. ft.	1 space per 2,000 sq. ft.	5	Per 30 vehicle spaces
	5. 200,000 sq. ft. and over	1 space per 3,000 sq. ft.	8	Per 30 vehicle spaces
R.	Warehousing and storage distribution, terminals	One space per employee during the largest shift, <u>plus,</u>		
	1. 0-49,999 sq. ft.	1 space per 3,000 sq. ft.	6	Per 30 vehicle spaces
	2. 50,000 sq. ft. and over	1 space per 5,000 sq. ft.	5	Per 30 vehicle spaces

Land Use Activity		Vehicle Spaces	Bicycle Spaces	Measurement
S.	Mobile Food Vendor			
	Short Term - Open in one location for less than a 72-hour period, or open not more than three hours a day in any one location	No parking required		
	Medium Term – Open in one location for more than a 72-hour period but less than 45 days in a 6-month period	1 space required		
	Long Term – Any period of time not meeting the definition of Short or Medium term	Parking required as required for a restaurant See Section 18.05.N		
	Required parking may not displace parking required for another use.			

18.06 Off-Street Loading Requirements. Off-street loading spaces for commercial and industrial buildings shall require a minimum loading space size of 10 feet wide, 25 feet long, and 14 feet high, in the following manner:

- |   |                 |
|---|-----------------|
| 1. Up to 20,000 square feet of gross floor area     | 250 square feet |
| 2. 20,000 to 50,000 square feet of gross floor area | 500 square feet |
| 3. Over 50,000 square feet of gross floor area      | 750 square feet |

18.07 Exceptions to Loading Requirements. The Commission may waive the off-street loading requirements for any commercial or industrial building or use when it has been determined that the building or use is of a kind not requiring the loading or unloading or delivery of merchandise or other property by commercial trucks or delivery vehicles.

18.08 Parking and Loading Development Standards. All parking areas shall be developed and maintained as follows:

- (A) Location. The required yard areas adjacent to a street shall not be used for parking or loading areas, except a residential driveway. The interior yards, other than those adjacent to a street, may be used for parking and loading areas when such yard areas have been developed for that purpose and are not at variance with this ordinance.

- (B) Surfacing. All driveways, parking, and loading areas shall be paved with asphalt or concrete surfacing and shall be adequately designed, graded, and drained.
- (C) Surfacing for Residential Uses. All driveways, parking spaces, and vehicle and recreational vehicle storage areas shall be paved with asphalt or concrete surfacing matching existing surfaces and shall be adequately designed, graded, and drained. Unless prohibited by the building design (e.g., a garage running parallel to a street) all parking and storage spaces shall run perpendicular to the adjacent street and shall not reduce minimum landscaping area requirements.
- (D) Size of parking spaces and driveways:
  1. A driveway for residential use shall be a minimum width of 10 feet.
  2. One-way drives shall have a minimum improved width of at least 12 feet, exclusive of parking spaces.
  3. Two-way drives shall have a minimum improved width of at least 20 feet, exclusive of parking spaces.
  4. The minimum width of any parking space shall be 10 feet, exclusive of driveways.
  5. The minimum length of any parking space shall be 20 feet, exclusive of driveways.
  6. Developments with requirements that exceed 100 spaces may reduce spacing size following the chart below. In no case will the full-size spaces be reduced to below 25% of the required spaces. Should no compact spaces be used, mid-size spaces will not exceed 75% of the required spaces. Of the required spaces rounding up to the nearest whole number.

<b>Developments requiring more than 100 spaces</b>	Compact not to exceed 5%	Mid-size not to exceed 75%	Full size must include 25%
	8'x18'	9'x19'	10'x20'

- (E) Screening. When any parking or loading area is within or adjacent to any residential zone, such parking or loading area shall be screened from all residential properties within an ornamental fence, wall, hedge, or other form of landscaping of at least 4 feet in height, but not more than 6 feet in height. Screening shall not encroach into vision clearance areas as required and screening shall be continuously maintained and protected from damage from vehicles using the parking areas. (See Sections 7 and 22)
- (F) Lighting. Any illumination of a parking or loading area shall be so arranged as to be directed entirely onto the loading or parking area and shall be deflected away from residential use, and shall not cast a glare or reflection onto moving vehicles or a public right-of-way.
- (G) Single-Family Driveways. On a lot developed with a single-family dwelling, only one driveway is allowed per street frontage unless the frontage is over 100 feet in length.
- (H) Maximum Parking Allowed. With the exception of properties with single-family homes and duplexes, no site shall be permitted to provide more than thirty percent in excess of the minimum off-street vehicle parking required by Section 18.05.

- 18.09 Parking and Loading Plan Required. Applications for hearing before the Commission for development permits shall submit a parking and/or loading plan, drawn to scale, and showing:
- (A) Access to street(s), both ingress and egress.
  - (B) Location of individual parking spaces.
  - (C) Location of existing and proposed buildings.
  - (D) Proposed screening.
  - (E) Proposed lighting.
  - (F) Surface markings and/or signs for traffic flow and space designations.
  - (G) Vehicles leaving the property from a parking area shall enter the street in a forward motion.
  - (H) Proposed bicycle parking plan.
- 18.10 Construction. It shall be required that all approved parking, loading, and bicycle parking areas shall be completed and available for use at the time of final inspection or issuance of an occupancy permit.
- 18.11 Bicycle Parking. At a minimum, bicycle parking facilities shall be consistent with the following design guidelines:
- (A) Bicycle parking shall be convenient and easy to find. Where necessary, a sign shall be used to direct users to the parking facility.
  - (B) Each bicycle parking space shall be at least 2 feet by 6 feet with a vertical clearance of 7 feet.
  - (C) An access aisle of at least 5 feet between bicycle spaces shall be provided in each bicycle parking facility.
  - (D) Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object, i.e., a "rack", upon which the bicycle can be locked. Structures that require a user-supplied lock shall accommodate both cables and U-shaped locks and shall permit the frame and both wheels to be secured (removing the front wheel may be necessary).  
Note: businesses may provide long-term, employee parking by allowing access to a secure room within a building, although additional short-term customer parking may also be required.
  - (E) The rack shall support the bicycle in a stable position without damage.
  - (F) Rows of bicycle racks shall not exceed 20 feet in length. Rows shall be separated at least 5 feet.
- 18.12 Parking and Storage of Certain Vehicles:
- (A) Automobile vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings or in developed parking areas.
  - (B) Recreational vehicles, except in a manufactured home park and where specifically permitted by this ordinance, may not connect to City water or sewer.
  - (C) Recreational vehicles stored on private property and not connected to City sewer and water may be occupied no more than 10 days per 30-day period. The City

Administrator may permit occupancy longer than 10 days in a 30-day period in cases of unique hardship, in cases of temporary housing related to construction, or in cases where other special circumstances exist. Permission must be in writing, must describe the special circumstance, must state the specific time period occupancy may occur, and cannot grant an exception for more than a 6-month period unless authorized by Council.

[Section 18 amended by [Ord. No. 722](#), passed October 23, 2023.]

## SECTION 19.00

### Signs

- 19.01 Purpose
- 19.02 Definitions
- 19.03 General Provisions
- 19.04 Signs Generally Permitted
- 19.05 Prohibited Signs
- 19.06 Signs in Residential Zones
- 19.07 Signs in Commercial, Industrial, and Interchange Development Zones
- 19.08 Review Procedures
- 19.09 Non-conforming Signs
- 19.10 Variances - Signs



## SECTION 19.00

### Signs

#### 19.01 Purpose.

The purpose of the sign code is to:

- (A) Approve the installation, construction, alteration, and repair of business signage to protect the safety, property, and welfare of the public; to improve the neat, clean, orderly, and attractive appearance of the community
- (B) Improve the effectiveness of signs to identify and advertise businesses
- (C) Eliminate signs that demand, rather than invite, public attention

The goals are accomplished by reviewing, approving, and issuing permits for permanent and temporary signage, educating the public on sign code requirements, and investigating specific violations where illegal signs are erected with or without permit.

#### 19.02 Definitions.

Signs: Any writing, including letter, word, or numeral; pictorial presentation, including mural, illustration, or decoration; emblem, including device, symbol or trademark; flag, including banner or pennant; or any other device, figure or similar thing which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or structure or device; and is used to announce, direct attention to, or advertise; and is visible from any public right-of-way. Sign does not include house numbers. For purposes of Section 19 et seq., the following definitions apply:

Building Frontage: For the purpose of determining allowable sign area in a commercial district, the building frontage is the full width of the building wall where the primary customer entrance is located. This is generally facing the public street, but may face an internal parking lot. If there is more than one major customer entrance with entrances on differing frontages, only the single longest frontage is used to determine allowable sign area.

Canopy Sign: A sign hanging from a canopy or eave, at any angle relative to the adjacent wall, the lowest portion of which is at least 8 feet above the underlying grade.

Flashing Sign: A sign any part of which pulsates or blinks on and off, except time and temperature signs and message signs allowed by conditional use.



Figure 1 - Free Standing Sign

Free-Standing Sign: A sign supported by one or more uprights, poles, or braces placed in or upon the ground.

Graffiti: Markings, such as initials, slogans, or drawings, written, spray-painted, or sketched

on a sidewalk, wall of a building, or public restroom, or the like.

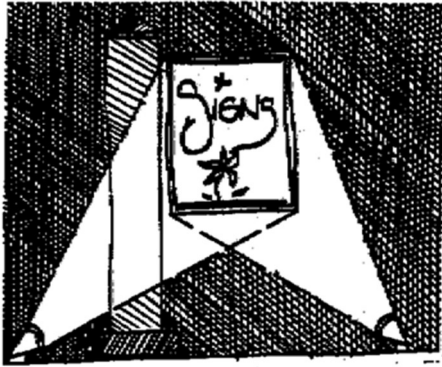


Figure 2 - Indirect Illumination

Incidental Signs: A sign, not temporary, which is normally incidental to the allowed, address signs, nameplate signs, warning or prohibition signs, directional signs, and signs of a similar nature.

Indirect Illumination: A source of illumination directed toward such sign so that the beam of light falls upon the exterior surface of the sign.

Integrated Shopping Center: A unified complex with three or more commercial establishments occupying three or more distinct spaces in a single building or three or more freestanding buildings on a single property or on separate properties but with the business frontages all facing a common parking area.

Message Sign: A sign which can change its message electronically and is designed to display various messages, including but not limited to signs displaying time and temperature. Messages and illumination of sign should not constitute a hazard by the intervals of display.

Monument Sign: A square or rectangular sign that sits directly on the ground without pole or uprights located at the entrance to a shopping center, business park, or residential development.

Off-Site Sign: A sign which advertises goods, products, businesses, services, or facilities which are not sold, manufactured, or distributed on or from the property or facilities on which the sign is located.

Portable Sign: Any sign that is not originally designed to be permanently affixed to a building, structure, or the ground. A sign originally designed, regardless of its current modification, to be moved from place to place. These signs limited to, signs attached to wood or metal self-supporting and movable, and also boards. Portable signs are not to be as defined and used in this ordinance.



Figure 4 – Projecting Sign

Projecting Sign: A sign the face of which is not it is mounted, projecting more than 12 inches

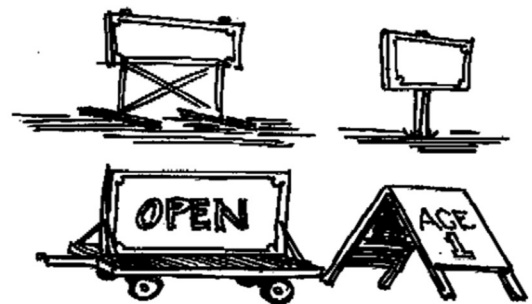


Figure 3 - Portable Signs primarily include, but are not frames and designed to be including trailer reader considered temporary signs

parallel to the wall on which from a structure.

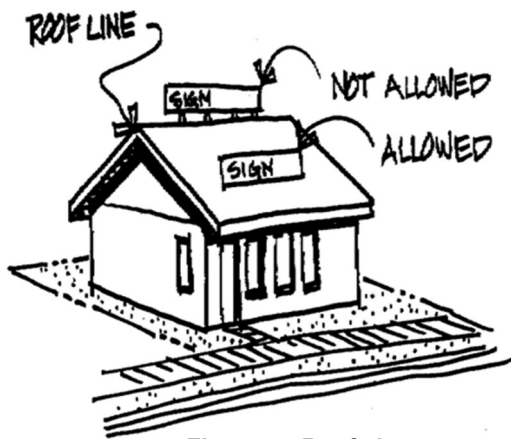


Figure 5 - Roof signs

**Roof Sign:** A sign or any portion of which is displayed above the highest point of the roof, whether or not such a sign also is a wall sign.

**Sign Alteration or Altered:** Any change in the size, shape, method of illumination, position, location, construction, or supporting structure of a sign. A change in sign copy or sign face alone shall not be considered an alteration.

**Sign Area:** The area of a sign shall be the entire area within any type of perimeter or border which encloses the outer limits of any writing, representation, emblem, figure, or character. If the sign is enclosed in a frame or cabinet, the area is based on the inner dimensions of the frame or cabinet surrounding the sign face. When a sign is on a base material and attached without a frame, such as a wood board or Plexiglas panel, the dimensions of the base material are to be used. The area of a sign having no such perimeter, border, or base material shall be computed by enclosing the entire area within a parallelogram or a triangle of the smallest size sufficient to cover the entire message of the sign and computing the area of the parallelogram or the triangle. For the purpose of computing the number of signs, all writing included within such a border shall be considered one sign, except for multi-faced signs on a single sign structure, which shall be counted as one sign per structure. The area of multi-faced signs shall be calculated by including only 1/2 the total area of all sign faces.



Figure 6 - Sign Area

**Temporary Sign:** A new business is allowed a temporary sign for a period of 90 days. This sign must be constructed in a professional manner such as a printed banner, A-frame, or sandwich board sign. Temporary signs cannot exceed the facilities' allowable sign square footage. Within that time a sign permit must be obtained to replace with permitted signage.



Figure 7 - Temporary Sign

**Wall Sign:** A sign attached to, erected against, or painted on a wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the face of said wall and not projecting more than 12 inches. A sign painted on an awning in which the face of the sign is approximately parallel to and within 3.5 feet of the wall shall also be considered a wall sign.



Figure 8 - Wall Sign

Story: That portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar, or unused under-floor space shall be considered a story. (See Definitions, Basement/Cellar. See also Illustrations).

Street: A public road; or right-of-way dedicated, deeded, or condemned, other than an alley; or driveway, which affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, road, and other thoroughfare. The word "street" shall include all arterial highways, freeways, traffic collector streets, road systems, and local streets.

#### 19.03 General Provisions:

- (A) Conflicting Standards. Signs shall be allowed subject to the provisions of this section, except when these provisions conflict with the specific standards for signs in the subject zone.
- (B) Uniform Sign Code. All signs shall comply with the provisions of the Uniform Sign Code of the Uniform Building Code.
- (C) Sign Clearances. A minimum of 8 feet above sidewalks and 15 feet above driveways shall be provided under freestanding or wall-mounted signs that project over a sidewalk.

#### 19.04 Signs Generally Permitted. The following signs and sign work are permitted in all zones. These signs shall not require a permit, and shall not be included when determining compliance with total allowed area:

- (A) Painting, change of sign face or copy, and maintenance of signs legally existing. If structural changes are made, if the sign is no longer conforming with the intent of the code, or there is a change of use, the sign shall conform in all respects with these regulations.
- (B) Temporary signs that fall under the intent of the definition for temporary signs.
- (C) Real estate signs not exceeding 6 square feet in residential zones and 16 square feet in commercial and industrial zones, which advertise the sale, rental, or lease of premises upon which the sign is located. Real estate signs may be used up to two years without a permit.
- (D) Signs posted by or under governmental authority, including legal notices, traffic, danger, no trespassing, emergency, directional, and signs related to public services or safety and civic events. It is at the discretion of the City to determine what signage may fall in this category.
- (E) Incidental signs that do not exceed a total of 2 square feet and fall under the definition and intent of this code.
- (F) Flags on permanent flag poles that are designed to allow raising and lowering of the flags.
- (G) Signs within a building.

- (H) In a commercial zone, signs painted or hung on the inside of windows.
- (I) One sign not exceeding 5 square feet giving the name, occupation, or both of the occupant or the home occupation of the occupant of the residentially used property.
- (J) Sign Permit Exemption. Unless otherwise stated within this section all signs must obtain a sign permit.

19.05 Prohibited Signs. The following signs are prohibited:

- (A) Roof signs.
- (B) Signs that emit odor, visible matter, or sound; however, an intercom system for customers remaining in their vehicles, such as used in banks and "drive through" restaurants, shall be allowed.
- (C) Signs that use or employ side guy lines of any type.
- (D) Signs that obstruct any fire escape, required exit, window, or door opening used as a means of egress.
- (E) Signs closer than 24 inches horizontally or vertically from any overhead power line or public utility guy wire.
- (F) No vehicle or trailer shall be parked on a public right-of-way or public property, or on private property so as to be visible from a public right-of-way which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby premises. This provision applies where the primary purpose of a vehicle is for advertising purposes and is not intended to prohibit any form of vehicular sign, such as a sign attached to a motor vehicle which is primarily used for business purposes, other than advertising.
- (G) Rotating/revolving signs, except by conditional use permit.
- (H) Private signs that project into or over driveways and public rights-of-way, except signs under a canopy that projects over a public sidewalk and the sign is not less than 8 feet above the sidewalk.
- (I) Signs that obstruct required vision clearance area or obstruct a vehicle driver's view of official traffic control signs and approaching or merging traffic, or which present a traffic hazard.
- (J) Signs that interfere with, imitate, or resemble any official traffic control sign, signal, or device, emergency lights, or appears to direct traffic, such as a beacon light.
- (K) Signs attached to any pole, post, utility pole, or placed on its own stake and placed into the ground in the public right-of-way.
- (L) Any sign on unimproved property,
- (M) Any illegible sign or sign that has 25% or more of its surface destroyed, defaced, missing, or inaccurately represents the name or nature of the current business(es) occupying the structure.
- (N) New or relocated off-site signs within the city limits are prohibited.
- (O) Graffiti.

19.06 Signs in Residential Zones. The following regulations apply to signs in the Residential Single-Family and Residential Multi-Family Zones.:

- (A) Maximum Number. Any combination of wall, canopy, or free-standing signs not exceeding the sign area and height limitations of this section.
- (B) Maximum total sign area for property on which the building or buildings are located:
  - 1. Single-family and two-family (duplex) dwelling - 6 square feet provided total sign area on a free-standing sign shall be limited to a maximum of 4 square feet.
  - 2. Multiple family dwelling - 24 square feet provided total sign area on a freestanding sign shall be limited to a maximum of 18 square feet.
- (C) Maximum Sign Height:
  - 1. Wall, canopy, or window sign - 4 feet.
  - 2. Freestanding sign - 6 feet.
- (D) Location:
  - 1. Wall, canopy, or window sign - shall be set back from the property lines of the lot on which it is located the same distance as the building containing the permitted use. A sign flush with the fence (not a projecting sign) shall meet the applicable standards for fences (see Section 22).
  - 2. Freestanding sign - where fences are allowed (see Section 22).
- (E) Illumination: Signs may only be indirectly illuminated by a concealed light source, shall not remain illuminated between the hours of 11:00 p.m. and 6:00 a.m., and shall not flash, blink, fluctuate, or produce glare.

19.07 Signs in Commercial, Industrial, and Interchange Development Zones. The following regulations apply to signs in the Commercial, Industrial, and Interchange Development zones:

- (A) Total allowed area:
  - 1. The total allowed area of signage shall be equal to 1.5 times the length of the building frontage up to a maximum of 150 square feet.
  - 2. The sign area of a freestanding, monument, or projecting sign is determined by the sign area of one side of the sign. The opposite side is not included in the computation of total sign area.
  - 3. A freestanding sign shall not exceed the allowable sign area for the property or 40 square feet of sign area, whichever is less.
  - 4. A monument sign shall not exceed the allowable sign area for the property or 60 square feet of sign area, whichever is less.
- (B) Number of Signs:
  - 1. One freestanding, monument, or projecting sign is allowed per street frontage.
  - 2. There is no limit on the number of wall or canopy signs as long as the total allowable sign area is not exceeded.
- (C) Maximum sign height:
  - 1. Wall and canopy signs shall not project above the parapet or roof eaves.
  - 2. Freestanding Signs - maximum total height of 20 feet.
  - 3. Monument Signs – maximum total height of 8 feet.
  - 4. Projecting Signs. The vertical height of a projecting sign which projects beyond 3 feet 6 inches from the face of a building to which it is attached is

limited to 3 feet at 8 feet clearance. An additional 4 inches of sign height is allowed for each additional foot of clearance above 8 feet, up to a maximum sign height of 5 feet. The vertical height of a projecting sign which projects 3 feet 6 inches or less from the face of a building to which it is attached is not limited, except that it shall not project more than 1 foot above the roof line at the wall, or top of the parapet wall, whichever is higher.

(D) Location:

1. Wall signs may project up to 12 inches from the building.
2. Freestanding Sign and Monument Signs. No limitation except shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks.
3. Projecting Sign. Maximum projection of a sign shall be limited to 4 feet 6 inches provided, however, that where you have a projecting sign located on a corner approximately halfway from the 2 building faces serving 2 street frontages, the maximum projection is 5 feet 6 inches.

