

# Sublimity Development Code Ordinance No. 360

Amended:

June 20, 1994  
Ordinance 371

July 10, 2000  
Ordinance 526

May 13, 2002  
Ordinance 577

April 10, 2006  
Ordinance 582

June 11, 2007  
Ordinance 700

May 11, 2015  
Ordinance 700B

November 13, 2017  
Ordinance 736

July 9, 2018  
Ordinance 739

January 13, 2020  
Ordinance 741

October 12, 2020  
Ordinance 743

February 13, 2023  
Ordinance 764

April 8, 2024  
Ordinance 769

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## **CHAPTER 1 GENERAL DEVELOPMENT CODE PROVISIONS**

### **1.100 INTRODUCTORY PROVISIONS**

#### **1.101 TITLE**

#### **1.102 PURPOSE AND SCOPE**

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#### **1.104 CONSISTENCY WITH PLAN AND LAWS**

#### **1.105 ESTABLISHMENT OF ZONING DISTRICTS**

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#### **1.202 GRAMMATICAL INTERPRETATION**

#### **1.203 DEFINITIONS**

#### **1.101 TITLE**

This Code shall be known and may be referred to as the City of Sublimity Development Code.

#### **1.102 PURPOSE AND SCOPE**

##### **1.102.1 Purpose**

This Development Code is enacted to:

- A. Implement the goals and policies of the City of Sublimity Comprehensive Land Use Plan;
- B. Provide methods of administering and enforcing the provisions of this Development Code;  
and
- C. Promote the public health, safety, and general welfare of the community.

##### **1.102.2 Conformance Required**

The use of all land, as well as the construction, reconstruction, enlargement, structural alteration, movement, use, or occupation of any structure within the City of Sublimity shall conform to the requirements of this Development Code. No plat shall be recorded, or no building permit shall be issued without compliance with the provisions of this Development Code.

##### **1.102.3 Violations**

Upon failure to comply with any provision of this Development Code, or with any restrictions or conditions imposed hereunder, the City may withhold any further permits and may withhold or withdraw City utility services until correction is made. Notwithstanding any such action taken by the City, any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of the Development Code, or who resists the enforcement of such provisions, shall be subject to civil penalties of no more than \$500.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

#### **1.102.4 Interpretation**

The provisions of this Development Code shall be interpreted as minimum requirements. When this Development Code imposes a greater restriction than those imposed or required by other provisions of law, or by other regulations, resolutions, easements, covenants, or agreements between parties, the most restrictive or that imposing the higher standard shall govern.

When a certain provision of this Development Code conflicts with another provision of this Development Code or is unclear, the correct interpretation of the Development Code shall be determined by the Public Works Director. The Public Works Director may, at his/her discretion, request that the Planning Commission resolve the conflict or uncertainty.

#### **1.102.5 Severability**

The provisions of this title are severable. Should any section, clause or provision of this Development Code be declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Development Code as a whole or of the remaining sections.

### **1.103 PRE-EXISTING APPROVALS**

#### **1.103.1 Legality of Pre-Existing Approvals.**

Developments, including subdivisions, projects requiring development review approval, or other development applications for which approvals were granted prior to the effective date of this Development Code, may occur pursuant to such approvals.

#### **1.103.2 Subsequent Development Applications**

All development proposals received by the City Recorder after the adoption of this Development Code shall be subject to review for conformance with the standards under this Development Code or as otherwise provided by state law.

### **1.104 CONSISTENCY WITH PLAN AND LAWS**

Each development and use application and other procedure initiated under this Development Code shall be consistent with the adopted comprehensive plan of the City of Sublimity as implemented by this Development Code, and with applicable state and federal laws and regulations. All provisions of this Development Code shall be construed in conformity with the adopted comprehensive plan.

## **1.105 ESTABLISHMENT OF ZONING DISTRICTS**

### **1.105.1 Districts**

For the purposes of this Development Code, the incorporated area of the City of Sublimity, Oregon, is hereby divided into the following zoning districts:

Zoning District Name	Comprehensive Plan Designation	<u>Section</u>
Low Density Residential District (R-1)	Single Family Residential	2.101
Medium Density Residential District (R-2)	Multiple Family Residential	2.102
Commercial District (C)	Commercial	2.103
Industrial-Commercial District (IC)	Industrial	2.104
Public/Semi-Public District (P)	Public/Semi-Public	2.105

### **1.105.2 Boundaries**

- A. The zoning district boundaries are shown on the zoning map of the City of Sublimity. This map is made a part of this Development Code.