(E) Special Provisions:

1. Corner Building: a building sited on the corner of two public streets may have an additional amount of wall sign area equal to 25% of the allowable sign area based on the longest building frontage. In this bonus circumstance, the total computed allowable sign area shall not exceed 187.5 square feet. No more than 75% of the allowable sign area including the 25% bonus area may be located on any single building wall. For example, if the total allowed sign area, including the bonus area, is 160 square feet, no more than 120 square feet of sign area may be located on a single building frontage.
2. Integrated Shopping Center: an Integrated Shopping Center may share one single freestanding sign per street frontage. Such a joint freestanding sign shall not exceed 100 square feet. Each individual business is still allowed a total sign area of 1.5 times the business frontage for wall, projecting, and canopy signs.

19.08 Review Procedures.

- (A) Permit Required. No property owner, lessee, or contractor shall construct or alter any sign, other than changing the sign copy or design without expanding the sign area, without first obtaining a valid sign permit.
- (B) Current Signs. Owners of conforming or non-conforming signs existing as of the date of adoption of this ordinance are not required to obtain a permit.
- (C) Permit Fees. Permit fees shall be established from time to time by Council resolution.
- (D) Application Requirements. An application for a sign permit shall be made on a form prescribed by the City. The application shall include, at a minimum, a sketch drawn to scale indicating the proposed sign and identifying existing signs on the premises, the sign's location, graphic design, structural and mechanical design, and engineering data which ensures its structural stability. The application shall also contain the names and address of the sign company, person authorizing erection of the sign and the owner of the subject property. The City shall issue a

permit for a sign unless the sign is in violation of the provisions of these regulations or other provisions of this ordinance. Sign permits mistakenly issued in violation of these regulations or other provisions of this ordinance are void. The City may revoke a sign permit if the City finds that there was a material and misleading false statement of fact in the application for the permit.

- (E) Design, Construction, and Maintenance. All signs shall be designed, constructed, and maintained according to the following standards:
1. All signs shall comply with the applicable provisions of the Uniform Building Code in effect at the time of the sign permit application and all other applicable structural, electrical and other regulations. The issuance of a sign permit under these regulations does not relieve the applicant of complying with all other permit requirements.
  2. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of these regulations, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame, or structure.
  3. All signs shall be maintained in a good structural condition and readable at all times.
  4. The owner shall be responsible for its erection and maintenance and its compliance with the provisions of these regulations or other laws or ordinances regulating signs.

#### 19.09 Non-conforming Signs.

- (A) Alteration of Non-conforming Sign Faces. When a non-conforming sign face is damaged or destroyed by fire, flood, wind, or other calamity or act of nature, must be replaced conforming to current sign standards. A sign structure or support mechanisms so damaged shall not be replaced except in conformance with the provisions of these regulations.
- (B) Abandoned Signs. All signs for a business shall be removed within 30 days after that business ceases to operate on a regular basis, and the entire sign structure or structures shall be removed within 6 months of such cessation of operation. Illegal and abandoned signs that are not removed or are erected in violation of this ordinance may be removed by the City of Aumsville following notice to the property owner. The property owner will be assessed the cost of sign removal if the owner fails to remove the non-conforming, illegal, or abandoned sign and the City exercises its authority under this provision. Existing signs from a previous business must be permitted by the City under current sign standards for a new business.

#### 19.10 Variances – Signs. Any allowance for signs not complying with the standards set forth in these regulations shall be by variance. Variances to Section 19 et seq. will be processed according to the procedures in Section 13, but the criteria in Section 13 shall not be used. The following criteria shall be used to review and decide sign variance applications:

- (A) There are unique circumstances or conditions of the lot, building, or traffic



- pattern such that the existing sign regulations create an undue hardship;
- (B) The requested variance is consistent with the purpose of the chapter as stated in Section 19.01;
  - (C) The granting of the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to any other business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this section;
  - (D) The granting of the variance shall not decrease traffic safety nor detrimentally affect any other identified items of public welfare;
  - (E) The variance will not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a variance; and
  - (F) The variance request shall not be the result of a self-imposed condition or hardship.

## SECTION 20.00

### **Land Divisions**

- 20.00      LAND DIVISIONS**
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- 20.02      Building Requirements
- 20.03      Approval of Final Plats and Maps
- 20.04      Expiration of Land Division Approval, Time Extension, and Phasing
- 20.05      Public Use Areas and Parks
- 20.06      Property Line Adjustment
- 20.07      Submittal Requirements
- 20.08      Decision Criteria
- 20.09      Review Process
- 20.10      Effective Date of Final Approval
- 20.11      Expedited Land Division
  
- 20.12      PARTITION REQUIREMENTS**
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- 20.34      DESIGN STANDARDS**
- 20.35      Design Standards for Lot and Block
- 20.36      Public Improvements, General Provisions
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20.40	Storm Drainage
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20.42	General Provisions
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## SECTION 20.00

### **Land Divisions**

- 20.01 General Provisions. No lot or parcel shall be divided except in compliance with this ordinance, Chapter 92 of the Oregon Revised Statutes, and the City of Aumsville's Comprehensive Land Use Plan.
- 20.02 Building Requirements. A building permit shall not be issued for any lot or parcel in the city unless the lot or parcel was legally created, and no residential building permits shall be issued until adequate city services and utilities are available to service the proposed dwelling.
- 20.03 Approval of Final Plats and Maps. The Administrative Official shall have the authority to approve final plats where there is substantial conformance with the approved preliminary plan or plat. A review of the Administrative Official's decision on substantial conformance can be requested by Administrative Official or the applicant. This review will be determined by the Planning Commission and the Administrative Official will follow the Planning Commission's recommendation in approving or disapproving the final plat. The Planning Commission's decision is final, subject to review only as provided in ORS 34.010 to 34.102.
- 20.04 Expiration of Land Division Approval, Time Extension, and Phasing. A partitioning or subdivision plat shall be recorded within one year of the date of issuance of an Aumsville Public Works Type B Permit, and within five years of the City land division approval Notice of Decision. This deadline may be extended by the Commission for a period up to one year; provided an extension request is made at least 30 days prior to the one-year Type B Permit or five-year deadline. Only one such time extension shall be granted. Failure to comply with the required deadlines shall require the submittal of a new land division application.
- (A) Phasing of a subdivision shall be permitted. The one-year from issuance of a Type B Permit recordation requirement shall apply to all phases of the development; however, the total time for all stages shall not exceed five years, unless extended in accordance with this section. Portions platted after passage of the first year may require modification to comply with changes in the Comprehensive Plan, Development Ordinance, or other implementing regulations.
- 20.05 Public Use Areas and Parks.
- (A) Land for Public Park, Open Space, or Greenway. The provision of public spaces for parks, playgrounds, and other open space is essential for the sound and healthy development of residential areas. The City may require the dedication or reservation of such other areas or sites of a character, extent, and location suitable to the needs created by such development for parks, public utility facilities, or other public purposes.

1. For a residential land division (partition or subdivision) where the site is 2.0 gross acres or larger, the developer shall designate an area of not less than 7% of the site as a public park, open space, or greenway.
  2. For a residential development that includes multi-family dwelling units (apartments, townhouses, residential care, etc.), where the site is 2.0 gross acres or larger, the developer shall designate an area of not less than 7% of the site as a public park, open space, or greenway.
  3. For residential development on a site that is smaller than 2.0 gross acres, the City may require dedication of up to 7% of the site for a greenway, open space, or public park if the development site is located adjacent to an existing public school, public park, greenway, open space, or sensitive land (wetlands, flood plain, etc.) and the City concludes the dedication is a logical extension of the existing public property or open space.
  4. The City may, at its sole discretion, require the park, open space, or greenway to be dedicated to the City or another public agency. Dedication may be either by dedication on a plat, deed, through conservation easement or similar device. In lieu of dedication, the City may require the designated park, open space, or greenway to be owned and maintained by the property owner or a homeowner's association.
  5. In lieu of dedicating or designating land for park or open space purposes under this section, the City may require the developer pay a fee in lieu of dedication in an amount proportionate to the value of the open space that would otherwise be required under this section.
  6. Location.
    - (a) Where the development site is adjacent to an existing public park, school, greenway, open space, or other publicly owned property, the proposed park shall be contiguous to or connected to the existing public property.
    - (b) Where a proposed public park, greenway, or open space area shown in the Aumsville Parks Master Plan, is located in whole or in part in a development site, the City may require the dedication or reservation of this area.
    - (c) Notwithstanding subsections 1, 2, and 3 above, areas along Mill Creek or Highberger Ditch may be more suitably handled through conservation easement whereby areas along the stream can be set aside as open space to maintain riparian areas as habitat and where streamside pathway development may be provided. In such cases, the City may require the developer record a conservation easement in lieu of open space designation or dedication.
- (B) Standard for Dedication of a Public Park, Greenway, and/or Open Space. The amount of land recommended for designation or dedication as a park, greenway, or open space is based on a standard of 8.5 acres of park land per 1,000 residents. The actual amount of land shall be proportional to the impact of the residential development project.

- 20.06 Property Line Adjustment. A property line adjustment is a modification to lot lines or a parcel boundary that does not result in a new lot or parcel. Property line adjustment includes the elimination of a common property line between abutting properties also known as the consolidation. It is recommended that the applicant confer with the City regarding application requirements.
- 20.07 Submittal Requirements. The following information and material must be submitted by the applicant:
- (A) An application for a property line adjustment shall be submitted on forms provided by the City to the Administrative Official and accompanied by the appropriate fee. The application must be signed by the owners of all lots affected by the application.
  - (B) The application shall be accompanied by a preliminary plat drawn to scale of not less than 1 inch equals 50 feet nor more than 1 inch equals 200 feet, and containing at a minimum, the following:
    - 1. Appropriate identification stating the drawing is a preliminary plat.
    - 2. North point, scale, and date.
    - 3. Name and addresses of landowners, applicants, engineer, surveyor, planner, architect, or other individuals responsible for the plan.
    - 4. Map number and tax lot or tax account number of the subject properties.
    - 5. The proposed boundary lines and approximate area of the subject property created before and after the adjustment.
    - 6. Dimensions and size in square feet or acres of all proposed parcels.
    - 7. The approximate location of existing streets, easements, or rights-of-way adjacent to, or within, the subject property, and existing improvements on the property and important features such as political boundary lines.
- 20.08 Decision Criteria. The following criteria apply to all property line adjustments:
- (A) The property line adjustment cannot create an additional unit of land.
  - (B) Following the property line adjustment, all lots or parcels must comply with size and dimensional standards of the applicable land use district. For non-conforming properties, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties. Any proposal that will create a non-conformity with zoning standards shall be required to obtain approval of an appropriate variance (Section 13) prior to approval of a property line adjustment.
  - (C) If there are existing structures on the parcels, the property line adjustment may not result in a setback violation.
- 20.09 Review Process. A property line adjustment is subject to Type I review. After a property line adjustment is approved, the new boundary becomes effective only after one of the following steps is completed:
- (A) A metes and bounds legal description of the adjusted lots is recorded with the Marion County Clerk; or
  - (B) If required by ORS Chapter 92, a final plat and boundary survey are prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final plat is submitted to the City for appropriate signatures consistent

with ORS Chapter 92. After signatures are received, the applicant files the final plat in the County Clerk's office and returns 3 copies to the City.

- 20.10 Effective Date of Final Approval. The approval process for a property line adjustment shall become final upon completion of the appropriate requirement in Section 20.09. Final approval constitutes the appropriate approval necessary before a development permit can be issued.
- 20.11 Expedited Land Division. In lieu of the partition procedures in Section 20.13, an applicant may apply for an expedited land division. The procedures and criteria for an expedited land division are contained in Oregon Revised Statutes, 197.360 to 380. Any application for an expedited land division shall describe the manner in which the proposed division complies with each of the criteria contained in ORS 197.360 and be accompanied by the fee set by Council for such application.

### **20.12 Partition Requirements**

- 20.13 Partition. A partition is the creation of three or fewer parcel lots from one parent lot or parcel within a calendar year. It is recommended that the applicant confer with the City regarding application requirements. If a partition results in the creation of a large parcel that can be subsequently divided so that there is the potential to create more than three parcels from the original parcel that meet minimum lot area requirements, the request shall be processed as a subdivision and subject to the design and improvement standards for a subdivision.
- 20.14 Application. A partition application shall be submitted on a form provided by the City and include the appropriate application fee along with 12 copies of a preliminary plan together with 12 copies of any supplementary material.
- 20.15 Review. A partition shall be processed as a Type I-B application.
- 20.16 Preliminary Plat. The preliminary plat for a partition shall include the following information and data:
- (A) The plan shall be drawn on good quality paper no smaller than 8 ½" by 11" , nor larger than 18" by 24".
  - (B) The scale of the drawing shall be appropriate to the area and sufficient to show the details of the plan and related data. A scale of 1"= 50' or 1"= 100' is suggested.
  - (C) A list of owners by address and telephone numbers within 250 feet of the property to be divided.
  - (D) North arrow and date.
  - (E) Locations, names, pavement widths, and right-of-way of existing and proposed streets as well as access points.
  - (F) The locations, widths, and purposes of all existing and proposed easements.
  - (G) The location of all existing and proposed storm sewers, sanitary sewers, and other utilities on and abutting the property.

- (H) Natural features, such as rock outcroppings, marshes, wetlands, wooded areas, and within buildable areas, trees over 12" in diameter measured at 4 1/2 feet above the ground.
- (I) The location of property within the 100-year flood plain and other areas subject to flooding or ponding.
- (J) An indication of the degree and approximate direction of the slopes.
- (K) The dimensions of all existing and proposed lot lines.
- (L) The proposed lot sizes in either square feet or acres.
- (M) The location and present uses of all structures to remain and those to be removed.
- (N) The proposed uses of the parcels and any deed restrictions.
- (O) Location of the partition by Section, Township, and Range, and a legal description adequate to locate the boundaries of the proposed partition.
- (P) A legend that clearly defines lines, patterns, symbols, and other patterns used on the plat.
- (Q) A title block identifying the preliminary plat as "PROPOSED PARTITION".

20.17 Decision Criteria. Approval of a partition application requires compliance with the following criteria:

- (A) Each parcel shall satisfy the dimensional standards of applicable zoning district, unless a variance from these standards is approved.
- (B) Public facilities are available to serve the existing and newly created parcels at maximum zoned density.
- (C) The partitioning shall comply with the applicable design criteria in Section 20.
- (D) The application complies with the City's adopted public works design standards for any public improvement required by the development. For example, where streets are required, the application shall comply with Division 2, Streets; for storm water improvements, the application shall comply with Division 3, Stormwater Management.

20.18 Process for Final Plat Approval. Upon final approval of a tentative partition plat, the following shall apply to complete the partitioning process:

- (A) Survey Submitted: Within 1 year of the final decision approving a preliminary plat, a final survey of the approved plat shall be recorded. The final partitioning plat shall be completed by a registered land surveyor and comply with all applicable provisions contained in ORS Chapter 92.
- (B) Final Approval: The mayor, City Administrator, and City Engineer are authorized to sign a final partitioning plat if the partition plat is consistent with the approved preliminary plat, and if the conditions of approval have been satisfied. One recorded copy of the survey plat shall be marked "APPROVED" and retained for the City's files.
- (C) Recording of Approved Plat Required: No building permit shall be issued, or parcel sold, transferred, or assigned until the final approved plat has been recorded with the County Clerk. The applicant shall be responsible for all recording fees.



- 20.19 Effective Date for Final Plat Approval. An approved partition shall become final upon the recordation of the approved partition plat under ORS 92.120 together with any required documents with the County Clerk. An approved partition plat is void one year after issuance of the development permit if it is not recorded. Final approval constitutes the appropriate approval necessary before a development permit can be issued.
- 20.20 General Provisions.
- (A) Partition approval is valid in perpetuity, upon recording of the final surveyed plat.
  - (B) No parcel within an approved partition may be redivided within the same calendar year in which it was recorded, except through the subdivision process.

### **20.21 Subdivision Requirements**

- 20.22 Subdivision. A subdivision is the creation of four or more lots from one parent lot or parcel within a calendar year. It is recommended that the applicant confer with the City regarding application requirements.
- 20.23 Application. The applicant shall complete an application on a form provided by the City and pay the appropriate application fee along with 10 copies of a preliminary plan together with 10 copies of any supplementary material.
- 20.24 Public Hearing. Subdivisions shall be processed as a Type III application. Upon a determination that the application is complete, a public hearing shall be scheduled before the Commission and Council.
- 20.25 Preliminary Plat. A subdivision application shall include the following information and data:
- (A) Vicinity Map: At reduced scale, show the proposed subdivision in relation to the adjacent area showing existing subdivisions, streets, and tract lines of acreage land parcels; the names of the recorded owners of all land parcels within 100 feet or farther if necessary to assist in locating the proposal.
  - (B) Names and addresses of the owner(s), engineer, and surveyor.
  - (C) Location of proposal by Section, Township, and Range, and a legal description sufficient to define the location and boundaries of the proposal according to the real estate records of the County Assessor.
  - (D) Date, northpoint, and scale of drawing at either 1"= 50' or 1"= 100'.
  - (E) Name of the subdivision. This name must not resemble the name of any other development within the city or within 5 miles of Aumsville.
  - (F) The location, widths, and names of both open and unopened streets within or adjacent to the proposed subdivision, together with easements and other important features such as section lines, section corners, city boundary lines, monuments, railroad rights-of-way.
  - (G) The location in the adjoining streets or property of existing sewers and water mains, culverts and drainpipes, electric conduits or lines proposed to be used on the property to be subdivided, and invert elevations of sewers at points of proposed connections.

- (H) Zoning on and adjacent to the proposed subdivision.
- (I) Existing uses of the property and adjacent property within 250 feet, including locations of all existing structures to remain on the property.
- (J) Lot layout with approximate dimensions and proposed lot numbers.
- (K) Location, width, directions, and flow of all water courses.
- (L) Contour lines and the elevations of all control points, which are used to determine the contours.
- (M) Location of properties within the 100-year flood plain, and the location of and direction of drainageways or easements and the location of areas subject to flooding and the locations of properties subject to inundation or stormwater overflow within or adjacent to the proposed subdivisions.
- (N) The direction of slope by means of arrows or other suitable means.
- (O) Natural features such as rock outcroppings, marshes, wetlands, wooded areas, and within buildable areas, trees over 12 inches in diameter measured at 4½ feet from the ground.
- (P) The location, size, and use of all contemplated and existing public areas within the proposed subdivision and a description of the adaptability of the area for uses contemplated. Areas for public use approved by the Council shall be dedicated for such use and indicated on the final plat before recording.
- (Q) Proposed streets: Location, widths, names, approximate radii of curves as well as required bikeways and pedestrian facilities. The relationship of all streets to any projected streets as shown on the Transportation System Plan (TSP) or any development plan adopted by Council.
- (R) Easements located on the site or abutting property, showing the width and purpose of all easements.
- (S) Proposed land uses.
- (T) Proposed deed restrictions or covenants.
- (U) Total acreage in the subdivision and the percent of land dedicated to the public, not including easements.
- (V) All public improvements proposed to be installed and the approximate time installation is desired.
- (W) Any special improvement to be made by the developer shall be submitted to the Commission and Council with sufficient detail as is practical.
- (X) Supplementary information, plans, and details:
  1. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.
  2. A plan for showing the proposed placement of meter boxes.
  3. A plan for flood control, including profiles of proposed drainageways.
  4. If lots are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.
  5. Construction signs: For subdivisions under construction, the greater of 16 square feet (32 if in an RM zone) or 2 square feet per lot or property for sale, up to a maximum of 100 square feet in sign area. The maximum dimension of such sign shall not exceed 20 feet. Such sign may be used for only a period of 1 year. The Administrative Official may extend the time up

to an additional year if construction or sale of property or homes continues during that time.

- (Y) A legend that clearly defines lines, patterns, symbols, and other patterns used on the plat.

20.26 Decision Criteria. Approval of a subdivision application requires compliance with the following criteria:

- (A) The overall dwelling density shall be consistent with policies contained in the Comprehensive Plan.
- (B) Each lot shall satisfy the dimension standards of the applicable zoning district, with the exception of the following:
  1. The applicant may submit a variance as a part of the subdivision request to modify dimension requirements.
  2. For subdivisions exceeding 10 lots, up to 20% of the lots may be reduced in area by a maximum of 10%, provided, the average lot size for the entire subdivision meets or exceeds the minimum lot size required in the underlying zone.
- (C) Adequate public facilities including sewer, water, transportation, parks, and telecommunications shall be available to serve the newly created lots and transportation shall be coordinated with the school district. The subdivision shall comply with applicable requirements of Section 22.
- (D) The subdivision shall comply with the applicable design criteria in Section 20.
- (E) The application complies with the City's adopted public works design standards for any public improvement required by the development. For example, where streets are required, the application shall comply with Division 2, Streets; for storm water improvements, the application shall comply with Division 3, Stormwater Management.
- (F) The application complies with the most recent version of the Oregon Fire Code, including Appendix C and Appendix D.

20.27 Process for Final Plat Approval. The applicant shall complete a final plat. The plat shall conform to the survey requirements contained in ORS Chapter 92. Upon receipt of the final plat, the Administrative Official shall determine its substantial conformity with the Council's approval of the tentative plat. The Administrative Official shall advise the developer of any changes or additions to be made. The developer shall have a reasonable time in which to correct and resubmit the final plat. When the final plat substantially conforms to all conditions and requirements as set forth by the Council's approval the developer shall take the following actions:

- (A) The final plat shall be signed and dated by the mayor, City Administrator, and City Engineer.
- (B) As required by ORS 92.110, obtain the approval signatures of the Board of Director's, or Board's delegate, of any irrigation district, drainage district, water control district, or district improvement company if the subdivision is within such district.
- (C) Obtain the signatures of approval of the County Board of Commissioners.