Any future changes to the zoning of land within the City of Sublimity that are approved under the provisions of this Development Code shall be appropriately depicted on the Sublimity Zoning Map.

- B. The Planning Commission shall resolve any dispute over the exact location of a zoning district boundary. In interpreting the location of such boundaries on the Sublimity Zoning Map, the Planning Commission shall rely on the Sublimity Comprehensive Plan Map and the following guidelines for the location of zoning district boundaries: property lines; lot lines; center lines of streets, alleys, streams, or railroads; City boundaries; notations on the Sublimity Zoning Map; or other planning criteria determined appropriate by the Planning Commission.

## 1.200 DEFINITIONS

### 1.201 INTERPRETATION OF LANGUAGE

All word and phrases shall be construed according to the common approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

### 1.202 GRAMMATICAL INTERPRETATION

The following grammatical rules shall apply in this Development Code unless it is apparent from the context that a different construction is intended:

- A. Gender. Each gender includes the masculine, feminine and neutral genders.
- B. Singular and Plural. The singular number includes the plural and the plural includes the singular.
- C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

### 1.203 DEFINITIONS

The following words and phrases, whenever used in this Development Code, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

**\*Access:** The way or means by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to property.

**\*Aligned:** The alignment of the centerlines of access points on opposite sides of a street, alley, or driveway.

**\*Combined:** The use of a single access point by multiple vehicles or pedestrians.

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

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

**Accessory Dwelling Unit:** An interior, attached or detached residential structure with kitchen, bathroom and living areas that is used in connection with or that is accessory to a single-family dwelling on the same lot or parcel.

**Accessory Structure or Use:** A structure or use which is clearly incidental and subordinate to the main building or use on the same lot or parcel. An accessory structure does not include habitable living space-

**Adjoining:** Contiguous or abutting, exclusive of street width. It shall include the terms adjacent, abutting, and contiguous.

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**Administrative Decision:** A discretionary action or permit decision made without a public hearing but requiring public notification and an opportunity for appeal. The City Recorder, or the City Recorder's designee, makes administrative decisions.

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

**\*Alley:** See Street.

**Alteration, Structural:** Any change in the exterior dimensions of a building or a change or repair which would affect or materially change a supporting member of a building, such as a bearing wall, column, beam, or girder.

**Appeal:** The taking of a decision to a higher level of authority for review of that decision.

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

**Automobile, Recreational Vehicle or Trailer Sales Areas:** A lot used for display, sale, or rental of new or used automobiles, recreational vehicles, or trailers where no repair work is done except minor, incidental repairs of automobiles or trailers to be displayed, sold or rented on the premises.

**\*Awning:** A roof-like cover that is temporary or portable in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements and is periodically retracted into the face of the building.

**Basement:** 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.

**Bed and Breakfast Establishment:** A structure designed and occupied as a residence and in which a maximum of five (5) sleeping rooms and a morning meal are provided on a daily or weekly basis for use by travelers or transients for a charge or fee paid for the rental or use of the facilities in an operator- or owner-occupied home that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a source of income to the proprietors. This level includes inns that operate restaurants offering meals to the general public as well as to overnight guests.

**\*Berm:** A small rise or hill in a landscape which is intended to deflect sound or to buffer or visually screen certain developments, or to separate incompatible areas or to provide aesthetic enhancement in site design.

**\*Block:** A unit of land bounded by streets or by a combination of streets and public land, railroad rights of way, waterways, or any other barrier to the continuity of development.

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

**\*Buffering:** Open spaces, landscaped areas, fences, wall, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.



**Building:** A structure having a roof and built for the support, shelter, or enclosure of persons, animals, or property of any kind. Note that building and structure are not synonyms: a fence is a structure, but it is not a building.

**\*Face:** The side of a building facing a street or driveway, in the case of a flag lot.

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

**\*Frontage:** That side of a lot abutting on a street; the front lot line.

**\*Front Wall:** The building wall with frontage.

**\*Height:** The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

**Building Line:** An imaginary line beyond which a building cannot be located or constructed. The lot line of a property defines the outer boundary of the yard; the building line defines the inner boundary.

**Building Official:** The official who administers the building code and issues building permits. Although this official commonly is called ‘the building inspector,’ such usage may not be correct: the building official often is the head of a department that includes several plan examiners (or ‘plan checkers’) and building inspectors.