- (D) Obtain the approval signature of the County Assessor certifying that all taxes on the property have been paid or bonded for in accordance with state law.
- (E) Deliver the approved plat and accompanying documents to the County Clerk for recording.
- (F) Deliver, before submittal of building permit applications, four 11" x 17" photocopies of the recorded plat, an 18" x 24" blueprint, and subdivision as-built drawings to the City.

20.28 Effective Date for Final Plat Approval. The effective date and approval process for a subdivision shall become final upon the recording date of the approved final subdivision plat, recorded in accordance with Oregon Revised Statutes. A final subdivision plat is void one year after signature approval if it is not recorded. Recording of the final plat and compliance with Section 20.31 (F) constitutes the appropriate approval necessary before a building permit can be issued. Unless the final plat is recorded within the timelines in Section 20.04, it shall be resubmitted as a new land division application, which may require changes or alterations deemed necessary because of changed conditions within the general area of the subdivision.

20.29 General Provisions:

- (A) Subdivisions that are not phased subdivisions may require modification to comply with changes in the Comprehensive Plan, Development Ordinance, or other implementing regulations if construction is not complete after one year from the recording of the final plat.
- (B) Improvements/Bonding: Prior to issuance of a building permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the city attorney. Phasing of the improvements and development costs shall be permitted.
- (C) Council or the Administrative Official may withhold or delay the final approval until a field check of the proposed subdivision has been made by the City.
- (D) The approval of the final plat does not constitute or effect an acceptance by the public of the dedication of any street or other easement shown on the plat.

**20.30 Replatting**

20.31 General Provisions:

- (A) Replatting. Replatting is the act of platting the lots, parcels, or easements in a recorded subdivision or partition plat to either reconfigure the existing subdivision or partition; or, increase or decrease the number of lots within a subdivision.
- (B) Applicability. Replats shall only apply to recorded partition or subdivision plats.
- (C) Partial Replatting. A replatting request may apply to the entire partition or subdivision, or, to only a portion of a partitioning or subdivision.
- (D) Authority. The Commission shall have the authority to review and approve proposed replats of a recorded plat.
- (E) Utilities.

1. Replats may be used to realign, reduce, or omit utility easements.
  2. Affected utility companies or public agencies shall be notified of a replat request affecting utility easements. Notification shall be consistent with notice requirements provided to adjacent property owners. Any utility company or public agency that desires to maintain an easement subject to vacation must notify the City in writing within 14 days of the mailing of the notice.
- (F) Effect of Replat.
1. Replats shall not act to vacate any recorded covenants or restrictions.
  2. Replats shall not prevent the vacation actions permitted in ORS Chapters 271 or 368.
  3. Replats shall not serve to vacate any public street or road.

**20.32 Replat Process/Procedures:**

- (A) **Replat Review Procedures.** A replat of a recorded subdivision or partition plat shall be reviewed as a new request for a subdivision or partition and shall be subject to all provisions of this chapter. This requirement shall also include applicable public hearing and notice requirements.
- (B) **Final Replat Review.** Final review of a replat shall comply with the final plat review procedures for a partitioning or subdivision, whichever is applicable to the request.

**20.33 Exception:**

- (A) **Building Permits Not Meeting Parcel Requirements.** When a building permit authorizes construction that does not meet the parcel requirements of the Development Ordinance, the applicant may treat adjacent lots under the same ownership as a single unit of land, notwithstanding the fact that they are separate legal parcels; and
- (B) **Sale of Either Lot Prohibited.** Sale of any portion of either lot or parcel prior to bringing the permitted use into compliance with the Development Ordinance requirements will be in violation of the Development Ordinance and is prohibited.

**20.34 Design Standards**

**20.35 Design Standards for Lot and Block:**

- (A) Development shall provide for the continuation or projection of existing public streets in surrounding areas or conform with the plan for the neighborhood or any development plan adopted by the Commission.
- (B) Lot arrangement shall be such that there will be no foreseeable difficulties, for reason of topography or other conditions, in securing building permits to build on all lots in compliance with the requirements of this ordinance with the exception of lots designed for open space.
- (C) Lot dimensions shall comply with the minimum standards of this ordinance. When lots are more than double the minimum area designated by the district, the approval authority shall require that such lots be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to

serve such potential lots.

- (D) Double frontage lots shall be avoided except where necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation. When driveway access from arterials is necessary for several adjoining lots, the Commission shall require that such lots be served by a combined access driveway in order to limit possible traffic hazards on such streets. The driveway should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials.
- (E) The side property lines of a lot shall, as far as practical, run at right angles to the street upon which it faces, except that on a curved street the side property line shall be radial to the curve.
- (F) Blocks shall not exceed 600 feet between street lines unless the adjacent layout or special conditions justify greater length. Except where topography or other physical features make it otherwise, block widths shall not be less than 200 feet or more than 400 feet.
- (G) Cul-de-sacs shall be as short as possible and shall have a maximum length of 400 feet. In any residential division, no more than 5 lots shall have access on a cul-de-sac bulb except that additional lots may be permitted where one additional off-street parking space is created for each lot which has access on the bulb. The minimum frontage of a lot on a cul-de-sac shall be 20 feet as measured perpendicular to the radius. Cul-de-sacs and dead-end streets shall have turn-arounds with a radius of not less than 45 feet to the curb line.
- (H) Lots are required to have frontage on a public right-of-way. A private access easement does not fulfill this requirement.

20.36 Public Improvements, General Provisions: The standard specifications for construction, reconstruction, or repair of streets, bikeways, sidewalks, streetlights, curbs, gutters, and other public improvements within the city area as approved in the City's Public Works Design and Construction Standards. Unless otherwise provided in the particular specifications for work authorized, public facility work shall be according to the Public Works Design and Construction Standards. The City Engineer may make changes or supplements to the Public Works Design and Construction Standards consistent with the application of engineering principles to the conditions in the City. The City Engineer shall incorporate amended or new specifications in the Public Works Design and Construction Standards. In the event of discrepancies between these provisions and the Public Works Design and Construction Standards, the Public Works Design and Construction Standards shall apply.

20.37 Streets:

(A) General Provisions.

- 1. No land use approval or building permit shall be issued unless the development has an approved irrevocable access to a public street. Streets, sidewalks, and bikeways within a development shall be improved in accordance with this ordinance. Any new street or additional street width planned as a portion of an approved street plan shall be dedicated and

- improved in accordance with this ordinance.
2. Streets shall be created through the approval of a subdivision plat or partition; however, Council may approve the creation of a street by acceptance of a deed provided that such street is deemed essential by Council for the purpose of general traffic circulation. Such conditions as are deemed desirable and which are not at variance with the objectives of ordinance, may be required by Council prior to the approval of the creation of any street.
  3. Development proposals shall provide for the continuation of all streets, bikeways, and pedestrian facilities within the development and to existing and planned streets, bikeways, and pedestrian facilities outside the development.
- (B) Location, Width. The location, width, and grade of all streets shall conform to the TSP and shall be considered in their relation to existing and planned streets, to bikeways and pedestrian facilities, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets. The Aumsville TSP shall take preference over any other approved street plan. Street grades shall be approved by the City Engineer who shall give consideration to adequate drainage and traffic safety. Where location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either:
1. Provide for the continuation or appropriate projection of existing principal streets in the surrounding areas; or
  2. Conform to a plan for the neighborhood approved or adopted by the Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical or where no plan has been previously adopted.

In determining the location of new streets in a development or street plan, consideration shall be given to maximizing available solar access for adjoining development sites. Unless otherwise indicated on an approved street plan, the street right-of-way, sidewalk, bikeway, and roadway widths shall not be less than the minimum width in feet shown in the following table. Where a range is indicated, the width shall be determined by the City.

Type of Street	Minimum Right-of-Way Width	Minimum Roadway Width	Sidewalk Width	Bike lane Width
Arterials <sup>1</sup>	60-104 feet	40-84 feet	5 feet	6 feet
Collectors	60-94 feet	40-74 feet	5 feet	6 feet <sup>2</sup>
Local <sup>3</sup>	60 feet	40 feet	5 feet	
Cul-de-sac	50 feet	40 feet	5 feet	
Cul-de-sac bulb	60 foot radius	45 foot radius	5 feet	

<sup>1</sup> Or consistent with county standards.

<sup>2</sup> As determined by the City Engineer.

<sup>3</sup> Curb extensions will be provided at intersections of local streets subject to approval of the City

- (C) Street Extensions. Where necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed. A barricade shall be constructed at the end of the street by the property owners, the cost of which shall be included in the street construction cost; and it shall not be removed by any party until authorized by the City.
- (D) Alignment. As far as practical, streets shall be dedicated and constructed in alignment with existing streets by continuing the centerlines thereof. In no case shall the staggering of streets making "T" intersections be designed such that jogs of less than 200 feet on such streets are created, as measured from the center line of such street.
- (E) Intersections. Streets shall be laid out so as to intersect as nearly as possible at right angles. Proposed intersections of two streets at an acute angle of less than 80 degrees is not acceptable. An oblique street should be curved approaching an intersection to provide at least 100 feet of street at right angles with the intersection. Not more than 2 streets shall intersect at anyone point.
- (F) Dead-end streets longer than 400 feet may be approved by the Commission if no other feasible means is available for development of the property and special provisions are made for public facilities, pedestrian and bicycle circulation, and emergency service access. The use of cul-de-sacs and other dead-end streets shall be discouraged and shall only be approved upon a showing by the applicant of unusual or unique circumstances justifying the use of such a street.
  - 1. In cases where cul-de-sacs are determined to be justified they shall only be permitted subject to the following conditions:
    - (a) There shall be no cul-de-sacs more than 400 feet in length.
    - (b) All cul-de-sacs shall terminate with circular turnarounds, except where the Commission finds that a "pear" or "hammerhead" turnaround is more appropriate given topography, natural or built features, and expected use.
    - (c) An accessway shall be provided consistent with the standards for accessways, as determined by the Commission to be necessary to ensure safe, efficient, and convenient multi-modal access.
  - 2. For purposes of this section:
    - (a) "Unusual or unique circumstances" exist when one of the following conditions prevent a required street connection:
      - 1. Excess slope (8% or more);
      - 2. Presence of a wetland or other body of water; or
      - 3. Existing development on adjacent property prevents a street connection.
    - (b) "Accessway" means a walkway that provides pedestrian and or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses.



Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner which provides convenient access for pedestrians.

- (G) Partial Streets. A partial width street, while generally not acceptable, may be approved where reasonably essential to the development when in conformity with the other requirements of these standards and when it will be practical to require the dedication of the other portion when the adjoining property is developed. Whenever a partial street is adjacent to a tract to be developed, the other portion of the street shall be provided within such tract. Reserve strips may be required to preserve the objectives of partial width streets.
- (H) Existing Streets. Full street improvements to all existing streets adjacent to, within or necessary to serve the development shall be required at the time of partitioning or subdivision unless the developer demonstrates to the satisfaction of the City Engineer that the condition and sections of the existing streets meet all city standards and are in satisfactory condition to handle projected traffic loads. The City may allow the developer to record an approved "Waiver of Rights to Remonstrance for Streets and Public Utility Improvements" in lieu of full street improvements where the following criteria are met:
  - 1. The development is a partition; and
  - 2. The existing street to be improved is more than 500 feet from any street or segment with full or 3/4 street improvements; and
  - 3. The existing roadway condition and sections are adequate to handle existing and projected traffic loads; and
  - 4. Existing public utilities (water, sanitary sewer, and storm sewer) located within the existing roadway are adequate, or can be improved without damaging the existing roadway surface.
- (I) 3/4 Street Improvements. 3/4 streets, while generally not acceptable, may be approved in lieu of full street improvements where essential to the reasonable development of an area and when the City finds it to be practical to require the completion of the other 1/4 street improvement when the adjoining property is developed. 3/4 street improvements shall not be allowed unless the following criteria are met:
  - 1. The adjoining land abutting the opposite side of the street is undeveloped; and
  - 2. The adjoining land abutting the opposite side of the street is within city limits and the urban growth boundary; and
  - 3. The proposed street improvement will encompass the entire paved surface of the existing street.
- (J) Slope and Curves. Slope shall not exceed 6 percent on arterials, 10 percent on collector streets, or 12 percent on other streets. Center line radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even 10 feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the Commission may accept steeper grades and sharper curves.

In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 percent.

- (K) Railroad Right-of-Way and Intersections.
  - 1. Whenever a proposed development contains or is adjacent to a railroad right-of-way, provisions may be required for a street approximately parallel to and on each side of the railroad right-of-way at a distance suitable for the appropriate use of the land between each street and the railroad. The distance shall be determined with due consideration at each cross street of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way in non-industrial areas.
  - 2. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval or other equitable means of cost distribution shall be determined by Council.
- (L) Arterial Access. Where a development abuts or contains an existing or proposed arterial street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design requirements may include any of the following:
  - 1. A parallel access street along the arterial.
  - 2. Lots of suitable depth abutting the arterial to provide adequate buffering with frontage along another street.
  - 3. Screen planting at the rear or side property line to be contained in a non-access reservation along the arterial.
  - 4. Other treatment suitable to meet the objectives of this subsection.
- (M) Private Streets. Private streets are permitted within manufactured home parks and singularly owned developments of sufficient size to warrant interior circulation on private streets. Design standards for private streets shall be established by the City Engineer but shall not exceed the requirements for public streets. The Commission may require legal assurance for the continued maintenance of private streets.
- (N) Traffic Signals. The location of planned traffic signals shall be noted on approved street plans. Where a proposed street intersection will result in an immediate need for a traffic signal, a signal that meets approved city specifications shall be installed and the cost may be included as a condition of development approval or other equitable means of cost distribution shall be determined by Council. Where a single development or concurrent group of development will create a need for a traffic signal at an intersection, the cost for such installation may be attached as a condition of development if approved by the Commission.
- (O) Street Names. Except for extensions of existing streets, no street names shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the city and shall be subject to the approval of the City Administrator.
- (P) Street Signs. The City shall install all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. The cost of

signs and installation shall be included in the project costs, and the City shall be reimbursed for all materials and labor.

- (Q) Bikeways. If appropriate to the extension of a system of bikeways, existing or planned, the Commission may require the installation of separate bicycle lanes within streets and separate bicycle paths. Where possible, bikeways should be separated from other modes of travel including pedestrians. Minimum width for bikeways shall be 6 feet per travel lane.
- (R) Sidewalks. Except where exempted by Council, sidewalks shall be constructed, replaced, or repaired to city standards and shall be located as follows:
  1. On both sides of all city streets to be built at the time of street construction;
  2. On both sides of all previously constructed streets, and in pedestrian easements and rights-of-way and are to be constructed along all portions of the property designated for pedestrian access ways in conjunction with any development of the property. Curbs and sidewalks shall be required for all streets, public or private, access easements, driveways, and other ways used for vehicular travel, which are 24 feet wide or wider.
  3. On one side of any industrial street to be constructed at the time of street construction or after determination of curb cut locations if rolled curbing is not used.
  4. The City may require a planter strip separation of at least 5 feet between curb and sidewalk in the design of any arterial or collector street where parking is prohibited adjacent to the curb, except where the following conditions exist: inadequate right-of-way, curb side sidewalks already exist on predominant portions of the street; and, conflict with utilities.
  5. Sidewalks adjacent to all streets shall be 5 feet in width. Width of sidewalks shall be measured from the back of the curb.
  6. Maintenance of sidewalks and pedestrian walks, curbs, and planter strips shall be the continuing obligation of the adjacent property owner.
  7. Accessways shall be installed when required for cul-de-sac or dead-end streets.
  8. The Public Works Director shall inspect the construction of sidewalks for compliance with the provisions of this ordinance and the Public Works Design and Construction Standards.

#### 20.38 Utilities.

- (A) Undergrounding. Except as otherwise provided, all utility lines, cables, or wires, including but not limited to those used for electricity, communication, street lighting, and cable television, constructed upon or within land subdivided or prepared for development after the effective date of this ordinance, shall be required to be placed underground. The intent of the City is that no poles, towers, or other structures associated with utility facilities shall be permitted on any street or lot within a subdivision. Overhead facilities shall be permitted for the following in which case the above provisions shall not apply:
  1. Emergency installations of electric transmission lines or to through feeders operating at distribution voltages which act as a main source of supply to primary laterals and to direct connected distribution transformers and

primary loads. Should it be necessary to increase the capacity of major power transmission facilities for service to the area, such new or revised installations shall be made only on rights-of-way or easements on which existing overhead facilities exist at the time of such capacity increase.

2. Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, connection boxes, and the like.
  3. Structures without overhead wires, used exclusively for fire alarm boxes, streetlights, or municipal equipment installed under the supervision and with the approval of the City Engineer.
  4. Power substations, pumping plan, and similar facilities necessary for transmission or distribution of utility services shall be permitted subject to compliance with all zoning regulations and other applicable land use regulations. Plans showing landscaping and screening shall be approved by the Commission for all such facilities prior to any construction being started.
  5. Television antennas.
  6. Industrial developments except for those utility lines, cables, and/or wires providing service to an individual lot. Such lines must be placed underground from the nearest power pole to the facility ultimately being operated on the individual lot. Certain industries requiring exceptionally large power supplies may request direct overhead power as a condition of approval. Underground utilities may be required in industrial park developments and planned developments in industrial districts.
- (B) Future Installations. The owner or contract purchaser of subdivided real property within a subdivision shall provide in the instrument conveying such interest, a covenant not to erect or allow to be erected upon the property conveyed, any overhead utility facilities, except such facilities as are exempt from underground installation. Such covenant shall require grantees to install, maintain, and use underground electric, telephone, cable television, or other utility services used or to be used to serve the premises. A copy of the covenant shall be submitted with the final plat.
- (C) Easements. A property owner proposing a development shall make arrangements with the City and each utility franchise for the provision and dedication of utility easements necessary to provide full service to the development. The standard width for public utility easements adjacent to street right-of-way shall be 7 feet. The minimum width for all other public utility easements shall be 20 feet unless otherwise specified by the utility company or City Engineer. Where feasible, utility easements shall be centered on a corner lot.

#### 20.39 Sanitary Sewers.

- (A) General Provisions.
1. Sanitary sewers shall be installed to serve each new development to existing mains.
  2. The City Engineer shall approve all sanitary sewer plans and proposed systems prior to issuance of development permits involving sewer service.

3. Proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.
4. Proposed developments shall make provisions for any right-of-way, easement, trunk line, or pumping station specifically designed in an approved master sewerage plan or capital improvements plan. The cost for such provisions shall be assessed as specified in the master sewerage plan or capital improvements plan.
5. Development permits may be restricted by the Administrative Official where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health and safety, surcharging of existing mains, or violations of state or federal standards pertaining to operations of the sewage treatment system.

#### 20.40 Storm Drainage.

- (A) General Provisions. The Administrative Official shall issue a development permit only where adequate provisions for storm and flood water run-off have been made as determined by the City Engineer. The stormwater drainage system shall be separate and independent of any sanitary sewerage system. Where possible, inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns shall be shown on every development proposal plan.
- (B) Easements. Where a subdivision is traversed by a water course, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as will be adequate for conveyance and maintenance. Streets or parkways parallel to watercourses may be required.
- (C) Accommodation of Upstream Drainage. A culvert or other drainage facility shall, and in each case be large enough to, accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Engineer shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.
- (D) Effect of Downstream Drainage. Where it is anticipated by the City Engineer that the additional run-off resulting from the development will overload an existing drainage facility, the Commission shall withhold approval of the development until provisions have been made for improvement of said potential condition.
- (E) Drainage Management Practices. In the absence of a drainage basin master plan, a development may be required to employ drainage management practices approved by the City Engineer which would minimize the amount and rate of surface water run-off into receiving streams. Drainage management practices may include, but are not limited to:
  1. Temporary ponding of water.
  2. Permanent storage basins.
  3. Minimization of impervious surfaces.

4. Emphasizing natural water percolation and natural drain ways.
5. Prevention of water flowing from the roadway in an uncontrolled fashion.
6. Stabilization of natural drainageways as necessary below drainage and culvert discharge points from a distance sufficient to convey the discharge without channel erosion.
7. Run-off from impervious surfaces shall be collected and transported to a natural drainageway with sufficient capacity to accept the discharge.

20.41 Water System. Each development site shall be provided potable water; and fire hydrants and mains shall be installed as required by the fire chief.

20.42 General Provisions:

- (A) Improvements for Partitions. The same improvements shall be installed to serve each building site of a partition as is required of a subdivision. However, if the Commission finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the Commission shall except those improvements. In lieu of excepting any improvement, the Commission may recommend to Council that the improvements be installed in the area under special assessment financing or other facility extension policies of the City.
- (B) Property Monumentation. Upon completion of a street improvement and prior to acceptance by the City, all property corners shall be re-established and protected.