**Calendar Year:** A period of a year, beginning on January 1<sup>st</sup> and ending on December 31<sup>st</sup>.

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

**Carport:** A stationary structure consisting of a roof with its supports and not more than one wall or storage cabinet substituting for a wall and used for covering a vehicle parking space.

**Cemetery:** Land used or intended to be used for the burial of the dead, and dedicated for cemetery purposes, including a columbarium, crematory, mausoleum, or mortuary, when operated in conjunction with and within the boundary of such cemetery.

**Center Street Commercial Corridor:** Applies to all commercially designated property with a minimum of twenty-five feet of frontage on Center Street, also referred to as Cascade Highway; and to Commercial-zoned properties along Starr Street.

**Change of Use:** A change of use on a property that intensifies activity on the property over the previous use. Intensification is determined based upon requiring different development standards, such as but not limited to, parking, utility, sign, or landscaping requirements.

**Child Care Facilities, Family Child Care:** Facilities that provide care and supervision of minor children for periods of less than 24 hours. “Family childcare providers” provide care for not more than 12 children in a home. See also ORS 657A for certification requirements.

**Church:** See “House of Worship”

**City:** The City of Sublimity, Oregon, of the area within the territorial limits of the city, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision or intergovernmental agreement.

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

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

**\*Clear-Vision Area:** A triangular area located at the intersection of any streets, alleys, or driveways in any combination, two sides of which are lines measured from the corner intersection of the right-of-way lines or property lines for a specified distance. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lines at the intersections have rounded corners the right-of-way lines will be extended in a straight line to a point of intersection. See accompanying graphic and Section 2.209.08 for distances.

**Clinic:** A facility for examination and treatment of human ailments by a group of physicians, dentists, or other licensed practitioners on an out-patient basis and not involving overnight housing of patients.

**Club:** An organization, group, or association supported by the members thereof, 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 for profit.

**Commercial:** Land use involving buying/selling of goods or services and the coming and going of material carriers and customers as the primary activity.

**Commercial Storage:** See Warehouse.

**Commission:** The City Planning Commission of Sublimity, Oregon.

**Community Building:** A publicly owned and operated facility used for meetings, recreation, or education.

**Communications Antennas:** Devices used for sending and receiving information via different forms of transmission.

**Communications Towers:** Structures used for sending and receiving information via different forms of transmission.

**Comprehensive Plan:** The Comprehensive Plan of the City of Sublimity, Oregon.

**Council:** The City Council of the City of Sublimity. "All its member: or "all council members" means the total number of council members holding office.

**Curb Cut:** A driveway opening where a curb is provided along a street.

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

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

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

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

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

**Driveway:** Areas that provide vehicular access to a site, except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking space areas.

**\*Dwelling-Multifamily:** A building containing three (3) or more dwelling units designed for occupancy by three (3) or more families living independently of each other.

**\*Dwelling-Single-Family-Attached Housing (Townhomes):** Two or more single-family dwellings with common end-walls.

**\*Dwelling-Single-Family-Detached:** A detached building containing one dwelling unit designed exclusively for occupancy by one (1) family.

**Dwelling-Single-Family-Detached Zero-Lot Line:** A single-family detached house with one side yard setback equal to "0."

**\*Dwelling-Two-Family (Duplex):** A detached building containing two (2) dwelling units designed exclusively for occupancy by two (2) families living independently of each other.

**\*Dwelling Unit:** A living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family, or a congregate residence for not more than five (5) persons.

**Dwelling Unit-Accessory:** An interior, attached or detached residential structure with kitchen, bathroom and living areas that is used in connection with or that is accessory to a single-family dwelling on the same lot or parcel.

**Easement:** A right of usage of real property granted by an owner to the public or to specific persons, firms, and corporations.

**\*Eave:** The projecting lower edges of a roof overhanging the wall of a building.

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

**Evidence:** Application materials, plans, data, testimony, and other factual information used to demonstrate compliance or noncompliance with a code standard or criterion.

**Extended Care Facility:** A long-term facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home of the aged, or a governmental medical institution. See "Long-Term Care Facility."

**Family:** An individual or two or more persons related by blood, marriage, adoption, or legal guardianship and living together as one housekeeping unit and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five (5) unrelated persons living together as one housekeeping unit.