20.43 Pedestrian/Bicycle Accessways:

- (A) Pedestrian/bicycle accessways shall be provided as follows:
  1. Pedestrian/bicycle access shall be provided in cul-de-sacs to either adjacent streets or undeveloped properties, excluding cul-de-sacs under 300 feet in length.
  2. Pedestrian/bicycle accessways shall be provided to adjacent parks or schools when out of direction travel is more than 400 feet.
  3. Subdivisions shall provide a street connection at least every 600 feet or an accessway every 400 feet to adjacent or parallel streets.
- (B) Pedestrian/Bicycle Accessway Development Standards.
  1. The accessway shall be a 10-foot-wide paved or concrete surface constructed within a 15-foot right-of-way.
  2. The accessway shall be as short as possible. The accessway shall not be more than 250 feet in length. There shall be vision clearance from one end of the accessway to the other end.
  3. The accessway shall be lit.
  4. The pedestrian and bicycle accessway shall be signed.
  5. The accessway shall be dedicated to the public for maintenance and security.
  6. The accessway shall be constructed at sidewalk grade. Ramps from the street to the accessway shall be provided as required by the City Engineer.
- (C) The Commission may waive the accessway requirement under any of the following circumstances:

1. Where the establishment of the accessway is contrary to public safety; or
2. Where there are other available ways or absence of any need for such accessways; or
3. Where limited by topography or other natural features.

## **SECTION 21.00**

### **Site Development Review**

- 21.01 Purpose
- 21.02 Application and Fee
- 21.03 Applicability of Provisions
- 21.04 Site Development Review – Application Review Procedure
- 21.05 Site Development Review – Application Submission Requirements
- 21.06 Site Development Review – Approval Criteria
- 21.07 Expiration of Approval
- 21.08 Financial Assurances
- 21.09 Development in Accordance With Permit Approval



## SECTION 21.00

### **Site Development Review**

21.01 Purpose. The purpose of this section is to:

- (A) Carry out the development pattern and plan of the City and its Comprehensive Plan policies and related ordinances;
- (B) Provide rules, regulations, and standards for efficient and effective administration of site development review;
- (C) Ensure safe, functional, energy-efficient developments which are compatible with the natural and built environment;
- (D) Resolve potential conflicts that may arise between proposed developments and adjacent uses;
- (E) Promote the public health, safety, and general welfare;
- (F) Lessen or avoid congestion in the streets, and secure safety from fire, flood, pollution, and other dangers;
- (G) Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provisions for transportation, water supply, sewage, and drainage.

21.02 Application and Fee. An application for site development review shall be filed with the Administrative Official and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this section.

21.03 Applicability of Provisions:

- (A) Site development review shall be required for all new developments and modifications of existing developments except:
  1. Regular maintenance, repair, and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair;
  2. Single-family detached dwellings (including accessory dwelling units and manufactured homes);
  3. A single duplex, up to two single-family attached units, or a single triplex which is not being reviewed as part of any other development, and parking on the same lot;
  4. Building additions in commercial, industrial, and public zones of not more than 600 square feet and meet condition 5 are still required to meet Business District design standards, subject to Type 1-B review.
  5. Interior modification within an existing building that meets all of the following:
    - (a) A modification (modification of any size in commercial zone requires a building permit) when the change requires less than a 25% net increase in the number of parking spaces required (not existing) for the current use; and
    - (b) A modification or change in use when the change generates less than an average of 100+ trips per day per 1,000 gross square feet of

building as documented in the Trip Generation Manual of the Institute of Transportation Engineers or other qualified source; AND  
(c) The modification or change in use does not create any additional daily shipping and delivery trips by vehicles over 20,000 pounds gross vehicle weight.

6. Accessory structures in residential zones.
  7. Home occupation;
  8. Land Divisions and associated public improvements.
  9. Improvements by city departments on land zoned Public; except when the City Administrator determines the proposed improvement has potential impacts, such as traffic, lighting, and noise, such that the public review embodied in the site development review process is needed to help determine appropriate mitigation.
  10. Other development, when required by a condition of approval.
- (B) Site Development Review:
1. Unless otherwise exempted by provisions in Section 12, all other activities subject to a site development review shall be reviewed as a Type II discretionary review conducted by the Commission with a public hearing. (See Section 12.00 for review procedure.)
  2. These procedures in (B) apply to all developments in the city, except those specifically listed in item (A) above.

21.04 Site Development Review – Application Review Procedure. Site development review shall be conducted as a Type II procedure, using the procedures in Section 12, and using the approval criteria contained in Section 21.06.

21.05 Site Development Review – Application Submission Requirements. Site Development Review Information. An application for site development review shall include the following information, as deemed applicable by the Administrative Official:

- (A) Site Analysis Map. At a minimum, the site map shall contain the following:
1. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the city, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
  2. Topographic contour lines at intervals determined by the City;
  3. Identification of slopes greater than 10%;
  4. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
  5. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the city, county, or state as having a potential for geologic hazards;
  6. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
  7. Site features, including existing structures, their size and dimension,

- pavement, drainageways, and ditches;
  - 8. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
  - 9. The location, size, and species of trees and other vegetation having a caliper (diameter) of 4 inches or greater at 4 feet above grade;
  - 10. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed;
  - 11. Name and address of project designer, engineer, surveyor, and/or planner, if applicable;
  - 12. Other information, as determined by the City Administrator. The City may require studies or exhibits prepared by qualified professionals to address specific site features.
- (B) Proposed Site Plan. The site plan shall contain the following information, if applicable:
- 1. The proposed development site, including boundaries, dimensions, and gross area;
  - 2. Features identified on the existing site analysis map which are proposed to remain on the site;
  - 3. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
  - 4. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
  - 5. The location and dimensions of all existing and proposed structures, utilities, pavement, and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
  - 6. A calculation of the total impervious surface before development and the total effective impervious surface after development;
  - 7. The location and dimensions of all stormwater or water quality treatment, infiltration, and/or retention facilities;
  - 8. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
  - 9. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
  - 10. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
  - 11. Loading and service areas for loading, deliver, and waste disposal;
  - 12. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements, as applicable;
  - 13. Location, type, and height of outdoor lighting;
  - 14. Name and address of project designer, if applicable;
  - 15. Locations, sizes, and types of signs;
  - 16. Other information determined by the City Administrator. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, natural hazards, etc.) in conformance with this ordinance.

- (C) Architectural Drawings. Architectural drawings shall be submitted showing:
  1. Building elevations (as determined by the City Administrator) with building height and width dimensions;
  2. Building materials, color, and type;
  3. The name of the architect or designer.
- (D) Preliminary Grading Plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required.
- (E) Landscape Plan. A landscape plan is required and shall show the following:
  1. The location and height of existing and proposed fences and other buffering or screening material;
  2. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  3. The location, size, and species of the existing and proposed plant materials (at time of planting);
  4. Existing and proposed building and pavement outlines;
  5. Specifications for soil at time of planting, irrigation if plantings are not drought tolerant (may be automatic or other approved method or irrigation) and anticipated planting schedule.
- (F) Sign drawings shall be required in conformance with the City's sign regulations (Section 19).
- (G) Copies of all existing and proposed restrictions and covenants.
- (H) Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 21.06
- (I) Transportation Impact Analysis: If applicable, prepare a Transportation Impact Analysis (TIA) in accordance with the provisions of Section 22.

21.06 Site Development Review – Approval Criteria. The review authority shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application:

- (A) The application is complete, as determined in accordance with Section 12 and Section 21.05;
- (B) The application complies with all of the applicable provisions of the underlying land use zone, including: building and yard setbacks, lot area and dimensions, lot coverage, and other special standards as may be required for certain land uses;
- (C) Characteristics of adjoining and surrounding uses;
- (D) The application complies with the supplementary zone regulations contained in Sections 18, 19, and 22;
- (E) Conditions required as part of a land division (Section 20), conditional uses (Section 14), or other approval shall be met;
- (F) Provision for adequate noise and/or visual buffering from non-compatible uses;
- (G) Drainage and erosion control needs;

- (H) Public health and safety factors;
- (I) Problems that may arise due to development within potential hazard area;
- (J) Retention of existing natural features on site; and
- (K) The application complies with the City's adopted public works design standards for any public improvement required by the development. For example, where streets are required the application shall comply with Division 2, Streets; for storm water improvements, the application shall comply with Division 3, Stormwater Management.
- (L) The application complies with the most recent Oregon Fire Code, including Appendix C and Appendix D.

21.07 Expiration of Approval:

- (A) Site development review approval shall be effective for a period of 2 years from the date of approval if the building permit has not been issued within the 2-year period.
- (B) The Commission may, upon written request by the applicant and payment of the required fee, grant an extension of the approval period for a period not to exceed a total of 5 years from the original Site Development Review Notice of Decision, provided that:
  1. No major modifications are made to the approved site development review plan;
  2. The applicant can show intent to initiate to complete construction on the site within the extension period;
  3. There have been no changes to the applicable ordinance provisions on which the approval was based. If there have been changes to the applicable ordinance provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site development review shall be required; and
  4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within 2 years of site development approval was beyond the applicant's control.
- (C) Site development review approval shall be voided immediately if development on the site is a departure from the approved plan or development use, or approved modified plan and development as provided for in Section 21.09(B)

21.08 Financial Assurances. If required site improvements cannot be completed before the issuance of an occupancy permit, a performance bond or other guarantee acceptable to the city attorney may be required, as provided for in Section 12.

21.09 Development in Accordance With Permit Approval:

- (A) Developments shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site development review approval) and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments

and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 21.08. Site development review approvals shall be subject to the standards and limitations of (B) and (C), below.

- (B) Modifications to Approved Plans and Developments. Minor modifications of an approved plan or existing development shall be processed as a Type I procedure (See also Section 21.09(C)(3)(d)). Major modifications, as defined in Section 1, shall be processed as a Type II procedure and shall require site development review.
- (C) Phased Development. Phasing of development may be approved with the site development review application, subject to the following standards and procedures:
  - 1. A phasing plan shall be submitted with the site development review application.
  - 2. The Commission shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 3 years without reapplying for site development review.
  - 3. Approval of a phased site development review proposal requires satisfaction of all of the following criteria:
    - (a) The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
    - (b) The development and occupancy of any phase dependent on the use of temporary public facilities shall require Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 21.05. A temporary public facility is any facility not constructed to the applicable city standard, subject to review by the City Engineer.
    - (c) The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
    - (d) An application for phasing may be approved after site development review approval as a minor modification to the approved plan.

## **SECTION 22.00**

### **Supplementary Zone Regulations**

- 22.01 Clear Vision Area
- 22.02 Exception to Height Regulations
- 22.03 Fences, Hedges, and Walls
- 22.04 Residential Accessory Structures
- 22.05 Parking in Required Yards
- 22.06 Average Yard Setback Adjacent to a Street
- 22.07 Yard Exceptions
- 22.08 Outside Storage
- 22.09 Access Spacing Standards
- 22.10 Transportation Mobility Standards
- 22.11 Transportation Impacts
- 22.12 Interchange Area Management Plan Boundary
- 22.13 Home Occupation
- 22.14 Temporary Use for Hardship
- 22.15 Accessory Dwelling Units (ADUs)
- 22.16 House of Worship Uses

## SECTION 22.00

### **Supplementary Zone Regulations**

#### 22.01 Clear Vision Area:

- (A) A clear vision area shall be maintained on corner lots at the intersection of public or private streets, and at the intersection of any street with an alley or driveway.
- (B) A clear vision area is a triangular area, two sides of which are lot lines starting from the corner at the intersection and measured for a distance of 20 feet. In the case of driveways, the 20 feet shall be measured from the intersection of the property line with the centerline of the driveway, or the centerline for two-way drives. Where lot lines or intersections have rounded corners, the lines shall be extended in a straight line to a point of intersection (making a corner) and so measured. The third side of the triangle shall be a line connecting the non-intersecting ends of the other two lines. (See Illustrations following Section 27).
- (C) Clear vision shall also include all areas adjacent to a street, 10 feet from the face of the curb, regardless of property line.
- (D) A clear vision area shall contain no planting, sight-obscuring fence wall, hedge, structure, vehicle parking, or any temporary or permanent obstruction exceeding 36 inches measured from the adjacent curb elevations or established street grade if no curb exists. Trees may be located in this area, provided all branches and foliage are removed up to a height of 8 feet above the ground. The vision clearance area may be increased by the Council, Commission, or Administrative Official upon finding that more sight distance is required for safety reasons. (i.e., due to traffic speeds, roadway alignment, etc.)

22.02 Exception to Height Regulations. The height limitations contained in the zoning district do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

#### 22.03 Fences, Hedges, and Walls.

##### (A) Location and Height:

1. Residential and Commercial Fences and Walls. Fences and walls shall comply with Clear Vision Area requirements. Fences and walls shall not exceed 8 feet in height, and are subject to the following:
  - (a) The placement of a fence or wall shall require a City permit; and,
  - (b) Fences cannot be installed on top of a retaining wall unless the retaining wall is properly backfilled to create a measurable adjacent grade; and,
  - (c) No fence or wall located within a front yard facing a street shall exceed a height of 36 inches in height; and homes with two street facing sides shall have a setback of 10 feet on the street side other than the front side.
  - (d) Fences and walls shall not be located within the city's right-of-way; and
  - (e) Fences and walls cannot be constructed on the property line



- (f) Street facing fences shall have the finished side out. If on corner lot, both street facing sides shall be finished-side out.
  - 2. Industrial and Public Fences and Walls. Fences and walls shall comply with Clear Vision Area requirements. Fences and walls shall not exceed 8 feet in height, including any security barbed wire.
  - 3. Hedges:
    - (a) Hedges shall be planted in compliance with the Clear Vision Area requirements in Section 22.01;
    - (b) No hedge located within a yard facing a street shall exceed 36 inches in height.
    - (c) Hedges shall be maintained to be healthy and not overgrow onto adjacent properties or sidewalks. Plants forming hedges shall be replaced within 6 months after dying or becoming diseased;
    - (d) Hedges that are dead or diseased, or pose a hazard to personal safety, property, or the health of other vegetation such as trees and hedges, shall be removed by the property owner; and
    - (e) Hedges and other landscaping may be established to provide visual screening and privacy within the side and rear yards; while leaving front yards and building entrances mostly visible for security purposes.
- (B) Property.
- 1. Damage. Where a private fence, wall, hedge plantings, or other structure or landscaping exists on city property, easements or rights-of-way, the City is not liable for any damage to the structure or landscaping resulting from the City accessing the existing easements or rights-of-way to install, remove, fix, repair, or replace utilities.
  - 2. Notification. Property owners that have fences, walls, hedges, or plantings located in an existing easement or right-of-way shall be notified 10 days in advance of any City work requiring the property owner to remove fences, walls, hedges, or plantings.
  - 3. Access. In all instances, fences, walls, and hedges shall not be placed within 3 feet of a fire hydrant or utility service equipment, e.g., water meter, valve box, television/telephone pedestal, or power transformer.
  - 4. Injury. Where fences, walls, or plantings exist on City property or easement rights-of-way, the adjoining property owner shall be liable to any person suffering personal injury caused thereby.
  - 5. In the case of an emergency, the City may take any and all necessary steps to ensure the health, safety, and welfare of the citizens of Aumsville. Said steps may include the removal or damage of fences, walls, hedges, or plantings, which may be on the City's property, easements, or rights-of-way. The City may take all reasonable steps necessary to remove any encroachments upon the city right-of-way to ensure the health, safety, and welfare of the citizens. Said steps shall be taken by the City without any requirement of notification to the person responsible for the placement of the encroachment upon the City's property, easements, or rights-of-way.
- (C) Materials.

1. Fences and walls shall not contain any material that could cause bodily harm, such as barbed wire (except where explicitly permitted by this section), broken glass, spikes, or any other hazardous or dangerous materials. Electric fences are not permitted.
2. Chain link fences in Industrial and Public zones that are at least 7 feet in height may be topped with up to 1 foot of barbed wire. The barbed wire shall be straight up or slanted into the property, if new, existing fencing may match existing angle and the total height shall not exceed 8 feet.

22.04 Residential Accessory Structures. All residential accessory structures require a city permit.

(A) The following shall apply to residential accessory structures:

1. Location and Number. A maximum number of two are permitted. Accessory structures shall be located within the rear yard and shall be prohibited in any yard located adjacent to a street except when the house sits on a corner lot. In this situation, the shed may be located on the side yard opposite to the street, provided a minimum 6-foot sight-obscuring fence screens the shed from the street. Homes with a back yard less than 20 feet in depth may locate an accessory structure on one side of the home provided they meet all other requirements under this section.
2. Height. The maximum allowable height is 16 feet, except that the accessory structure wall shall not exceed the height of the primary building wall.
3. Property Setbacks. When a wall adjacent to a property line is 9 feet or less in height, the minimum setback shall be 3 feet. For each one-foot increase in the wall height above 9 feet, the setback shall increase one additional foot. The minimum setback adjacent to an alley shall be 5 feet. Under no circumstances shall the roof overhang permit stormwater runoff onto adjacent property or adjacent right-of-way.
4. Building Size and Lot Coverage. In no case shall the accessory structure occupy more than 30% of the entire rear or side yard. The building size limitation shall be considered the maximum allowable area permitted for all accessory structures.
5. Exterior Finish. Accessory structures greater than 200 square feet in area shall have an exterior finish that is residential in character. Metal siding shall be prohibited on accessory structures exceeding 200 square feet in area.

22.05 Parking. See Section 18.

22.06 Average Yard Setback Adjacent to a Street. Every building requiring a front yard shall set back from the front property line at least 20 feet, except in the case where on the same side of the street, buildings are between 20 and 10 feet from the front property line, then the average depth may be used. Average depth is calculated from the closest part of the foundation of the existing buildings to the front property line. If existing buildings are within 10 feet of the property line, then no less than 10 feet shall be used in figuring the average. If existing buildings are more than 20 feet from the property line then the minimum requirement of 20 feet shall be used in figuring

the average.

22.07 Yard Exceptions. The following exceptions to the yard setbacks shall apply:

- (A) Front Yard Projections. Decorative planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features of not more than 24 inches, from main buildings need not be included when determining the setbacks. Uncovered porches, and covered but unenclosed porches when not more than one story high and which do not extend more than 5 feet beyond the front walls of the building, are exempt from the front yard setback provisions and need not be included when determining the setback.
- (B) Side and Rear Yard Projections.
  - 1. Planter boxes, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters, and other ornamental features, may project not more than 2 feet into a required yard, but shall not be erected within 3 feet of the property line.
  - 2. A fire escape, balcony, outside stairway, cornice, or other unenclosed, unroofed projections may project not more than 5 feet into a required yard and shall not be erected within 3 feet of property line.
  - 3. Steps, uncovered porches, and covered but unenclosed porches, including covered patios when not more than one story high and not more than 3 feet above grade, are exempt from side and rear yard setback requirements, but shall not be erected within 3 feet of property line.
  - 4. Uncovered decks and patios attached to the main building, when measured directly beneath the outside edge of the deck or patio, may be extended to the interior yard property line when they are 3 feet or less in height from ground level.
- (C) Commercial Yard Projections. Decorative planter boxes, benches, steps, cornices, eaves, gutters, and ornamental features need not be included when determining the setbacks.
- (D) Detached accessory structures less than 36 inches in height shall be set back at least 3 feet from property lines.

22.08 Outside Storage. Unless otherwise restricted elsewhere in the Development Code, outside storage shall be subject to the following:

- (A) Residential Zones. Outside storage of materials, junk, or similar items shall not be permitted anywhere within the front yard. This shall not prohibit the temporary installation of displays during holidays.
- (B) Non-residential Zones. Outdoor storage of materials, junk, parts, equipment is prohibited unless the materials or merchandise is approved through site development review, material use in the approved business and shall be screened with a solid, durable structure that is architecturally related to the building, complying with adopted design standards. The screening provisions shall not apply to activities that normally include the outdoor display of merchandise such as automobile or farm equipment sales, service station merchandise, or nursery stock.

22.09 Access Spacing Standards.

(A) Access spacing standards between streets and/or driveways are:

**Spacing Requirements for Accesses on State, County, and City Roadways**

<b>Functional Classification</b>	<b>Distance<sup>1</sup></b>
Expressway (ODOT)	1,320 feet from interchange ramp termini
Arterial (County)	400 feet from any intersection with a state highway, arterial, or major collector
	300 feet from any other intersection or private access
Collector (County)	250 feet from any intersection with an arterial or state highway
	150 feet from any other intersection or private access
Collector (Aumsville)	200 feet from any intersection with an arterial or state highway
	100 feet from any other intersection or private access
Local (Aumsville)	50 feet from any other intersection or private access unless no other reasonable access is available

Notes:

<sup>1</sup> Distances are measured from centerline to centerline of driveways and roadways

1. Where access spacing standards cannot be satisfied, joint and cross access and shared driveways are encouraged pursuant to Section 18. New property access shall not be permitted within 50 feet of an intersection unless no other reasonable access to property is available. Where no other alternatives exist, the City may allow construction of an access connection at a point less than 50 feet from an intersection, provided the access as far away from the intersection as possible. In such cases, the City may impose turning restrictions (i.e., right in/out, right in only, or right out only).

22.10 Transportation Mobility Standards.

The mobility standards identified in the following table shall be used to define the acceptable intersection traffic operation threshold within the Aumsville Urban Growth Boundary and to determine the need for transportation system improvement.