**Family Day Care:** See "childcare facilities".

**Fence:** An unroofed barrier or an unroofed enclosing structure or obstruction constructed of any materials including but not limited to, wire, wood, cement, brick, and vinyl.

**Fence, Sight Obscuring:** A fence or evergreen planting arranged in such a way as to obstruct vision.

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

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

**Floor Area:** The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

1. Attic space providing headroom of less than seven feet;
2. Basement, if the floor above is less than six feet above grade;
3. Uncovered steps or fire escapes;
4. Private garages, carports, or porches;
5. Accessory water towers or cooling towers;
6. Off-street parking or loading spaces.

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

**Functional classification:** The classification given to streets (e.g., “local/collector/arterial”) by the City of Sublimity Transportation System Plan, by adopted Marion County plans, and Oregon Department of Transportation.

**Garage, Private:** A detached accessory building or portion of a main building used for the parking or temporary storage of automobiles, and personal storage, in which no business, occupation (habitation), or service is provided.

**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.

**Garden / Storage Building:** An accessory building 200 square feet or less in size used for storing garden, landscaping, and miscellaneous household items.

**Government Structure:** Any building, structure, facility, or complex used by the general public, whether constructed by any state, county, municipal government agency or special district.

**\*Grade:** The average elevation of the finished ground at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation opposite the center of the wall shall constitute the ground elevation.

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

**Hammerhead turnaround:** A “T” or “L” shaped dead-end street that allows for vehicles to turn around.

**Hardscape:** Non-plant landscape materials, including pathways, decorative pavers, benches, drinking fountains, arbors, pergolas, playgrounds, plazas, and similar amenities.

**Home Occupation:** An accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and / or services. Use of a residence for nominal administrative business activities which do not involve substantial shipping or delivery at the residence does not constitute a home occupation. The primary use of the dwelling unit is residential.

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

- Hospital:** An establishment that provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care with nursing service on a continuous basis.
- Hotel:** Any building with six (6) or more rooms in which lodging is provided to guests for compensation and in which no provision is made for cooking in individual rooms.
- 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.
- Impervious Surface:** Development that does not allow for water infiltration (e.g., pavement, roofs, sidewalks, driveways, etc.),
- Incidental and subordinate to:** A use or portion of a development that is secondary to, and less apparent, than the primary use or other portion of the development.
- Infill:** The development of vacant, or underdeveloped lands located in an area that is mainly developed.
- \*Institutional Use / Place of Public Assembly:** A nonprofit, religious, or public use, such as a church, public or private school, hospital, or government owned or operated building, structure, or land used for public purpose.
- Intermediate Care Facility (ICF):** A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.
- Junk Yards:** The use of more than 200 square feet of the outside area of any lot for the storage of salvage materials, including scrap metals or other scrap materials, or for the dismantling or "wrecking" of automobiles or other vehicles or machinery, whether or not such uses are conducted as a business for profit or otherwise.
- Kennel:** Any lot or premises on which four (4) or more dogs and/or cats over the age of four months are kept for sale, lease, boarding, or training.
- Land Division:** The process of dividing land to create parcels or lots.
- Land use:** The main activity that occurs on a piece of land, or the structure in which the activity occurs.
- Land Use Decision:** A legislative or quasi-judicial action of the type that usually involves a public hearing (e.g., a variance or a subdivision request). The phrase does not encompass most ministerial actions (e.g., building permits).
- Landscaping:** Any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains, or the like. Landscaping also includes irrigation systems, mulches, topsoil, and revegetation or the preservation, protection, and replacement of existing trees.
- Legislative:** A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, the comprehensive plan or development code).

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**Livestock:** Domestic animal types customarily raised or kept on farms for profit or other purposes.

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

**Long-Term Care Facility:** An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for twenty-four or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood, or adoption. A long-term care facility may be either a skilled nursing facility, or an intermediate care facility. Hospices are also examples of long-term care facilities.

**Lot:** A unit of land that is created by a subdivision of land (see also, ORS 92.010).

**\*Lot Area:** The total surface area (measured horizontally) within the lot lines of a lot. For flag-shaped lots, the access strip shall not be included in lot area for the purposes of minimum lot area requirements of this Development Code.

**\*Lot, Corner:** A lot abutting on two intersecting streets, other than an alley, where the angle of intersecting streets is no greater than 135 degrees.

**\*Lot Coverage:** All areas of a lot or parcel covered by buildings (as defined by foundation perimeters) and other structures with surfaces greater than 36 inches above finished grade.