### Traffic Operations Standards

<b>Roadway <sup>1</sup></b>	<b>Intersection Type</b>	<b>Operations Standard</b>
City Street or County Road within Aumsville UGB	Signalized, All-way Stop & Roundabout	LOS D 0.85 V/C
	Unsignalized	LOS D <sup>2</sup> 0.85 V/C
State Highway <sup>3</sup>	Statewide Highway Ramps Eastbound intersection with OR 22	0.85 V/C
	Westbound Intersection with OR 22	0.50 V/C

**Notes:**

- <sup>1</sup> For intersections where state owned roadways cross City or County owned roadways, state traffic operations standards are used in place of City and/or County standards.
- <sup>2</sup> Up to LOS F for one movement may be allowed at unsignalized intersections under County jurisdiction if the movement has relatively low volume (as determined by the City in consultation with County staff) and there is no indication that a safety problem will be created.
- <sup>3</sup> Oregon Department of Transportation operations standards apply to OR 22 interchange ramp termini within the City of Aumsville.

#### 22.11 Transportation Impacts.

A transportation impact analysis (TIA) provides an objective assessment of the anticipated modal transportation impacts associated with a specific land use action. Throughout the development of the TIA (and beginning as early as possible), cooperation between City of Aumsville staff, the applicant, and the applicant’s traffic engineer is encouraged to provide an efficient and effective process. The City of Aumsville assumes no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of a transportation impact analysis. City staff may, at its discretion, and depending on the specific situation, require additional study components in a TIA beyond what is outlined in this section or waive requirements deemed inappropriate.

(A) When a Transportation Impact Analysis is Required. A TIA shall be required when:

1. The development generates 25 or more peak-hour trips or 250 or more daily trips, or
2. An access spacing exception is required for the site access driveway(s) and the development generates 10 or more peak-hour trips or 100 or more daily trips, or
3. The development is expected to impact intersections that are currently operating at the upper limits of the acceptable range of level of service during the peak operating hour, or
4. The development is expected to significantly impact adjacent roadways and intersections that have previously been identified as high crash locations, areas that may have other operational or safety concerns, or areas that contain a high concentration of pedestrians or bicyclists such as a school, or

5. Based on the engineering judgment of the City Engineer, the development or land use action would significantly affect the adjacent transportation system. Examples include, but are not limited to, proposals for non single-family development in single family residential areas, proposals adding traffic to or creating known or anticipated safety or neighborhood traffic concerns, or proposals that would generate a high percentage of truck traffic (more than 5% of site traffic).
  6. A zone change will increase the development capacity of the affected real property.
- (B) When a Transportation Assessment Letter is Required. If a TIA is not required, the applicant's traffic engineer shall submit a transportation assessment letter to the City indicating the proposed development or land use action is exempt. This letter shall outline the trip-generating characteristics of the proposed land use and verify that the site-access driveways or roadways meet City visual clearance requirements and roadway design standards.
- The City may waive the requirement for a transportation assessment letter if a clear finding can be made that the proposed land use action does not generate 25 or more peak hour trips or 250 or more daily trips.
- (C) Traffic Impact Analysis Preparation. A TIA shall be prepared by a professional engineer registered in the State of Oregon in accordance with the requirements of the road authority. In addition, the preparer should have extensive experience in the methods and concepts associated with transportation impact analysis. If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.
- (D) Contents of a Transportation Impact Analysis. As a guide in the preparation of a TIA, the City recommends the following format be used to document the analysis.
1. Table of Contents. Listing of all sections, figures, and tables included in the report.
  2. Executive Summary. Summary of the findings and recommendations contained within the report.
  3. Introduction. Proposed land use action, including site location, building square footage, and project scope. Map showing the proposed site, building footprint, access driveways, and parking facilities. Map of the study area, which shows site location and surrounding roadway facilities.
  4. Existing Conditions. Existing site conditions and adjacent land uses. Roadway characteristics (all transportation facilities and modal opportunities located within the study area, including roadway functional classifications, street cross section descriptions, posted speeds, bicycle and pedestrian facilities, on-street parking, and transit facilities). Existing lane configurations and traffic control devices at the study area intersections. Existing traffic volumes and operational analysis of the study area roadways and intersections. Roadway and intersection crash history analysis.
  5. Background Conditions (without the proposed land use action). Approved developments and funded transportation improvements in the study area.

- Traffic growth assumptions. Addition of traffic from other planned developments. Background traffic volumes and operational analysis.
6. Full Build-out Traffic Conditions (with the proposed land use action). Description of the proposed development plans. Trip-generation characteristics of the proposed development (including trip reduction documentation). Trip distribution assumptions. Full build-out traffic volumes and intersection operational analysis. Intersection and site-access driveway queuing analysis. Expected safety impacts. Recommended roadway and intersection mitigations (if necessary).
  7. Site Circulation Review. Evaluate internal site access and circulation. Review pedestrian paths between parking lots and buildings. Ensure adequate throat depth is available at the driveways and that vehicles entering the site do not block the public facilities. Review truck paths for the design vehicle.
  8. Turn Lane Warrant Evaluation. Evaluate the need to provide turn lanes at the site driveways.
  9. Conclusions and Recommendations. Bullet summary of key conclusions and recommendations from the TIA.
  10. Appendix. Traffic counts summary sheets, crash analysis summary sheets, and existing/background/full build-out traffic operational analysis worksheets. Other analysis summary sheets such as queuing and signal warrant analyses.
  11. Figures. The following list of figures should be included in the TIA: Site Vicinity Map; Existing Lane Configurations and Traffic Control Devices; Existing Traffic Volumes and Levels of Service (all peak hours evaluated); Future Year Background Traffic Volumes and Levels of Service (all peak hours evaluated); Proposed Site Plan; Future Year Assumed Lane Configurations and Traffic Control Devices; Estimated Trip Distribution Pattern; Site-Generated Traffic Volumes (all peak hours evaluated); Full Build-out Traffic Volumes and Levels of Service (all peak hours evaluated).
- (E) Elements of a Transportation Impact Analysis Report
1. Study Area. The study area shall include, at a minimum, all site-access points and intersections (signalized and unsignalized) adjacent to the proposed site. If the proposed site fronts an arterial or collector street; the study shall include all intersections along the site frontage and within the access spacing distances extending out from the boundary of the site frontage.  
Beyond the minimum study area, the TIA shall evaluate all intersections that receive site-generated trips that comprise at least 10% or more of the total intersection volume. In addition to these requirements, the City Engineer (or his/her designee) shall determine any additional intersections or roadway links that might be adversely affected as a result of the proposed development. The applicant and the City Engineer (or his/her designee) will agree on these intersections prior to the start of the TIA.
  2. Study Years to be Analyzed in the Transportation Impact Analysis. A level-of-service analysis shall be performed for all study roadways and intersections for the following horizon years:

- (a) Existing Year. Evaluate all existing study roadways and intersections under existing conditions.
- (b) Background Year. Evaluate the study roadways and intersections in the year the proposed land use is expected to be fully built out, without traffic from the proposed land use. This analysis should include traffic from all approved developments that impact the study intersections, or planned developments that are expected to be fully built out in the horizon year.
- (c) Horizon Year. The horizon year of a TIA is the most distance future year that shall be considered in the TIA. The horizon year will be a specified number of years after the development opens, and this number will vary depending on the size of the development, any land use plan changes necessary to allow it, its uses, and the anticipated time until full build-out the following table shows the TIA horizon year (expressed in years after the development is planned to open) for developments expected to generate less than 5% truck traffic:

<u>Development Type/Trip Generation per Day</u>	<u>Horizon Year</u>
Any Zone Change	20 years
Other Development, Less than 1,000	0 years
Other Development, 1,000 to 1,999	5 years
Other Development, 2,000 to 4,999	10 years
Other Development, 5,000 or more	20 years

For developments expected to generate more than 5% truck traffic, consult city staff for the TIA horizon year. City staff may, at their discretion, reduce the horizon year in cases where less future study is necessary.

- (d) Evaluate the expected roadway, intersection, and land use conditions resulting from the background growth and the proposed land use action assuming full build-out and occupancy. For phased developments, an analysis shall be performed during each year a phase is expected to be completed.
  - (e) Twenty-Year Analysis. For all land use actions requesting a Comprehensive Plan Amendment and/or a Zone Change or that are expected to generate more than 5,000 daily trips, a long-term level-of-service analysis shall be performed for all study intersections assuming build-out of the proposed site with and without the comprehensive plan designation and/or zoning designation or proposed development in place. The analysis should be performed using the future year traffic volumes identified in the Transportation System Plan (TSP). If the applicant's traffic engineer proposes to use different future year traffic volumes, justification for not using the TSP volumes must be provided along with documentation of the forecasting methodology.
3. Study Time Periods to be Analyzed in the Transportation Impact Analysis. Within each horizon year, a level-of-service analysis shall be performed for



the time period(s) that experience the highest degree of network travel. These periods typically occur during the midweek (Tuesday through Thursday) morning (7:00 a.m. to 9:00 a.m.), mid-week evening (4:00 p.m. to 6:00 p.m.), and Saturday afternoon (12:00 p.m. to 3:00 p.m.) periods. The TIA should always address the weekday a.m. and p.m. peak hours when the proposed land use action is expected to generate 25 trips or more during the peak time periods. If the applicant can demonstrate that the peak-hour trip generation of the proposed land use action is negligible during one of the two peak study periods and the peak trip generation of the land use action corresponds to the roadway system peak, then only the worst-case study period need be analyzed.

Depending on the proposed land use action and the expected trip-generating characteristics of that development, consideration of non-peak travel periods may be appropriate. Examples of land uses that have non-typical trip generating characteristics include schools, movie theaters, and churches. The City Engineer (or his/her designee) and applicant should discuss the potential for additional study periods prior to the start of the TIA.

4. Traffic Count Requirements. Once the study periods have been determined, turning movement counts should be collected at all study area intersections to determine the base traffic conditions. These turning movement counts should typically be conducted during the time period(s) that experience the highest degree of network travel as identified in (3) above depending on the proposed land use. Historical turning movement counts may be used if the data are less than 12 months old, but must be factored to meet the existing traffic conditions.
5. Trip Generation for the Proposed Development. To determine the impacts of a proposed development on the surrounding transportation network, the trip-generating characteristics of that development must be estimated. Trip-generating characteristics should be obtained from one of the following acceptable sources:
  - (a) Institute of Transportation Engineers (ITE) Trip Generation Manual (latest edition).
  - (b) Specific trip generation studies that have been conducted for the particular land use action for the purposes of estimating peak-hour trip-generating characteristics. The City Engineer (or his/her designee) should approve the use of these studies prior to their inclusion in the TIA.
  - (c) In addition to new site-generated trips, several land uses typically generate additional trips that are not added to the adjacent traffic network. These trips include pass-by trips and internal trips and are considered to be separate from the total number of new trips generated by the proposed development. The procedures listed in the most recent version of the Trip Generation Handbook (ITE) should be used to account for pass-by and internal trips.

6. Trip Distribution. Estimated site-generated traffic from the proposed development should be distributed and assigned on the existing or proposed arterial/collector street network. Trip distribution methods should be based on a reasonable assumption of local travel patterns and the locations of off-site origin/destination points within the site vicinity. Acceptable trip distribution methods should be based on one of the following procedures:
  - (a) An analysis of local traffic patterns and intersection turning movement counts gathered within the previous 12 months.
  - (b) A detailed market study specific to the proposed development and surrounding land uses.
7. Intersection Operation Standards. The City evaluates the intersection operational performance of city-owned intersections based on levels of service standards. It should be noted that the Oregon Department of Transportation (ODOT) and Marion County have their own operations performance standards that apply to their facilities. The ODOT roadways operational performance is measured with volume-to-capacity analysis and Marion County's roadways operational performance is measured with volume-to-capacity analysis and level of service standards. Intersection operational performance standards for all road authorities within the City of Aumsville are as found in Section 22. When evaluating the volume-to-capacity ratio, the total traffic demand shall be considered.
  - (a) A capacity analysis should be performed at all intersections within the identified study area.
  - (b) The City of Aumsville requires all intersections within the study area to maintain an acceptable level of operations per Section 22.10 upon full build-out of the proposed land use action. Calculations should be made using the methods identified in the most recent version of the Highway Capacity Manual (or by field studies), published by the Transportation Research Board. Any intersections not operating at standards described in Section 22.10 will be considered to be unacceptable.
  - (c) All signalized intersection and all way-stop controlled intersections shall operate at a Level of Service D or better (all individual movements shall operate at LOS E or better). Other unsignalized intersections (including unsignalized private access) shall operate at a Level of Service D or better, although LOS F may be allowed if the movement has a relatively low volume (as determined by city staff) and there is no indication that a safety problem will be created. Intersections at state highways shall also meet the standards of the Oregon Department of Transportation.
8. Recommendations and Conclusions. Provide descriptions and analysis of the appropriate conclusions, mitigation measures, and recommended improvements necessary for compliance with the applicable standards. Include analysis showing that these measures will bring identified intersections and locations into compliance and include signal, turn lane, or other warrant analyses as appropriate. The TIA shall also specify the timing and phasing of any new traffic signals and the length of any new turn lanes.

Any new parking facility needs shall be identified and the conformance of the proposed parking facilities to applicable standards. Any new pedestrian and bicycle transportation needs arising from the development shall also be identified.

Any and all mitigation measures recommended in the TIA shall be physically and economically feasible, and this feasibility may need to be demonstrated in questionable cases. In addition, the recommendations and conclusions presented in the TIA shall be consistent with and supported by the data, calculations, and analysis in the report. Inconsistent and/or unsupported conclusions will not be accepted, and may lead to the TIA being returned to the applicant's traffic engineer for correction.

- (F) Review Policy and Procedure. The following criteria should be used in reviewing a TIA as part of a subdivision or site development review.
1. The road system is designed to meet the projected traffic demand at full build-out in terms of safety, adequacy of property access, connectivity, width, right-of-way, and capacity based on the mobility standards in Section 22.11.
  2. Proposed driveways do not adversely affect the functional character of the surrounding roadways.
  3. Adequate intersection and stopping sight distance is available at all driveways.
  4. Proposed driveways meet the City's access spacing standard or sufficient justification is provided to allow a deviation from the spacing standard.
  5. Opportunities for providing joint or crossover access have been pursued.
  6. The site does not rely upon the surrounding roadway network for internal vehicular circulation.
  7. The road system provides adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.
  8. Bicycle and pedestrian circulation is provided per Section 18.
- (G) Conditions of Approval. The City of Aumsville, Marion County (if access to a County roadway is proposed), and ODOT (if access within the IAMP boundary is proposed) will be required to identify conditions of approval needed to meet operations and safety standards and provide the necessary right-of-way and improvements to develop the future planned transportation system. Conditions of Approval that should be evaluated as part of subdivision and site development reviews include the criteria identified above in Section (F)(1) and include but not be limited to the following:
1. Consideration of joint and cross access and joint use driveways for developments that do not meet the designated access spacing policy.
  2. Right-of-way dedications for future planned roadway improvements.
  3. Half or three-quarter street improvements along site frontages that do not have full build-out improvements in place at the time of development.
- (H) Transportation Impact Analysis Checklist. As part of the TIA review process, all transportation impact analyses submitted to the City must satisfy the requirements illustrated in the Checklist for Acceptance of a Transportation

Impact Analysis. Incomplete and/or unacceptable TIAs will be returned to the applicant's traffic engineer for completion and/or correction.

Provide three (3) copies of the TIA report for city staff to review. If any portion of the study area falls within another jurisdiction (such as Marion County or ODOT roadways), consult that jurisdiction to determine the number of additional copies needed for review.

22.12 Interchange Area Management Plan Boundary.

Within the Interchange Area Management Plan Boundary identified on the Official Zoning Map, the following conditions shall apply:

- (A) Transportation Impact Analyses shall be prepared in accordance with the requirements of Section 22.11.
- (B) ODOT shall be consulted and provided with an opportunity to review all land development applications, zoning and/or comprehensive plan modifications, and applications for urban growth boundary expansions.
- (C) The access spacing requirements of OAR 734, Division 51, as amended, shall be applied to Shaw Highway/1<sup>st</sup> Street, except where deviations are approved by ODOT.

22.13 Home Occupation. Where identified, home occupations shall be subject to the following standards:

- (A) The home occupation shall be secondary to the main use of the dwelling as a residence;
- (B) All aspects of the home occupation shall be contained and conducted within a completely enclosed building;
- (C) The home occupation shall be limited to either a pre-existing garage or accessory structure, or not over twenty-five percent of the floor area of the main floor of a dwelling. If located within an accessory structure or a garage, the home occupation shall not utilize over five hundred square feet of floor area;
- (D) No structural alteration, including the provision of an additional entrance, shall be permitted to accommodate the home occupation, except when otherwise required by law. Such structural alterations shall not detract from the outward appearance of the property as a residential use;
- (E) No persons other than those residing within the dwelling shall be engaged in the home occupation;
- (F) No window display and no sample commodities displayed outside the dwelling are allowed;
- (G) No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or any nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or any other factor;
- (H) Any instruction shall be limited to one pupil at a time.
- (I) No parking of customers' vehicles in a manner or frequency so as to cause disturbance or inconvenience to nearby residents or so as to necessitate off-

street parking shall be allowed. A maximum of two customers' vehicles shall be permitted at one time;

- (J) Signage shall be subject to the provisions in Section 19.
- (K) Retail, industrial uses, and uses where hazardous materials or merchandise are prohibited as a home occupation.

22.14 Temporary Use for Hardship. Council may temporarily allow a non-conforming use by resolution for a period not to exceed six months if:

- (A) the applicant has already applied for the first required land use action to allow the use, and
- (B) agrees in writing to apply for all subsequent required land use actions as soon as practicable,
- (C) and it appears to Council that the application would be granted.

The applicant shall enter into a non-remonstrance agreement with the City which does not hold the City liable if the application is denied and they are caused to discontinue the non-conforming use. Where more than two land use actions are required, Council may grant by resolution one six-month extension where it still appears to Council that the applications will be approved.

22.15 Accessory Dwelling Units (ADUs). Where permitted, an accessory dwelling unit shall meet the following use and development standards:

- (A) Only one ADU is permitted per detached single-family dwelling in association with a primary residence.
- (B) ADUs are considered equivalent residential units for the purpose of determining system development charges.
- (C) Location. The ADU shall be located within the side or rear yard, but not in a side yard adjacent to a street.
- (D) A detached ADU shall be physically separated from the primary residence by a minimum distance of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the setback requirements.
- (E) Entrance.
  - 1. Attached: The entrance to an attached ADU shall not face the street on the same side as the entrance for the primary residence.
  - 2. Detached: The entrance to a detached ADU shall not face the street on the same side as the entrance for the primary residence, unless the entrance for the ADU cannot be seen from the street.
- (F) Design.
  - 1. Detached ADUs in the RS zone shall meet the General Requirements for single-family dwellings outlined in Section 5.10.
  - 2. Detached ADUs in the RM zone shall meet the General Requirements for single-family dwellings outlined in Section 6.11.
  - 3. Exterior finish materials, roof pitch, trim, eaves, window orientation, and dimension must be the same or visually match those of the primary dwelling.

4. Area. The ADU shall contain a minimum of 200 square feet and the lesser of 50 percent of the floor area of the primary residence or 800 square feet.
- (G) Setbacks. The ADU shall conform to the setback requirements of the primary residence in the zone in which it is located.
- (H) Height. The ADU shall not exceed the height of the primary dwelling.

22.16 House of Worship Uses. House of worship uses include, but are not limited to:

- (A) Worship services;
- (B) Religious classes;
- (C) Weddings;
- (D) Funerals;
- (E) Meal programs;
- (F) Child care, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education;
- (G) Where a house of worship is in a residential district, the housing permitted outright or permitted conditionally in the district is allowed in accordance with the development standards of the residential district and is not required to comply with the requirements listed below.
- (H) Where a house of worship is in a residential district, in addition to, or in place of, the housing allowed in the zone in which it is located, housing or space for housing in a building that is detached from the place of worship, is allowed provided:
  1. At least 50 percent of the residential units provided under this section are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;
  2. The real property is in an area zoned for residential use that is located within the urban growth boundary;
  3. The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone; and
  4. Housing and space for housing provided under this section must provide a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in this section, as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

[Section 22 amended by [Ord. No. 711](#), passed December 12, 2022.]

[Section 22 amended by [Ord. No. 722](#), passed October 23, 2023.]

## **SECTION 23.00**

### **Landscaping Design**

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## SECTION 23.00

### Landscaping Design

#### 23.01 Purpose.

The purpose of this section is to establish standards for landscaping, buffering, and screening of land use within Aumsville in order to enhance the aesthetic environmental quality of the city. Landscaping is a significant factor in maintaining the livability and economic viability of the community. Plant materials eliminate pollutants from the air we breathe and maintain physical health mental equilibrium by fulfilling our instinctive need for contact with the natural environment.

Major gateways to the city and key travel routes through the city and urbanized areas give a lasting impression to the visitor for good or ill, an impression critical to our tourist economy. The knowledgeable use of plant materials by experienced professionals can achieve these extraordinary benefits at very little cost:

- (A) To guide the planting and maintenance of landscaping materials.
- (B) To enhance the appearance of the city, provide areas for outdoor recreation, and to:
  - 1. Provide shade and windbreaks where appropriate to conserve energy in building and site development;
  - 2. Buffer and screen conflicting land uses;
  - 3. Provide for vegetation of streetscapes within the commercial, industrial, and interchange development zones;
  - 4. Provide for the landscaping of parking areas to facilitate vehicular movement and break up large areas of impervious surface;
  - 5. Promote public safety through appropriate design principles.
- (C) To prevent or reduce erosion potential on steep terrain by providing appropriate landscape materials.
- (D) In lieu of meeting some or all of the landscaping requirements under this section, the City may instead require the developer pay a fee in lieu of landscaping in an amount proportionate to the value of the landscaping that would otherwise be required under this section. This option is intended for sites with existing uses or structures when in the City's judgement it will be difficult or impractical for an applicant to meet the current landscaping requirements. It is not intended to otherwise be a substitute for the requirements.