**\*Lot Depth:** The horizontal distance measured from the midpoint of the front lot line to the midpoint of the rear lot line.

**\*Lot, Flag:** A lot which has a narrow strip of land abutting the street and expands into a larger area. A lot shall not be considered to be a flag lot if the frontage meets the minimum parcel width.

**\*Lot Frontage (Width):** The distance between the two side lot lines measured at the front property line, pin to pin, parallel to the street line.

**\*Lot, Interior:** A lot other than a corner lot.

**Lot of Record:** A lawfully created lot or parcel established by plat, deed, or contract as duly recorded in Marion County property records.

**\*Lot, Through:** An interior lot having frontage on two streets.

**\*Lot Line, Front:** The property line separating the lot from the street, other than an alley. In the case of a corner lot, the shortest property line along a street, other than an alley.

**\*Lot Line, Rear:** A property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line ten (10) feet in length within the lot, parallel to and at a maximum distance from the front line.

**\*Lot Line, Side:** Any property line that is not a front or rear lot line.

**Lowest Floor:** The lowest floor of the lowest enclosed area, including basement, of a building or structure.

\*See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**Main/Primary Entry/Entrance:** A main entrance is the entrance, or entrances, to a building that most pedestrians are expected to use. Generally, smaller buildings have one main entrance. Main entrances may also be the widest entrance of those provided for use by pedestrians. In multi-tenant buildings, main entrances open directly into the building's lobby or principal interior ground level circulation space. When a multi-tenant building does not have a lobby or common interior circulation space, each tenants outside entrance is a main entrance. Buildings may also have main entrances opening directly into a reception or sales area, a courtyard, or plaza.

**Maneuvering area/aisle:** The driving area in a parking lot where motor vehicles are able to turn around and access parking spaces.

**Manufactured Home:** A transportable single-family dwelling conforming to the Manufactured Housing Construction and Safety Standards Code of the US Department of Housing and Urban Development but is not regulated by the Oregon State Structural Specialty Code and Fire Life Safety Regulations, and is intended for permanent occupancy.

**Manufactured Home Park:** Any place where four (4) or more manufactured homes or recreational vehicles which are connected to City services 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 spaces 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 (1) manufactured home per lot if the subdivision was approved pursuant to Section 3.107 of this Development Code (See also, ORS 446).

**Master Plan:** A sketch or other presentation showing the ultimate development layout of a parcel or property that is to be developed in successive stages or subdivisions.

**Ministerial:** A routine governmental action or decision that involves little or no discretion. The issuance of a building permit is such an action.

**Ministorage Warehouse:** An area or areas located within an enclosed building or structure used only in connection with a residential land use for the storage of nonflammable or non-explosive materials.

**Mitigation:** To avoid, rectify, repair, or compensate for negative impacts that result from other actions (e.g., Improvements to a street may be required to mitigate for transportation impacts resulting from development).

**Mobile Home:** A mobile home means:

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

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**Modular or Prefabricated Home:** A dwelling unit whose components are assembled and brought to the site and erected. The dwelling unit is intended and designed to be placed upon a permanent foundation and substantial construction is needed before it is complete and ready for permanent occupancy. The Uniform Building Code (UBC) regulates modular or prefabricated homes.

**Motel:** A building or group of buildings on the same lot containing six (6) or more rooms designed for lodging, with or without cooking facilities, which are available for rent and in which each lodging unit has a separate entrance from the building exterior. The term includes auto courts, tourist courts, tourist homes, and motor lodges.

**\*Multiuse Building:** A building containing two (2) or more distinct uses under different business names or ownerships.

**New Construction:** Structures for which construction was initiated on or after the effective date of this Development Code.

**Nonconforming Structure or Use:** A lawfully existing structure or use at the time this Development Code or any amendments thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

**Nursing Home:** See “Extended Care Facility;” “Intermediate Care Facility;” “Long-term care facility.”

**Official Map:** The zoning map or comprehensive plan map actually adopted by ordinance; the original map, recorded, kept on file, and continuously updated, as opposed to unofficial maps that may be produced and distributed in large numbers.

**\*Offset, Front Wall:** Designs that preclude large expanses of uninterrupted building surfaces including, but not limited to, balconies, insets, projections, or similar elements.

**\*Offset, Roof line:** See Offset, Front Wall.

**Off-Street Parking:** All off-street areas designated, used, required, or intended to be used for the parking of motor vehicles.

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

**Open Space (common/private/active/passive):** Land within a development that has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreation, conservation, or other open space uses.

**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 or property under written contract.

**Parcel:** A parcel is a unit of land that is created by a partitioning of land (See also, ORS 92.010).

**\*Parking Area, Shared:** Joint use of a parking area for more than one use, or by one or more individuals or businesses.

**Parking Area, Private:** An open area, building or structure, other than a street or alley, used for the parking of the automobiles of residents and guests of a building.

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.



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

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

**\*Parking Space:** An enclosed or unenclosed surfaced area, exclusive of maneuvering and access area, permanently reserved for the temporary storage of an automobile and connected with a street or alley by a surfaced driveway that affords ingress and egress for automobiles.

**Parking vs. Storage:** Parking is the area used for leaving motor vehicles for a temporary time. Storage is to place or leave in a location for maintenance, repair, sale, rental, or future use.

**Partition:** To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year (See also, ORS 92.010). "Partition" does not include:

1. Divisions of land resulting from lien foreclosures, divisions of land resulting from contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; or
2. Any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance; or
3. A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r).

**Permit:** An order (usually written) from a governmental agency officially authorizing an individual to do something.

**Permitted Use:** A land use that is permitted outright in a particular zone.

**Person:** Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

**Planning Commission:** The Planning Commission of Sublimity, Oregon.

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

**Plat:** The final map which is a diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or partition. A map of a subdivision, prepared as specified in ORS 92.080, and recorded with the County Assessor's Office.

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

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

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**\*Porches, Covered:** A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building.

**\*Porches, Uncovered:** A surfaced open area, which may be screened, usually attached to or part of and with direct access to or from a building.

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

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

**Professional Office:** An office occupied by an accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, land use planner, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts, or other professional business similar in type, scale, and character.

**Property Line Adjustment:** The relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.

**Public Facility:** See Government Structure.

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

**Recreational Vehicle:** A vehicle with or without motive power that is designed for use as temporary living quarters and can be easily transported and set up on a daily basis.

**Recreational Vehicle Park:** Any area operated and maintained for the purposes of picnicking or providing space for overnight use by recreational vehicles.

**Residential Care Facility:** A facility licensed by the State of Oregon for the care of six (6) or more unrelated physically handicapped, mentally handicapped, socially dependent, or mentally, emotionally, or behaviorally disturbed individuals and for staff persons in addition to residents who need not be related to each other or to any other resident.

**Residential Care Home:** Residential treatment or training homes or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for five (5) or fewer individuals who need not be related. Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents.

**Retail Trade:** The process of selling to the consumer for direct consumption and not for resale.

**\*Right of Way:** The full length and width of a public street or way, planned or constructed. Right-of-way is owned in fee simple by the public, usually for transportation facilities.

**Roof Pitch:** The slope of a roof, usually described as ratio (e.g., 1 foot of rise per 2 feet of horizontal distance).

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**\*Root Barrier:** A subsurface container in which vegetation is planted that prevents the spreading of roots and trailers.

**School, Elementary, Junior High, Middle School, or High School:** An institution public or parochial, offering instruction in the several branches of learning and study, in accordance with the rules and regulations of the State Department of Education.

**\*Screening:** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, wall, berms, or densely planted vegetation.

**Service Station:** A building designed primarily for the supplying of motor fuel, oil, lubrication, and accessories to motor vehicles, but excluding major repair and overhaul.

**\*Setback:** The distance between the exterior wall of a building or structure and a specified lot line.

**\*Sign:** An identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business, and which may be illuminated directly or indirectly.

**Sign, Area:** The entire area made available by the sign structure for the purpose of displaying the advertising message. For painted signs, only that portion of the door, wall, or structure actually devoted to the message and associated symbols and background, if any, is included in the area. When a sign is on a base material attached without a frame, such as wood or plexiglass panel, the dimensions of the base materials are to be used. The sign area, as defined, shall be used in determining the allowable square footage of signs. For double-faced sign, only one side of the sign shall be counted in the total maximum area.

**\*Sign Face Perimeter:** The area around a sign having no designated borders. The area is measured using the tallest letter or graphic. Parallel lines run horizontal to the top and base of the largest letter or graphic. Lines perpendicular to the horizontal lines intersect at the farthest reaching points at either end of the sign. See accompanying graphic, Appendix A.