#### 23.02 Scope. All construction, expansion, or redevelopment of structures or parking lots for commercial, institutional, or industrial uses shall be subject to the landscaping requirements of this section. Landscaping plans shall be processed as follows:

- (A) Landscape plans shall be included in all required Type II Site Development Reviews, and where applicable, Conditional Use, Variance, and Land Division requests.
- (B) Request to modify the landscaping provisions contained in Section 23.04, shall be processed as a Type II Site Development Review.
- (C) Otherwise, new or replacement landscape plans shall be processed as a Type I



application.

### 23.03 Minimum Area Requirements.

- (A) The following area requirements shall be the minimum areas devoted to landscaping as listed below:
1. Commercial Developments. A minimum of 5 percent of the gross land area shall be devoted to landscaping in commercial developments. Landscaping located in rights-of-way shall be included in the minimum requirement, and shall include the use of streets, tree insets within sidewalks, or sidewalk planters. Landscaping located in rights-of-way shall be maintained by the property owner.
  2. Industrial Developments. A minimum of 10 percent of the gross land area shall be devoted to landscaping in industrial developments.
  3. Interchange Development. A minimum of 15 percent of the gross land area shall be devoted to landscaping in interchange development.
  4. Multi-family Residential Development and Public Use. A minimum of 20 percent of the gross land area shall be devoted to landscaping in multi-family developments and public uses such as schools and churches.
  5. Residential Development. All required street side yards, exclusive of accessways, shall be devoted to landscaped area for all other development in residential zones.
- (B) For the expansion of existing developments and parking lots, or a change of use, requirements in this section shall only apply whenever a site development review or other land use application is required to complete the expansion or establish the change in use. Such expansion or change of use shall be subject to the landscaping provisions in this section.
- (C) Landscaped areas may include landscaping:
1. Around buildings;
  2. In open spaces and outdoor recreation areas;
  3. In islands and perimeter planting areas in parking and loading areas;
  4. Along street frontages; and
  5. In areas devoted to buffering and screening as required in this section and elsewhere in this ordinance.

### 23.04 General Provisions.

- (A) For purposes of satisfying the minimum requirements of this ordinance, a "landscaped area" is any combination of mature living plants, such as trees, shrubs, plants, vegetative ground cover, or natural or artificial turf; and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains, or the like. Also includes irrigation systems, mulches, decorative rock ground cover, topsoil, and re-vegetation or the preservation, protection, and replacement of trees.
- (B) Landscaping shall be designed, developed, and maintained to satisfy the specific functional and aesthetic objectives appropriate to the development, considering the following:
1. Type, variety, scale, and number of plants used;
  2. Placement and spacing of plants;

3. Size and location of landscaped areas;
  4. Contouring, shaping, and preparation of landscaped areas;
  5. Use and placement of non-plant elements within the landscaping;
  6. Use of root barrier planting techniques to prevent root infiltration of utility lines and limit possible surface cover damage.
- (C) The landscape design shall incorporate existing significant trees and vegetation preserved on the site.
- (D) **Specific Landscape Requirements.** The following provisions shall apply for all landscaping improvements:
1. Total landscaped area (percentages) shall comply with provisions in Section 23.03.
  2. Walkways, drives, parking areas, and buildings shall be excluded from the landscaping calculation.
  3. All street facing yard areas shall be landscaped. This requirement recognizes the landscaped area may exceed minimum percentage requirements in Section 23.03.
  4. At least 25% - but no more than 50% - of the required landscaped area shall be planted in shrubs and trees. The area for trees shall be based on their accepted mature canopy. Regardless of the mix of shrubs and trees, at least one tree shall be included in the landscaping plan. For the purpose of this section, the minimum requirement for a tree upon maturity shall be 8 feet in height. See additional requirements under Street Tree Species 23.09.
  5. The remaining landscaped area shall be planted with suitable living ground cover, lawn, flowers, and other plantings exclusive of decorative design elements such as walkways, fountains, benches, sculptures, and similar elements placed within the required landscaping area. Fountains, walkways sculptures cannot be more than 5% of the overall landscaping.
  6. No more than 20% of the area identified in 23.03, shall contain rocks, bark, or other decorative ground cover.
  7. Modifications to these requirements shall be processed per provisions in Section 23.02
- (E) Landscape Completion. Required landscaping, tree plantings, buffering, screening, and fencing shall be installed prior to building occupancy. Occupancy shall be permitted prior to the complete installation of all required landscaping if security equal to 150% of the cost of materials and labor, as determined by the City Administrator, is filed with the City assuring such installation within nine months of issuance of the Occupancy Permit. An extension of three months may be granted by the City Administrator when circumstances beyond the control of the owner prevent completion. If the installation of the landscaping is not completed within the required period, the security may be used by the City to either complete the installation, or the security may be held by the City and other enforcement actions taken to ensure the improvements are completed.

### 23.05 Screening and Buffering.

- (A) Screening shall be used to eliminate or reduce the visual impacts of the following uses and are two separate issues for the purpose of meeting the requirements:

1. Commercial and industrial uses when abutting residential uses.
  2. Industrial uses when abutting commercial uses.
  3. Service areas and facilities, including garbage and waste disposal containers, recycling bins, and loading areas.
  4. Outdoor storage areas.
  5. At and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners.
  6. Any other area or use as required by this ordinance.
- (B) Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, building placement, or other design techniques.
- (C) Buffering shall be used to mitigate adverse visual impacts, dust, noise, or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:
1. Planting Area. Width not less than 15 feet, planted with the following materials:
    - (a) At least 1 row of deciduous or evergreen trees staggered and spaced not more than 15 feet apart.
    - (b) At least 1 row of evergreen shrubs which will grow to form a continuous hedge at least 5 feet in height within 1 year of planting.
    - (c) Lawn, low-growing evergreen shrubs or evergreen groundcover covering the balance of the area.
  2. Berm Plus Planting Area. Width not less than 10 feet, developed in accordance with the following standards:
    - (a) Berm form should not slope more than 40 percent (1:2.5) on the side away from the area screened from view. The slope for the other side (screened area) may vary,
    - (b) A dense evergreen hedge shall be located so as to most effectively buffer the proposed use.
  3. Wall Plus Planting Area. Width must not be less than 5 feet developed in accordance with the following standards:
    - (a) A masonry wall or fence or similar materials not less than 5 feet in height. Wall plus planting shall not be allowed in the Commercial District.
    - (b) Lawn, low-growing evergreen shrubs, and evergreen groundcover covering the balance of the area.
  4. Other methods which produce an adequate buffer considering the nature of the impacts to be mitigated as approved by the planning commission.

- 23.06 Commercial, Industrial, Institutional Streetscapes. In addition to the General Requirements in Section 23.04, trees shall be installed at street frontages as follows:
- (A) Types of trees. Street trees shall be limited to a City recommended list in Section 23.09
  - (B) Minimum installation size. Street trees shall be a minimum caliper of 2 inches when measured 4 feet in height at the time of installation, with a clearance of 7 feet

from the ground to the first foliage.

- (C) Spacing. The spacing of street trees by mature tree size shall be 25 feet, unless otherwise modified based on placement approval.
- (D) Placement. The placement of trees is subject to the site development review process. Tree placement shall not interfere with utility poles, light standards, power lines, utility services, visual clearance areas, or sidewalk access.

23.07 Planting and Maintenance:

- (A) No sight-obscuring plantings exceeding 36 inches in height shall be located within any required clear-vision area as defined in Section 22 of this ordinance.
- (B) A recommended maintenance plan shall be included with the application and planting plan. Approved landscaping shall continually be maintained. Failure to maintain approved landscaping plan shall be considered a violation of the Development Ordinance.

23.08 Revegetation in Unlandscaped or Natural Landscaped Areas:

- (A) Areas where natural vegetation has been removed or damaged through grading or construction activity in areas not affected by the landscaping requirements and that are not to be occupied by structures or other improvements shall be replanted.
- (B) Plant material shall be watered at intervals sufficient to assure survival and growth.
- (C) The use of native plant materials or plants acclimated to the Pacific Northwest is encouraged to reduce irrigation and maintenance demands.

23.09 Street Trees Species.

The City shall maintain a list of approved and prohibited street trees. All street tree plantings shall comply with the City's approved list. Alternate selections may be approved by the City Administrator following written request.

23.10 Exceptions.

At the City's discretion it may accept a fee in lieu of some or all of the landscaping requirements of this section, if it is feasible to do so. Fees the City collects in lieu of landscaping will be used for purposes consistent with those described in Section 23.01, and may include acquiring, placing, and maintaining public art and or landscaping. If the City accepts a fee in lieu, it applies only in the context of the application under consideration and will not excuse compliance with the landscaping standards for any subsequent applications or changes in use for the same location.

[Section 23 amended by [Ord. No. 711](#), passed December 12, 2022.]

[Section 23 amended by [Ord. No. 722](#), passed October 23, 2023.]

## **SECTION 24.00**

### **Severability**

24.00 Severability: The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance, or its application to any statute, is determined by any court of competent jurisdiction to be invalid or unenforceable for any reason, such determination shall not affect the validity of the remainder of the ordinance and its application to any other statute, but shall continue to be in effect.

## SECTION 25.00

### **Flood Hazard Regulations**

- 25.01 Statutory Authority
- 25.02 Statement of Purpose.
- 25.03 Methods of Reducing Flood Losses
- 25.04 Definitions
- 25.05 Application of Special Flood Hazard Areas
- 25.06 Basis for Establishing the Special Flood Hazard Areas
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- 25.16 Subdivision Proposals and Other Proposed Developments
- 25.17 Use of Other Base Flood Data
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- 25.21 Below Grade Crawl Spaces
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- 25.24 Appurtenant (Accessory) Structures
- 25.25 Floodways
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- 25.27 Standards for AH Zones
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## SECTION 25.00

### **Flood Hazard Regulations**

25.01 Statutory Authority. The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental units to adopt flood plain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City does ordain the following findings of fact:

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

25.02 Statement of Purpose. It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
- (F) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- (G) Notify potential buyers that the property is in a special flood hazard area
- (H) Notify those who occupy special flood hazard areas that they assume responsibility for their actions
- (I) Participate in and maintain eligibility for flood insurance and disaster relief.

25.03 Methods of Reducing Flood Losses: In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (A) Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (B) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- (D) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

25.04 Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

Appeal: A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding: A designated Zone AO, AH, AR/AO, or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

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

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Flood or Flooding:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waters.
  - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (c) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.



2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

Flood elevation study: An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): See "Flood elevation study".

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

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 a designated height. Also referred to as "Regulatory Floodway."

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a

- district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
  4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (a) By an approved state program as determined by the Secretary of the Interior or
    - (b) Directly by the Secretary of the Interior in states without approved programs.

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.

Manufactured dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City and includes any subsequent improvements to such structures.

Recreational vehicle: A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area: See "Area of special flood hazard" for this definition.

Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair,

reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. 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 dwelling 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 foundations 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 a 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.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

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 reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance: A grant of relief by the City of Aumsville from the terms of a flood plain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

25.05 Application of Special Flood Hazard Areas. This code shall apply to all special flood hazard areas within the jurisdiction of the City of Aumsville. The degree of flood

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

- 25.06 Basis for Establishing the Special Flood Hazard Areas. The special flood hazard areas identified by the Federal Insurance Administration in a scientific and engineering report entitled the "Flood Insurance Study (FIS) for Marion County and Incorporated Areas", Volumes 1 and 2, dated October 18, 2019 with accompanying Flood Insurance Rate Maps (FIRM) and any revision thereto are hereby adopted by reference and declared to be a part of this code. The Flood Insurance Study and FIRM panels are on file at the Aumsville City Hall, 595 Main Street, Aumsville, Oregon 97325.
- 25.07 Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Aumsville administers and enforces the State of Oregon Specialty Codes, the City of Aumsville does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in areas of special flood hazard. Therefore, this code is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.
- 25.08 Compliance and Penalties. All development within special flood hazard areas is subject to the terms of this ordinance (Section 25) and required to comply with its provisions and all other applicable regulations.
- 25.09 Abrogation and Severability:
- (A) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
  - (B) This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.
- 25.10 Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
- (A) Considered as minimum requirements;
  - (B) Liberally construed in favor of the governing body; and
  - (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

25.11 Warning and Disclaimer of Liability:

- (A) The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.
- (B) This ordinance shall not create liability on the part of the City of Aumsville, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

25.12 Administration:

- (A) The City Administrator is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.
- (B) Duties of the floodplain administrator, or their designee, shall include, but not be limited to:
  - 1. Permit Review. Review all development permits to determine that:
    - a. The permit requirements of this ordinance have been satisfied;
    - b. All other required local, state, and federal permits have been obtained and approved.
    - c. Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this ordinance in Section 25.25 are met; and
    - d. Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of Section 25.17; and
    - e. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.
    - f. Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in Section 25.04.
    - g. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in Section 25.15(A).
    - h. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.
  - 2. Information Maintenance. The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- a. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with Section 25.
  - b. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of Section 25.25 and Section 25.12 (B) 1 b, are adhered to.
  - c. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
  - d. Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
  - e. Maintain all Elevation Certificates (EC) submitted to City of Aumsville;
  - f. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with Section 2517.
  - g. Maintain all floodproofing certificates required under this ordinance;
  - h. Record and maintain all variance actions, including justification for their issuance;
  - i. Obtain and maintain all hydrologic and hydraulic analyses performed as required under Section 25.25.
  - j. Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under Section 25.12(G).
  - k. Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (C) Community Boundary Alteration. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new

corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

- (D) Watercourse Alterations. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
1. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
  2. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.
- The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under Section 25.11(E). Ensure compliance with all applicable requirements in Section 25.11(E) and Section 25.14(A).
- (E) Requirements to Submit New Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.
- (F) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
1. Proposed floodway encroachments that increase the base flood elevation; and
  2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

- (G) Substantial Improvement and Substantial Damage Assessments and Determinations. Conduct Substantial Improvement (SI) (as defined in Section 2.0) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with Section 25.12(B) 2. Conduct Substantial Damage (SD) (as defined in Section 2.0) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in Section 25.05) are damaged to the extent that 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.

#### 25.14 Variance Procedure.

- (A) The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance
- (B) Conditions for Variances
  1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of Section 25.13 (B) and 25.15 (C). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
  2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  3. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
  4. Variances shall only be issued upon:
    - a. A showing of good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
  5. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of Section 25.13 (B) 2. To 4., are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (A) Variance Notification. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with Section 25.12 (B) 2.

#### 25.15 General Standards.

In all special flood hazard areas, the following standards shall be adhered to:

- (A) Alteration of Water Courses. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with Sections 25.12 (D) and (E).



- (B) Anchoring
  - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - 2. All manufactured dwellings shall be anchored per Section 25.22.
- (C) Construction Materials and Methods
  - 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (D) Utilities and Equipment
  - 1. Water Supply, Sanitary Sewer, and On-site Waste Disposal Systems
    - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
    - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
    - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.
  - 2. Electrical, Mechanical, Plumbing, and Other Equipment. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities, if replaced as part of a substantial improvement shall meet all the requirements of this section.
  - 3. Tanks
    - a. Underground tanks shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
    - b. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

25.16 Subdivision Proposals and Other Proposed Developments.

- (A) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.
- (B) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:
  - 1. Be consistent with the need to minimize flood damage.
  - 2. Have public utilities and facilities such as sewer, gas, electrical, and water

- systems located and constructed to minimize or eliminate flood damage.
3. Have adequate drainage provided to reduce exposure to flood hazards.

25.17 Use of Other Base Flood Data:

- (A) When Base Flood Elevation data has not been provided in accordance with Section 25.05 the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer Sections 25. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 25.15.
- (B) Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc. where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

25.18 Structures Located in Multiple or Partial Flood Zones.

In coordination with the State of Oregon Specialty Codes:

- (A) When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
- (B) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

25.19 Specific Standards for Riverine (Including All Non-Coastal) Flood Zones.

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in Section 25.15 of this ordinance.

- (A) Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:
  1. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
  2. Be used solely for parking, storage, or building access;
  3. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
    - a. A minimum of two openings,
    - b. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,
    - c. The bottom of all openings shall be no higher than one foot above

- d. grade.
  - d. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
  - e. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.
- (B) Garages. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
1. If located within a floodway the proposed garage must comply with the requirements of Section 25.25.
  2. The floors are at or above grade on not less than one side;
  3. The garage is used solely for parking, building access, and/or storage;
  4. The garage is constructed with flood openings in compliance with Section 25.19 (A) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
  5. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
  6. The garage is constructed in compliance with the standards in Section 25.15; and
  7. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- (C) Detached garages must be constructed in compliance with the standards for appurtenant structures in Section 25.23 or non-residential structures in Section 25.19 (C) depending on the square footage of the garage.

25.20 For Riverine (Non-Coastal) Special Flood Hazard Areas with Base Flood Elevations.

In addition to the general standards listed in Section 25.15 the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

- (A) Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (B) Residential Construction
1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one (1) foot above the Base Flood Elevation (BFE).
  2. Enclosed areas below the lowest floor shall comply with the flood opening requirements in Section 25.19 (A).

- (C) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall:
1. Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) together with attendant utility and sanitary facilities,
  2. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  3. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  4. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth Section 25.12 (B).
  5. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in Section 25.20 (C).
  6. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one (1) foot below).

#### 25.21 Below Grade Crawl Spaces.

Where a structure contains a below grade crawl space, the following shall apply:

- (A) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required flood openings stated in Section 25.19 (A). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (B) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
- (C) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- (D) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

- (E) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
- (F) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- (G) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
- (H) The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

#### 25.22 Manufactured Dwellings.

- (A) New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 25.19 (A);
- (B) The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;
- (C) New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
- (D) Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

#### 25.23 Recreational Vehicles.

Recreational vehicles placed on sites are required to:

- (A) Be on the site for fewer than 180 consecutive days,
- (B) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (C) Meet the requirements of Section 25.22, including the anchoring and elevation requirements for manufactured dwellings.

#### 25.24 Appurtenant (Accessory) Structures.

Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures that meet the following requirements:

- (A) Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in Section

## 25.25.

- (B) Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;
- (C) In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet.
- (D) The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
- (E) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- (F) The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in Section 25.19 (A);
- (G) Appurtenant structures shall be located and constructed to have low damage potential;
- (H) Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with Section 25.15 (D) 3.
- (I) Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

## 25.25 Floodways.

Located within the special flood hazard areas established in Section 25.05 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (A) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
  1. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge;  
OR
  2. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for

such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

- (B) If the requirements of Section 25.25 (A) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Section 25.14 to 25.17.

25.26 Standards for Shallow Flooding Areas.

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

25.27 Standards for AH Zones.

Development within AH Zones must comply with the standards in Sections 25.15, 25.18, and 25.25.

25.28 Standards for AO Zones.

In AO zones, the following provisions apply in addition to the requirements in Sections 25.15 and 25.25:

- (A) New construction and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) or at least two (2) feet if no depth number is specified. For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.
- (B) New construction and substantial improvements of non-residential structures within AO zones shall either:
  - 1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) at least two (2) feet if no depth number is specified; or
  - 2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in Section 25.19(C)4.
- (C) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

1. Be on the site for fewer than 180 consecutive days, and
  2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  3. Meet the elevation requirements of Section 25.20, and the anchoring and other requirements for manufactured dwellings of Section 25.22.
- (D) In AO zones, new and substantially improved appurtenant structures must comply with the standards in Section 25.24.
- (E) In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in Section 25.19(A).



## SECTION 26.00

### **TEMPORARY USES**

26.01	Purpose
26.02	Permitted Uses
26.03	Permit Required

## SECTION 26.00

### **Temporary Uses**

26.01 Purpose. The purpose of these regulations is to provide standards for the establishment of temporary businesses and similar uses within the City of Aumsville.

26.02 Permitted Uses. Where allowed in the underlying zone, the following temporary uses shall be permitted subject to the following limitations and requirements:

- (A) Tree and Fireworks. Christmas tree or fireworks sales are permitted subject to the following:
1. The sales shall be limited to Commercial or Industrial zones, except that sales may occur on those properties containing public or semi-public uses, such as schools or churches, regardless of the underlying zone.
  2. Unless otherwise excepted by provisions in this section, the sales activity shall be subject to provisions in Section 26.
  3. Temporary uses located within Residential zones shall not operate beyond 9:00 PM.
- (B) Commercial Activities. Amusement and recreational services and retail sales and services are permitted in the Commercial zone, subject to the following:
1. The business may be operated from a vehicle, temporary structure, or a vacant building.
  2. The activity is located on the same lot for no more than 90 days in any calendar year.
  3. The required parking for the primary uses on the same lot is not reduced below Code requirements.
  4. The use does not block driveways, driveway entrances, or parking aisles.
  5. The activity conforms to all signage requirements in Section 19.
  6. The activity conforms to all setback requirements applicable to the lot and zone.
  7. The operator of a temporary use shall obtain all permits required by other agencies including those required for food handling and sales, and the sale of fireworks.
- (C) Mobile Food Services. Individual food services are subject to the requirements in Section 26.02(B) except that they may be located on an approved site for 180 days in any calendar year with the appropriate health certificates are obtained. This temporary siting is not intended to provide a permanent fixed location. In addition, food services are subject to the following:
1. Food services may be located on those properties containing public or semi-public uses, such as schools or churches, regardless of the underlying zone.
  2. Food services facilities (carts, trucks, etc.) shall be removed from the site daily.
  3. For sites containing more than three food service facilities, requirements in Section 27 apply.
- (D) Temporary Construction Facilities. Mobile offices, temporary power equipment, and temporary structures used by personnel and to store equipment during

construction, provided the structures are located on the construction site and not used as dwellings. There is no restriction as to the zoning.