**Sign, Free-Standing:** A sign supported by one or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign.

**Sign, Ground-Mounted:** A permanently affixed sign which is wholly independent of a building for support or a sign that has a solid supporting base equal to or greater than the width of the sign face, generally made of stone, masonry, or concrete, with no separations between the sign and the base.

**Sign, Off-Premise:** Any sign that is not appurtenant to the use of the property, a product sold, or the sale or lease of the property on which it is displayed, and that does not identify the place of business as purveyor of the merchandise, services, etc., advertised upon the sign.

**Sign, On-Building/Wall:** A sign attached to, erected against, or painted on a wall of 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 is which the face of the sign is approximately parallel to the wall shall also be considered a wall sign.\*

\*See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**Sign, Portable:** 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 location, to be moved from place to place. These signs primarily include, but are not limited to, A-frame or sandwich board signs, signs attached to a wood or metal frame and designed to be self-supporting and movable, and also include trailer reader boards.

**Sign, Residential Name Plate:** A sign identifying the occupants of a residential dwelling.

**Sign, Temporary:** A sign not permanently affixed to a structure on a property. These signs primarily include, but are not limited to, canvas, cloth, rigid plastic or paper, vinyl banners or posters hung on a building wall or a permanent pole such as on a free-standing sign support.

**Single-Family Attached Housing (Townhomes):** See Dwelling-Single-Family-Attached Housing (Townhomes).

**Single-Family Detached House:** See Dwelling-Single-Family-Detached.

**Single-Family Detached Zero-Lot Line House:** See Dwelling-Single-Family-Detached-Zero-Lot Line.

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

**Site Built:** A structure with individual elements, such as the walls, trusses, siding, etc., constructed on site. Excludes modular or manufactured.

**Standards and Criteria:** Standards are code or ordinance requirements. Criteria are the elements required to comply with a particular standard.

**Start of Construction:** The date a building permit is issued, provided that the actual start of construction, repair, reconstruction, placement, or other improvement occurs within 180 days of the permit date.

**\*Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade as defined herein, such basement or cellar shall constitute a story.

**\*Street:** The entire width between the boundary lines of every way of travel which provides for public or private use for the purpose of providing ingress and egress for vehicular, bicycle, and pedestrian traffic and the placement of utilities to one or more lots, parcels, areas, or tracts of land. A private way is excluded that is created to provide ingress and egress to land in conjunction with the use of such land for forestry, mining, or agricultural purposes.

- A. **\*Alley:** A narrow street through a block used primarily for access by service vehicles to the back or side of properties fronting on another street.
- B. **\*Arterial:** A street of considerable continuity which is used primarily for through traffic and interconnection between major areas of the city.
- C. **\*Collector:** A street supplementary to the arterial street system, used partly by through traffic and partly for access to abutting properties.
- D. **\*Cul-de-sac (dead-end):** A short street with one end open to traffic and the other terminated by a vehicle turn-around.

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

- E. **\*Half Street:** A 50 percent portion of the ultimate width of a street, usually along the edge of a subdivision or partition, where the remaining portion of the street could be provided in another development.
- F. **\*Frontage Road, Marginal Access Road:** A service road parallel and adjacent to a major arterial street providing access to abutting properties but protected from through traffic.
- G. **\*Local Street:** A street intended primarily for access to abutting properties but protected from through traffic.
- H. **Private:** A street maintained by adjacent property owners, homeowners' association or similar association approved by the City and built to Public Works Design Standards.
- I. **Three-Quarter Street:** A half street improvement on the development side plus a turnpike travel lane with shoulders and drainage ditches where needed on the opposite side.

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

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

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

**Street Trees / Plants:** Vegetation installed within a public right-of-way, or in a planter strip or tree cutout. See Section 2.207.08 for a list of recommended and prohibited street trees.

**Structural Alteration:** Any change to the supporting members of a structure, including foundation bearing walls or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

**Structure:** That which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner.

**Subdivide Land:** To divide a tract of land into four or more lots within a single calendar year. (ORS 92.010).

**Subdivision:** All divisions of property which create four or more lots in a single calendar year.

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

**Triplex:** A building with three (3) attached housing units on one (1) lot or parcel.

**Uniform Building Code (UBC):** A book containing standards and regulations pertaining to the construction of buildings. Oregon has adopted the UBC, with modifications, as the states *Structural Specialty Code and Fire and Life Safety Regulations* (Building Codes Division)

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**Urban Growth Boundary (UGB):** A line that indicates the outermost limit of a city's planned expansion. The UGB is designed to indicate the planned extent of a city's growth over a certain period of time. Its location must be described precisely, either by a legal description or a map. The boundary must be adopted by the city it surrounds and by the county in which the city is located.