- (E) Yard Sales and Auctions. Yard sales or auctions in any zone, provided there are not more than four sales in a calendar year, with each sale not to exceed three consecutive days. Merchandise and signs shall remain on private property. This Section does not limit the number of times, or duration, that a public agency may conduct sales or auctions regard agency land, equipment, supplies, or other materials.
- (F) Additional Permitted Temporary Uses. Council may, by resolution, authorize additional permitted temporary uses during a specific event or festival and set forth reasonable types of uses, appropriate zones for such uses, and any time restrictions Council finds necessary to protect the health, safety, and welfare of the public.

26.03 Permit Required. Unless otherwise waived by provisions in this Section, all temporary uses shall be subject to a permit. The City shall establish a permit application and fee and shall review the application as a Type I Site Development Review.

## SECTION 27.00

### **MOBILE FOOD SERVICES**

- 27.01 Purpose.
- 27.02 Definitions.
- 27.03 Standards
- 27.04 Permit Required.

## SECTION 27.00

### **Mobile Food Services**

27.01 Purpose. The purpose of this Section 27 is to permit mobile food carts, vehicles, and similar facilities to be sited on private property in the applicable zones on a year-round basis.

27.02 Definitions. The following definitions apply to provision in this Section:

- (A) Abutting property owners and occupants. Any owner or occupant of property that abuts the subject site, excluding public right-of-way.
- (B) Accessible Route. A continuous unobstructed path of travel connecting all publicly accessible elements and spaces of a building or facility.
- (C) Clearances. Clearances referenced in this Section are measured horizontally from the outside edge of the subject property line to any obstruction on the ground greater than one-half inch in height, or to an adjacent projection.
- (D) Mobile food cart. A vehicle that is propelled, or can be pulled or pushed down a sidewalk, street, or highway, on which food is prepared, processed, or converted, or is used in selling and dispensing food to the customer.
- (E) Operator of mobile food cart. Any person, partnership, corporation, association, or other business entity operating a mobile food unit.
- (F) Property owner. The owner or agent of a private property where mobile food units are proposed to be located.

27.03 Standards.

- (A) Location. Year-round siting of mobile food units is limited to private property located in the applicable zones. In addition, the following shall apply:
  - 1. Up to three units may be located on a single parcel subject to the Temporary Use provisions in Section 26.
  - 2. While there is no limit to the number of units that may be placed on an individual property, sites containing more than three units shall be subject to provisions in Section 27 and Type II Site Development Review.
- (B) Unit Size. A mobile food cart is limited in size to twenty (20) feet in length and/or 160 square feet. Towing arms, tow hitch, and tongue are exempted from this calculation.
- (C) Setbacks. A mobile food cart that orients the service window toward the public right-of-way shall maintain a minimum 2-foot setback from the public right-of-way. Otherwise, there is no minimum setback requirement.
- (D) Accessways. Accessible route clearances shall be no less than four (4) feet in width and no less than seven (7) feet in height for the entire length of the accessible route. Radiuses along an accessible route shall be no less than four (4) feet in width.
- (E) Separation. A minimum 10-foot separation is required between a food cart, other food carts on the property, and permanent common outdoor eating areas.
- (F) Seating Provisions. Individual temporary seating areas may be placed near a mobile food cart but must maintain a minimum 4-foot accessible clearance area

- between the seating area and the mobile food cart and must be oriented so that the relief valves on any propane tanks associated with mobile food units are facing away from the seating area. Tables and chairs or benches used for individual seating areas must be constructed of non-flammable materials.
- (G) Structures. Decks, patios, and similar structures are not permitted within 10 feet of a mobile food cart. Structures may be subject to building code requirements. Park or picnic benches are permitted but must be maintained at least 10-feet from mobile food carts. Common seating areas shall be maintained on the subject property and shall not obstruct the adjacent public sidewalk or public right-of-way.
  - (H) Restroom Facilities. The property owner shall either provide restroom facilities or secure written permission from an adjacent business or a property owner within 1/8 mile of the subject site allowing mobile food cart operators and customers to access restroom facilities. This requirement may be waived if there is a public restroom facility located within 1/8 mile of the subject site. Information regarding the location of an approved off-site restroom shall be provided on-site.
  - (I) Trash Receptacles. Trash receptacles shall be provided on site, and must be regularly emptied and maintained. Trash receptacles shall be provided at a rate of one receptacle for every two mobile food carts, with a minimum of one per lot. Where the property owner proposes to provide a common seating area a minimum of one trash receptacle shall be provided in the common seating area. All trash receptacles shall be located a minimum of 10 feet from combustible fuel tanks on mobile food units.
  - (J) Signs. Signs may be permanently affixed to a mobile food cart and are exempt from sign requirements in Section 19. Additional signage is subject to the following:
    - 1. One temporary sign per mobile food unit is permitted to be placed on the subject site. Temporary signs may be no larger than six (6) square feet, may only be placed on private property, and must not obstruct pedestrian pathways.
    - 2. Temporary signs shall not be located within the public right-of-way.
    - 3. Temporary signs allowed under these provisions shall only be displayed during operating hours.
    - 4. Permanent sign shall comply with provisions in Section 19.
  - (K) Services. Fully contained mobile food carts are permitted. Carts that require a water source, power source, or waste disposal location are permitted only where appropriate city service connections are available, as determined by the City.

#### 27.04 Permit Required.

- (A) A permit issued by the City is required before a mobile food cart can be established in the city. The permit shall require the mobile food cart to comply with applicable health and building requirements.
- (B) A site for mobile food carts (food pod) requires a Type II Site Development Review.

## **SECTION 28.00**

### **Master Planned Developments (MPD)**

28.01	Purpose
28.02	Applicability
28.03	MPD Review Process
28.04	MPD Concept Plan Submission
28.05	Concept Plan Approval Criteria
28.06	Modifications to Standards
28.07	Concept Plan Approval, Modification, and Expiration
28.08	Final Development Plan Submission
28.09	Final Development Plan Review

## SECTION 28.00

### **Master Planned Developments**

- 28.01 Purpose. To provide a means for phased master planning of large development sites while encouraging innovative planning that benefits the community. Any modifications to development standards must be consistent with the purpose of the underlying zone.
- 28.02 Applicability. At the applicant's discretion and subject to city approval, the master planned development (MPD) designation may be applied over city base zone(s) on sites of twenty acres or more under the applicant's control.
- 28.03 MPD Review Process. There are two required steps for MPD approval, which may be completed individually or combined for concurrent review:
- (A) Concept Plan Review: The concept plan, which may include a preliminary subdivision plan, shall be reviewed by the Planning Commission under Type II procedure per Section 12.01.C.
  - (B) Final Development Plan Review: The Final Development Plan must be in substantial compliance with the approved Concept Plan and meet all applicable ADO standards. The Final Development Plan (including the final site plan and final subdivision plat, if necessary) shall be reviewed by the Planning Commission under Type II procedure per Section 12.01.C.
- 28.04 MPD Concept Plan Submission. A Concept Plan application shall include the following:
- (A) An Application narrative:
    - 1. Describing planning objectives to be achieved by the master planned development, the character of the proposed development, and the rationale behind the assumptions and choices made by the applicant;
    - 2. Demonstrating compliance with the applicable Concept Plan approval criteria contained in Section 28.05;
    - 3. Describing the proposed development schedule including the duration and location of each proposed development phase, and public facilities and private amenities to be provided in each phase;
    - 4. Stating the applicant's intentions regarding the future selling or leasing of all or portions of the planned development;
    - 5. Describing the maintenance plan for any common areas or lands not dedicated to a public agency or owned in fee simple; and
    - 6. Identifying any proposed modifications to ADO development standards or public works design standards.
  - (B) If subdivision is proposed, the applicant shall provide:
    - 1. All subdivision preliminary plat submission requirements in Section 20.25; and
    - 2. A narrative demonstrating compliance with subdivision approval criteria in Section 20.26.
  - (C) Required Concept Plans and Maps:



1. Vicinity Map;
  2. Site Analysis Map per Section 21.05(A);
  3. A Conceptual Site Plan, including general land use plan, building envelopes, circulation plan, open space network, general utility connections and alignments, and other information necessary to convey the concept plan;
  4. Preliminary grading plan;
  5. Preliminary landscape plan, including plan for retention of existing vegetation and general planting areas;
  6. Preliminary architectural plans, intended architectural styles, building heights, massing, and general materials;
  7. Preliminary sign plan, including locations, general size, style and materials of signs, such as entry monument and wayfinding signs, as applicable; and
- (D) Covenants and Restrictions: A copy of all existing covenants and restrictions, and general description of proposed covenants and restrictions related to common areas, circulation and parking, and the like).

28.05 Concept Plan Approval Criteria. The Planning Commission must determine that the following criteria are met to approve a Concept Plan. The Planning Commission must deny an application if all applicable criteria are not met, except where modifications to development standards are requested per Section 28.06.

- (A) Comprehensive Plan: The proposal does not conflict with specific mandatory policies related to master planned development, transportation improvements, or park dedication requirements in the Comprehensive Plan;
- (B) Section 20 Land Divisions: If a land division is proposed, the requirements in Section 20.17 or 20.26 for a partition or subdivision preliminary plan, consistent with the type of land division proposed, must be met;
- (C) Site Development Review Criteria: The Concept Plan is consistent with Section 21.06 Site Development Review approval criteria, recognizing that additional details will be provided in the Final Development Plan.
- (D) Public facilities: The proposal demonstrates that adequate public facility capacity to serve the proposed development including sewer, water, and the transportation system, consistent with the City's adopted engineering design and construction standards, are available or will be made available by the applicant;
- (E) Open Space: Concept Plans shall have a minimum of 20% open space, which may be public, private, or a combination of public and private open space.
  1. The 20% minimum open space requirement includes open space resulting from meeting open space, landscaping, and parks dedication requirements of the applicable zone(s).
  2. The city, through conditions of approval, may also require public access to open space be provided, where necessary to mitigate development impacts or to meet public recreational needs identified in the Comprehensive Plan.

28.06 Modifications to Standards. The Concept Plan is not intended to replace the development standards in the underlying zone but to allow an adjustment to one or more of the standards of 10% or less. Development standards may be modified through the Concept Plan review process without the need for a Section 13 variance if

the Planning Commission determines that the proposed modification provides greater public benefit than would otherwise occur under the applicable ADO standard. To make this determination, the Planning Commission must find that Criteria (A) and (B) are met.

- (A) The proposed modification equally or better meets the purpose of the applicable ADO standard(s) to be modified; and
- (B) The modification provides two or more of the following public benefits that would not have resulted from the strict application of the standard(s) to be modified:
  - 1. Greater protection of natural features than would be required of a project that strictly conforms to ADO standards;
  - 2. Improved transportation connectivity, such as the provision of multiuse or pedestrian pathways and/or other transportation facilities, that would not otherwise be required under minimum code standards;
  - 3. Sustainable development design meeting the certification criteria of a nationally recognized sustainable development/green building rating system;
  - 4. The Concept Plan contains residential development and one of the following criteria is met:
    - a. All of the residential units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to moderate-income households as defined in ORS 456.270 for a minimum of 30 years; or
    - b. At least 20 percent of the residential units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to low-income households as defined in ORS 456.270 for a minimum of 60 years.
  - 5. Other benefits that fulfill Comprehensive Plan policies as determined by the Planning Commission.
- (C) Engineering design standards: Modifications to the city's engineering design standards require separate variance to such standards approved by the City Engineer. The City may grant such variances concurrently with approval of the MPD Concept Plan.

#### 28.07 Concept Plan Approval, Modification, and Expiration:

- (A) Upon approval of a Concept Plan, the approved plan, including any conditions of approval and modifications, shall be binding on future uses and development of the property, except where an approval expires.
- (B) Expiration: Except as provided by (C) or (D), below, a Concept Plan becomes void two years after the date of approval unless the applicant, or successor, has filed with the City an application for a Final Development Plan per Section 28.08.
- (C) Phased MPD: The applicant may propose, and the Planning Commission may approve, a multi-phased development plan with specific performance standards.
  - 1. The phasing plan must show the timing and development area for each phase, including public facilities and public and private amenities.
  - 2. Public and private amenities, including transportation improvements, shall not be deferred to later phases of the project.
  - 3. In no case shall the phased Concept Plan extend beyond 10 years.

- (D) Extension: At its discretion, the City may grant up to three extensions of the concept plan approval period, not to exceed 1 year per extension, provided that:
  - 1. The extension request is made before expiration of the Concept Plan;
  - 2. The applicant has demonstrated that substantial progress has been made towards implementation of the Concept Plan; and
  - 3. There have been no substantive changes to the applicable Comprehensive Plan policies or ADO provisions on which the approval was based.

28.08 Final Development Plan Submission. Final Development Plan application requirements are determined based on the conditions of approval for the MPD Concept Plan and the applicable ADO requirements:

- (A) Final Development Plan: The applicant must demonstrate that the Final Development Plan submission substantially conforms with the approved Concept Plan and shall provide the information required for site development review per Section 21.05.
- (B) Final Subdivision Plat: If a preliminary subdivision plan has been approved, the applicant must demonstrate that the final plat submission substantially conforms with the preliminary subdivision plan approved in conjunction with the Concept Plan and shall meet Section 20.26(B) through (F) and Section 20.27 subdivision requirements.

28.09 Final Development Plan Review. The Planning Commission is responsible for reviewing Final Development Plans under Type II procedure per Section 12.01.C.

- (A) A decision to approve a Final Development Plan must include written findings demonstrating that the Final Development substantially conforms with the approved Concept Plan, including any Concept Plan conditions of approval.
- (B) If the Administrative Authority cannot make this determination based on evidence submitted by the applicant, the Approval Authority shall find the application to be incomplete and shall provide a written list of changes to the Final Development Plan necessary to substantially comply with the approved Concept Plan.
- (C) Concept Plan Changes:
  - 1. The Administrative Authority under a Type I-B procedure may approve minor changes to the approved Concept Plan if necessary to correct an error, or to address changes in circumstances beyond the applicant's control that have occurred since the date of project approval.
  - 2. Other changes to the approved Concept Plan must be reviewed by the Planning Commission under Type II procedure per Section 12.01.C. The burden of proof shall be on the applicant to show that the proposed change(s) are consistent with Section 28.05 Concept Plan approval criteria.
- (D) Open space areas shall be shown on the Final Development Plan and recorded with the final plat or separate instrument; and the open space shall be conveyed in accordance with one of the following methods:
  - 1. By dedication to the City as publicly owned and maintained open space. Open space proposed for dedication to the City must be acceptable to the Planning Commission regarding the size, shape, location, improvement, environmental condition (for example, the applicant may be required to

- provide an environmental assessment), and approved by the City based on budgetary, maintenance, and liability considerations; or
2. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners' association, or other legal entity. The terms of such lease or other instrument of conveyance must include provisions for maintenance and property tax payment acceptable to and enforceable by the City.

[Section 8 added by Ordinance No. 722 passed October 23, 202; Section 8 amended by Ordinance No. 725 passed September 9, 2024.]

## **ILLUSTRATIONS**

How to Calculate Clear-Vision Area

How to Determine a Story or Basement

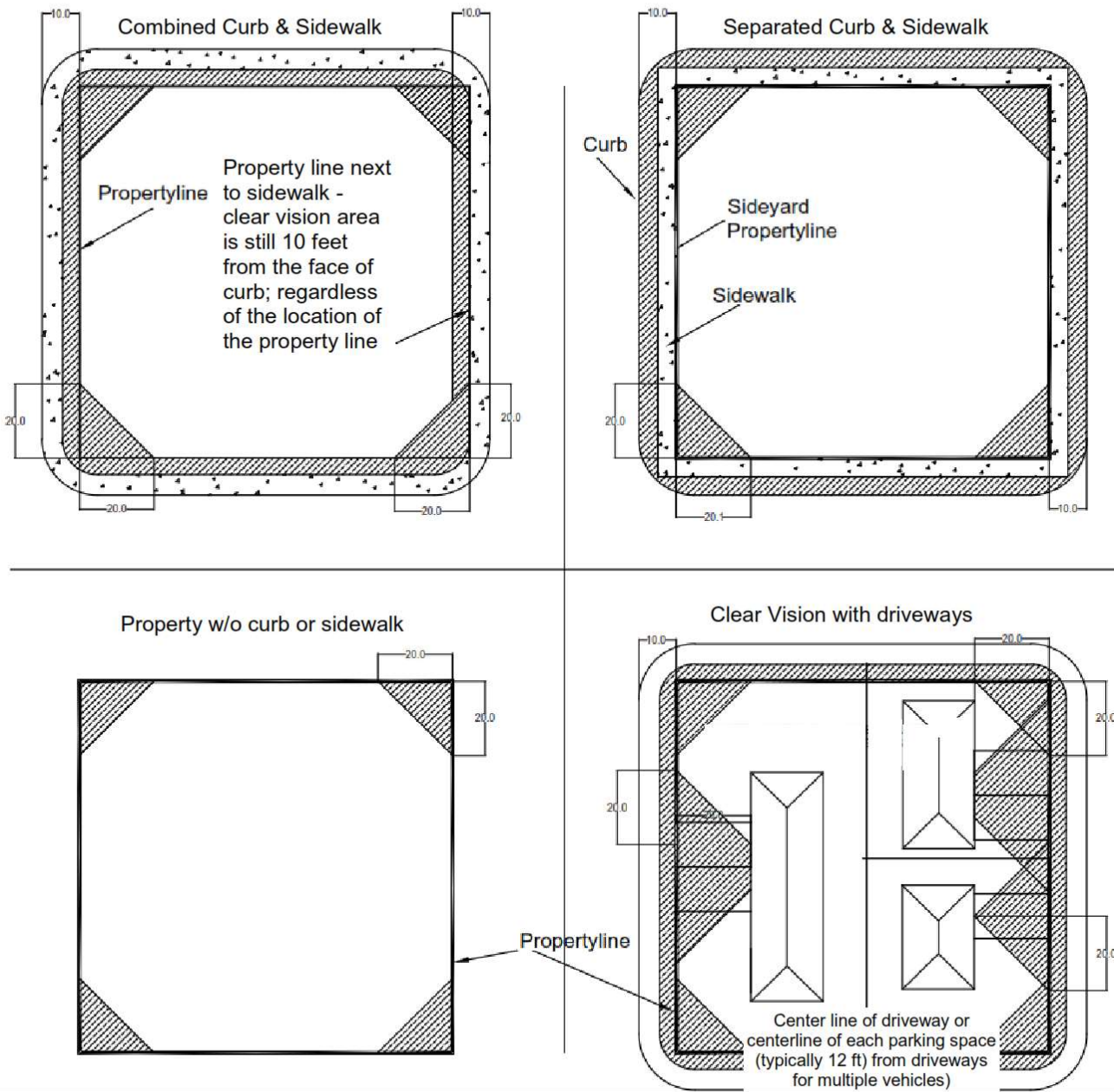
How to Establish Building Lines, Front, and Rear for Odd Shaped Lots

Lot Types

Wall Height

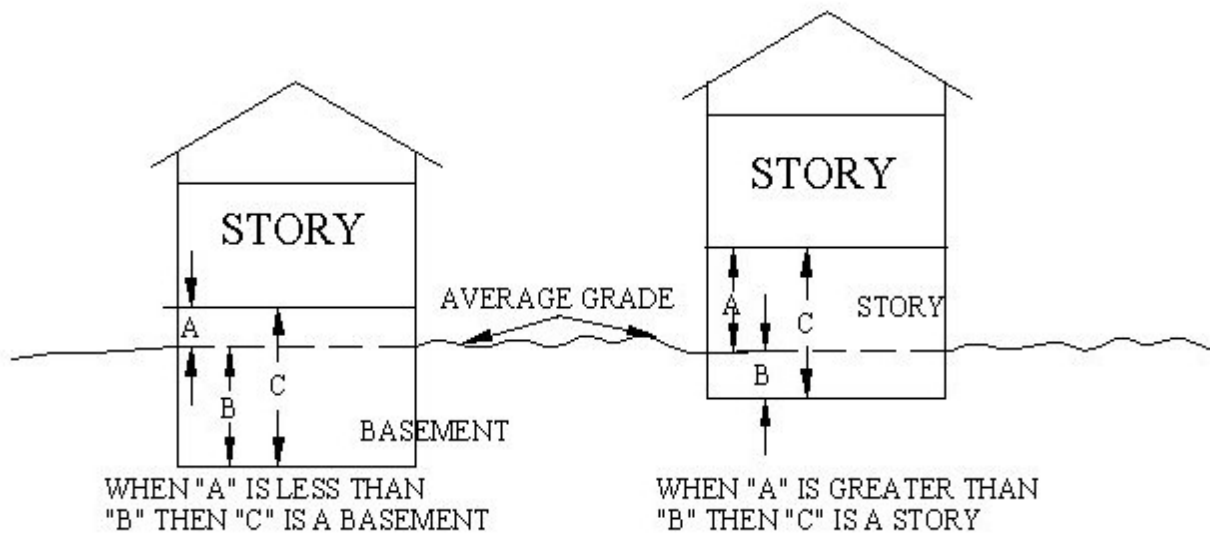
# HOW TO CALCULATE CLEAR-VISION AREA

## CLEARVISION



## HOW TO DETERMINE A STORY OR BASEMENT

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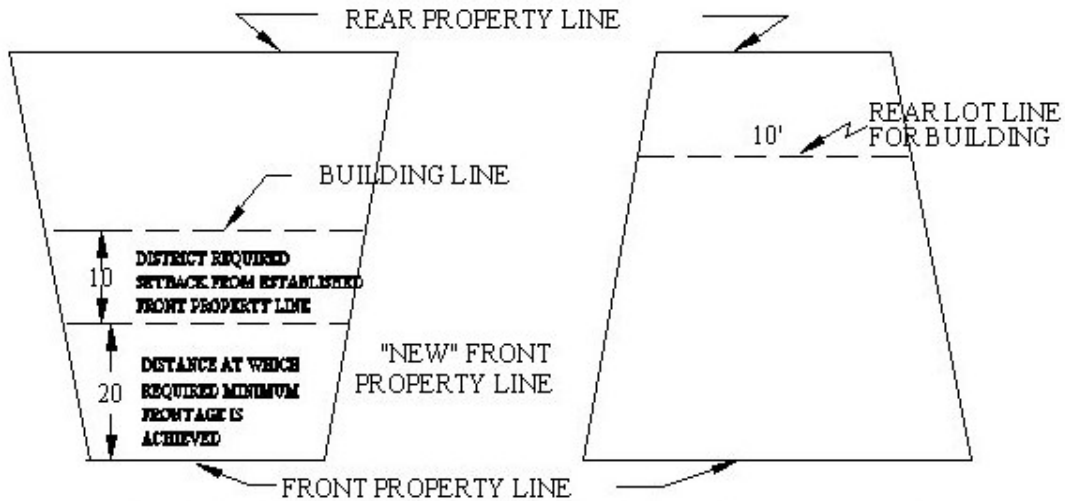


## HOW TO DETERMINE A STORY OR A BASEMENT

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# HOW TO ESTABLISH BUILDING LINES, FRONT AND REAR FOR ODD SHAPED LOTS

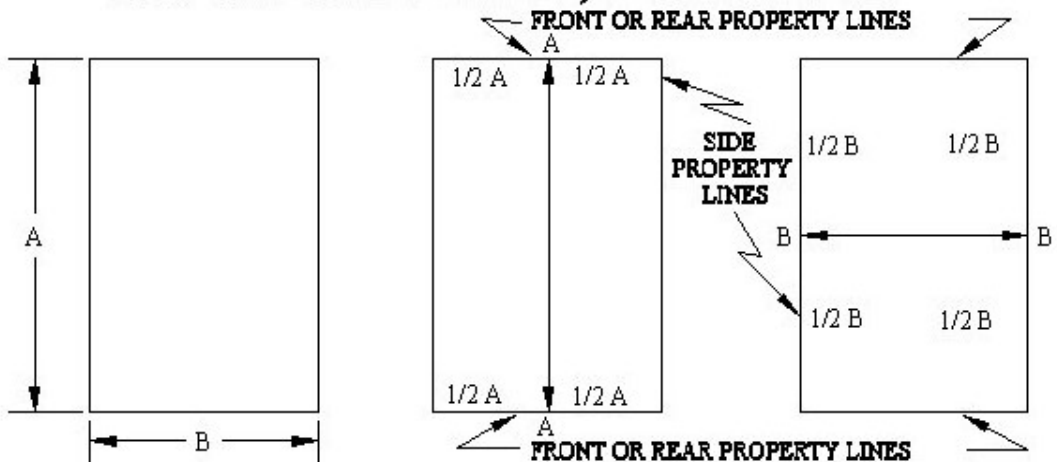
## HOW TO ESTABLISH BUILDING LINES, FRONT AND REAR FOR ODD SHAPED LOTS



THE "NEW" FRONT PROPERTY LINE IS THE LINE PARALLEL TO THE ESTABLISHED FRONT PROPERTY LINE WHICH MEASURES THE MINIMUM FRONTAGE REQUIREMENTS FOR THE ZONE

THE REAR PROPERTY LINE FOR BUILDING IS THE LINE PARALLEL TO THE REAR PROPERTY LINE WHICH MEASURE THE MINIMUM TEN FEET

## HOW TO MEASURE LOT AREA, WIDTH AND DEPTH



AREA = A X B

LOT DEPTH: DISTANCE ALONG A-A, FROM MID-POINT OF FRONT PROPERTY LINE TO MID-POINT OF REAR PROPERTY LINE

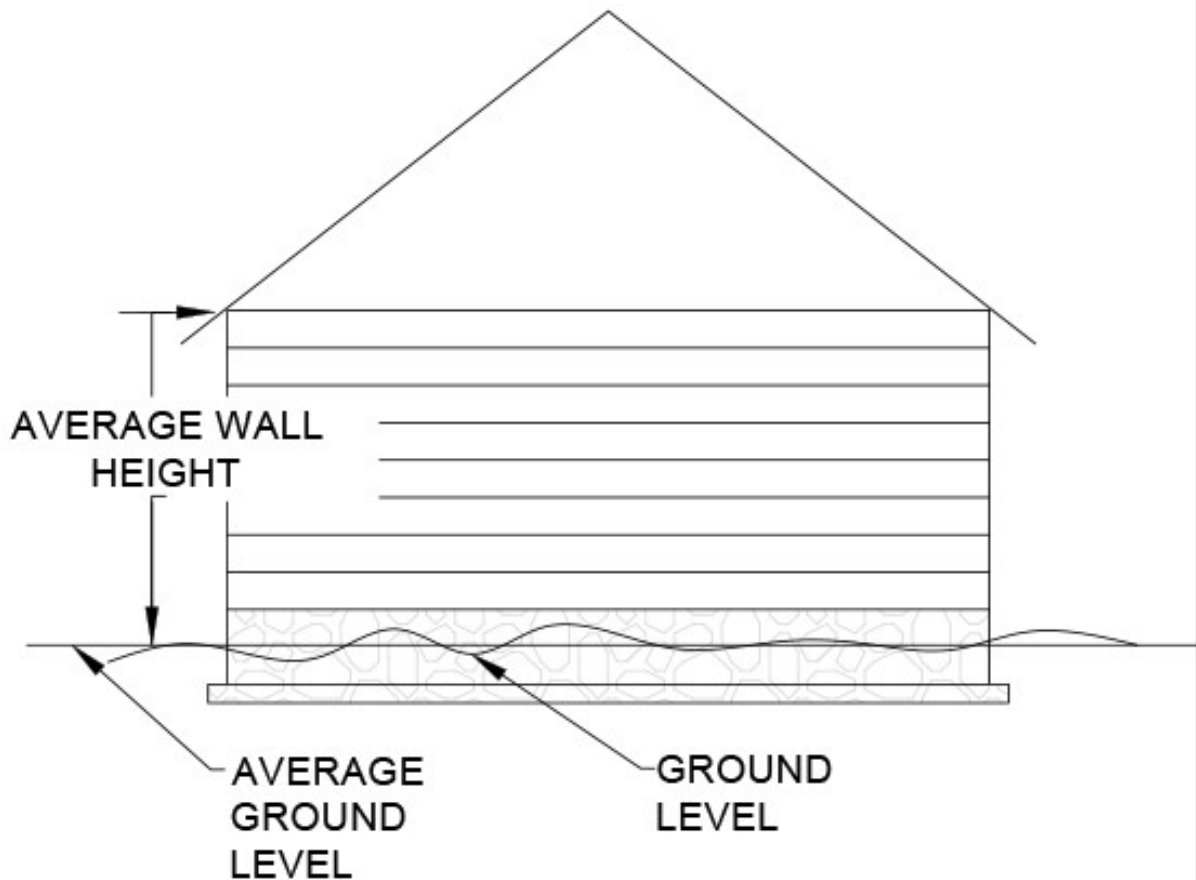
LOT WIDTH: DISTANCE ALONG B-B, FROM MID-POINT OF SIDE PROPERTY LINE TO MID-POINT OF SIDE PROPERTY LINE



## WALL HEIGHT

### HOW DETERMINE AVERAGE WALL HEIGHT OF A BUILDING

THE AVERAGE WALL HEIGHT IS MEASURED  
FROM THE AVERAGE GROUND LEVEL TO  
THE TOP OF THE WALL



## ORDINANCE NO. 722

### **AN ORDINANCE AMENDING ORDINANCE 705 THE AUMSVILLE DEVELOPMENT ORDINANCE, INCLUDING PROVISIONS TO REDUCE PARKING SPACE DIMENSIONS FOR LARGE OFF-STREET PARKING LOTS, AND ADOPTING STANDARDS AND PROCEDURES FOR MASTER PLANNED DEVELOPMENTS.**

WHEREAS, the City Council for the City of Aumsville directed the City Planning Commission and staff to amend various sections of the Aumsville Development Ordinance, originally adopted with Ordinance 705 and most recently amended by Ordinance 711; and

WHEREAS, the Planning Commission for the City of Aumsville conducted a duly-noticed public hearing on October 5, 2023 regarding Planning File "Legislative Amendment #2023-10 LA," and made findings recommending to the City Council certain amendments to the Aumsville Development Ordinance (ADO); and

WHEREAS, the City Council, pursuant to the provisions of the Aumsville Development Ordinance, after appropriate notice given, has conducted a hearing to take testimony, hear arguments and to consider all the evidence concerning such proposed Development Ordinance amendments, referenced as Planning File "Legislative Amendment #2023-10 LA," such hearing being conducted on October 23, 2023; and

WHEREAS, the City Council has considered all relevant evidence and deliberated.

**NOW, THEREFORE,** the City of Aumsville ordains as follows:

**Section 1.** In addition to the recitals included above, the City Council does hereby adopt the findings contained in the Staff Report to the City Council dated October 23, 2023, which is incorporated herein by this reference.

**Section 2.** Based upon the findings adopted herein, the package of legislative amendments to the Aumsville Development Ordinance, attached here to as Exhibit "A", is hereby adopted.

**Section 3.** ADO Section 1.00 Definitions. The following definition is added:

*Hotel(s)/Motel(s): any transient lodging, transient lodging facilities, short-term rentals, and/or any structure, or portion of any structure, which is occupied, used, intended, and/or designed for transient occupancy for 30 days or less, for dwelling, lodging, or sleeping purposes.*

**Section 4.** ADO Section 6.10 General Requirements. The general requirements for residential multi-family zoning is clarified as follows:

*6.10 General Requirements. Multifamily dwellings, Single-family dwellings, attached single family dwellings, accessory dwelling units, duplexes, and manufactured homes shall*

meet the following requirements:

**Section 5.** ADO Section 8.08 Yard Requirements. Requirements are amended to refer to section 23.00 as follows:

*8.08 Yard Requirements: See landscaping requirements section 23.00.*

**Section 6.** ADO Section 10.02 Permitted Use. (B) Retail and Services. Bullet 5. Interchange Development Zone permitted uses for retail and services are amended to clarify wording related to short-term lodging as follows:

- 5. *Traveler accommodations, including hotels and motels; but excluding camping and recreational vehicle parks.*

**Section 7.** ADO Section 18.03 Parking Location, Shared Parking, and Driveways. (A) Off-Site Parking. Is amended to add multi-family dwellings as follows:

- (A) *Off-Site Parking. Except for single-family, duplex, and Multi -family dwellings, the vehicle parking spaces required by this section may be located on another parcel of land, provided the parcel is within a reasonable walking distance of the use it serves. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written instrument.*

**Section 8.** ADO Section 18.08 Parking and Loading Development Standards. (D) Size of parking spaces and driveways. Bullet 6. Parking space size requirements are amended as follows:

- 6. *Developments with requirements that exceed 100 spaces may reduce spacing size following the chart below. In no case will the full-size spaces be reduced to below 25% of the required spaces. Should no compact spaces be used, mid-size spaces will not exceed 75% of the required spaces. Of the required spaces rounding up to the nearest whole number.*

Developments requiring more than 100 spaces	Compact not to exceed 5%	Mid-size not to exceed 75%	Full size must include 20%
	8'x18'	9'x19'	10'x20'

**Section 9.** ADO Section 28.00 Master Planned Developments (MPD). Section 28.00, intended to provide a means for phased master planning of large development sites, is added:

*28.00 Master Planned Developments*

*28.01 Purpose.*

*28.02 Applicability.*

*28.03 MDP Review Process.*

*28.04 MDP Concept Plan Submission.*

*28.05 Concept Plan Approval Criteria.*

*28.06 Modifications to Standards.*

*28.07 Concept Plan Approval, Modification and Expiration.*

*28.08 Final Development Plan Submission.*

*28.09 Final Development Plan Review.*

*28.01 Purpose:*

*To provide a means for phased master planning of large development sites while encouraging innovative planning that benefits the community.*

*28.02 Applicability:*

*At the applicant's discretion and subject to city approval, the MPD designation may be applied over city base zone(s) on sites of two acres or more under the applicant's control.*

*28.03 MDP Review Process:*

*There are two required steps for MPD approval, which may be completed individually or combined for concurrent review:*

*(A) Concept Plan Review: The concept plan, which may include a preliminary subdivision plan, shall be reviewed by the Planning Commission under Type II procedure per Section 12.01.C.*

*(B) Final Development Plan Review: The Final Plan must be in substantial compliance with the approved Concept Plan and meet all applicable ADO standards. The Final Plan (including the final site plan and final subdivision plat, if necessary) shall be reviewed by the Planning Commission under Type II procedure per Section 12.01.C.*

*28.04 MDP Concept Plan Submission:*

*A Concept Plan application shall include the following:*

*(A) An application narrative:*

*(1) Describing planning objectives to be achieved by the master planned development, the character of the proposed development, and the rationale behind the assumptions and choices made by the applicant;*

*(2) Demonstrating compliance with the applicable Concept Plan approval criteria contained in Section 28.05;*

*(3) Describing the proposed development schedule including the duration and location of each proposed development phase, and public facilities and private amenities to be provided in each phase;*

*(3) Stating the applicant's intentions regarding the future selling or leasing of all or portions of the planned development;*

*(5) Describing the maintenance plan for any common areas or lands not dedicated to a public agency or owned in fee simple; and*

*(6) Identifying any proposed modifications to ADO development standards or public works design standards.*

*(B) If subdivision is proposed, the applicant shall provide:*

*(1) All subdivision preliminary plat submission requirements in Section 20.25; and*

*(2) A narrative demonstrating compliance with subdivision approval criteria in Section 20.26.*

*(C) Required Concept Plans and Maps:*

*(1) Vicinity Map;*

*(2) Site Analysis Map per Section 21.05(A);*

*(3) A Conceptual Site Plan, including general land use plan, building envelopes, circulation plan, open space network, general utility connections and alignments, and other information necessary to convey the concept plan;*

*(4) Preliminary grading plan;*

*(5) Preliminary landscape plan, including plan for retention of existing vegetation and general planting areas;*

*(6) Preliminary architectural plans, intended architectural styles, building heights, massing, and general materials;*

*(7) Preliminary sign plan, including locations, general size, style and materials of signs, such as entry monument and wayfinding signs, as applicable; and*

*(D) Covenants and Restrictions: A copy of all existing covenants and restrictions, and general description of proposed covenants and restrictions related to common areas, circulation and parking, and the like).*

#### *28.05 Concept Plan Approval Criteria:*

*The Planning Commission must determine that the following criteria are met to approve a Concept Plan. The Planning Commission must deny an application if all applicable criteria are not met, except where modifications to development standards are requested per Section 28.06.*

*(A) Comprehensive Plan: The proposal does not conflict with specific mandatory policies related to master planned development, transportation improvements or park dedication requirements in the Comprehensive Plan;*

*(B) Section 20 Land Divisions: If a land division is proposed, the requirements in Section 20.17 or 20.26 for a partition or subdivision preliminary plan, consistent with the type of land division proposed, must be met;*

*(C) Site Development Review Criteria: The Concept Plan is consistent with Section 21.06 Site Development Review approval criteria, recognizing that additional details will be provided in the Final Development Plan.*

*(D) Public facilities: The proposal demonstrates that adequate public facility capacity to serve the proposed development including sewer, water, and the transportation system, consistent with the City's adopted engineering design and construction standards, are available or will be made available by the applicant;*

*(E) Open Space: Concept Plans shall have a minimum of 20% open space, which may be public, private, or a combination of public and private open space.*

*(1) The 20% minimum open space requirement includes open space resulting from meeting open space, landscaping, and parks dedication requirements of the applicable zone(s).*

*(2) The city, through conditions of approval, may also require public access to open space be provided, where necessary to mitigate development impacts or to meet public recreational needs identified in the Comprehensive Plan.*

#### *28.06 Modifications to Standards:*

*Development standards may be modified through the Concept Plan review process without the need for a Section 13 variance, if the Planning Commission determines that the proposed modification provides greater public benefit than would otherwise occur under the requirement(s) proposed for modification. To make this determination, the Planning Commission must find that Criteria (A) or (B) are met.*

*(A) The proposed modification equally or better meets the purpose of the applicable ADO standard(s) to be modified; and*

*(B) The modification to one or more standards provides public benefits greater than would have resulted from strict application of the standard(s) to be modified:*

*(1) Greater protection of natural features than would be required of a project that strictly conforms to ADO standards;*

*(2) Improved transportation connectivity, such as the provision of pathways and/or other transportation facilities, that would not otherwise be required under minimum code standards;*

*(3) Sustainable development design meeting the certification criteria of a nationally recognized sustainable development/green building rating system;*

*(4) Provision of affordable housing, a greater variety of housing types, or smaller lot sizes, than would be allowed by code standards;*

*(5) Other benefits that fulfill Comprehensive Plan policies as determined by the Planning Commission.*

*(C) Engineering design standards: Modifications to the City's engineering design standards require separate variance to such standards approved by the City Engineer. The city may grant such variances concurrently with approval of the MDP Concept Plan.*

#### *28.07 Concept Plan Approval, Modification and Expiration:*

*(A) Upon approval of a Concept Plan, the approved plan, including any conditions of approval and modifications, shall be binding on future uses and development of the property, except where an approval expires.*

*(B) Expiration: Except as provided by (C) or (D), below, a Concept Plan shall become void two years after the date of approval if the applicant, or successor, has not filed with the City an application for a Final Development Plan per Section 28.08.*

*(C) Phased MDP: The applicant may propose, and the Planning Commission may approve a multi-phased development plan with specific performance standards.*

*(1) The phasing plan must show the timing and development area for each phase, including public facilities and public and private amenities.*

*(2) Public and private amenities, including transportation improvements, shall not be deferred to later phases of the project.*

*(3) In no case shall the phased Concept Plan extend beyond 10 years.*

*(D) Extension: At its discretion, the City may grant up to three extensions of the concept plan approval period, not to exceed 1 year per extension, provided that:*

- (1) The extension request is made before expiration of the Concept Plan;*
- (2) The applicant has demonstrated that substantial progress has been made towards implementation of the Concept Plan; and*
- (3) There have been no substantive changes to the applicable Comprehensive Plan policies or ADO provisions on which the approval was based.*

#### *28.08 Final Development Plan Submission:*

*Final Development Plan submission requirements are determined based on the conditions of approval for the MDP Concept Plan and ADO requirements:*

- (A) Final Development Plan: The applicant must demonstrate why the Final Development Plan submission substantially conforms with the approved Concept Plan and shall provide the information required for site development review per Section 21.05.*
- (B) Final Subdivision Plat: If a preliminary subdivision plan has been approved, the applicant must demonstrate why the final plat submission substantially conforms with the preliminary subdivision plan approved in conjunction with the Concept Plan and shall meet Section 20.26(B) through (F) and Section 20.27 subdivision requirements.*

#### *28.09 Final Development Plan Review:*

*The Planning Commission is responsible for reviewing Final Development Plans under Type II procedure per Section 12.01.C.*

- (A) To approve a Final Development Plan, the Planning Commission must provide written findings demonstrating that the Final Development substantially conforms with the approved Concept Plan, including any Concept Plan conditions of approval.*
- (B) If the Planning Commission cannot make this determination based on evidence submitted by the applicant, the Planning Commission shall find the application to be incomplete and shall provide a written list of changes to the Final Development Plan necessary to substantially comply with the approved Concept Plan.*

#### *(C) Concept Plan Changes:*

- (1) The Administrative Authority under a Type I.B procedure may approve minor changes to the approved Concept Plan if necessary to correct an error, or to address changes in circumstances beyond the applicant's control that have occurred since the date of project approval.*
- (2) Other changes to the approved Concept Plan must be reviewed by the Planning Commission under Type II procedure per Section 12.01.C. The burden of proof shall be on the applicant to show that the proposed change(s) are consistent with Section 28.05 Concept Plan approval criteria.*



*(D) Open space areas shall be shown on the Final Development Plan and recorded with the final plat or separate*

**Section 10.** The City Recorder is directed to incorporate the amendments into the Municipal Code, making corrections to any scrivener's errors that may be found.

**Section 11.** Except as amended herein the remainder of Ordinance No. 705 shall remain in full force and effect.

**Section 12.** Emergency Clause. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Aumsville. An emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect when passed by the council and signed by the mayor.

**THEREFORE:**

PRESENTED AND PASSED the first reading by unanimous vote on the 23rd day of October, 2023. ADOPTED AND PASSED by second reading by the Aumsville City Council on the 23rd day of October, 2023.