**Use:** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

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

**Variance:** A modification from a quantifiable standard or requirement of this Development Code.

**Veterinary Clinic:** A facility designed to contain treatment and temporary care facilities for the cure and prevention of ailments or injuries of domestic animals, including both domestic pets and farm animals, under the direction of a licensed veterinarian.

**Vision Clearance (also called 'vision triangle' or 'corner cutback):** A triangular area that must be kept free of obstructions so that a driver's vision of pedestrians or oncoming vehicles will not be blocked.

**Warehouse:** A place for the safekeeping of goods and materials necessary for the proper functioning of an industrial or commercial enterprise. Also, a facility designed and intended to be used for the rental of storage units to individuals for the safekeeping of personal items.

**Wholesale Trade:** The bulk sale of goods for resale to a person other than the direct consumer.

**Window Coverage:** The amount of front wall area covered by windows, glass, or doors.

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

**Yard:** The area defined by setbacks i.e., between the setback line and respective property line.

**Yard, Front:** A 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 nearest point of the foundation of the main building.

**Yard, Rear:** A yard extending across the full width of the lot between the most rear portion of a main building and the rear lot line; but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line; or, if the rear lot line adjoins an alley, then from the centerline of the alley, toward the nearest part of the foundation of the main building.

**Yard, Side:** A yard, between the main building and side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

\* See accompanying graphics in Appendix A. Note: Graphics are for illustrative purposes only.

**CHAPTER 2**  
**HOW LAND MAY BE USED AND DEVELOPED**

- 2.100 ZONING DISTRICT ADMINISTRATION**
- 2.101 LOW DENSITY RESIDENTIAL DISTRICT (R-1)**
- 2.102 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)**
- 2.103 COMMERCIAL-GENERAL DISTRICT (C)**
- 2.104 INDUSTRIAL-COMMERCIAL DISTRICT (IC)**
- 2.105 PUBLIC/SEMI-PUBLIC DISTRICT (P)**
- 2.106 INTERCHANGE MANAGEMENT OVERLAY DISTRICT (IA)**
- 2.200 GENERAL DEVELOPMENT STANDARDS**
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- 2.209 YARD AND LOT STANDARDS**
- 2.300 SUPPLEMENTAL STANDARDS FOR SPECIAL USES**
- 2.301 GENERAL PROVISIONS**
- 2.302 Repealed. Ordinance 741, January 13, 2020**
- 2.303 MANUFACTURED HOMES**
- 2.304 MANUFACTURED HOME PARKS**
- 2.305 HOME OCCUPATIONS**
- 2.400 GENERAL PROVISIONS**
- 2.401 GENERAL STANDARDS**
- 2.402 GENERAL EXCEPTIONS**
- 2.403 USES PERMITTED IN ALL ZONES**

## **2.100 ZONING DISTRICT ADMINISTRATION**

### **2.100.1 CLASSIFICATION OF ZONING DISTRICTS.**

All areas within the urban growth boundary of the City of Sublimity are divided into zoning districts. The use of each lot, parcel and tract of land is limited to the uses permitted by the applicable zoning district. The applicable zoning district shall be determined based on the Zoning Map and the provisions of this Code.

### **2.100.2 ZONING MAP.**

- A. Consistency with Zoning Map. The boundaries of each of the zoning districts contained within this Code shall coincide with the zoning district boundaries identified on the city's official zoning map, retained by the City Recorder. A certified print of the adopted zoning map, and any map amendments, shall be maintained by the city.
- B. Applicability of zoning requirements. Each lot, tract and parcel of land or portion thereof within the land use district boundaries as designated and marked on the zoning map, is classified, zoned, and limited to the uses as hereinafter specified and defined for the applicable district classification.
- C. Zoning map amendments. All amendments to the city zoning map shall be made in accordance with the provisions of Section 3.102.
  - 1. Copies of all map amendments shall be dated with the effective date of the ordinance adopting the map amendment, and shall be maintained without change, together with the adopting documents, on file at the city; and
  - 2. The city shall make available for public inspection an up-to-date copy of the revised zoning map, so that it accurately portrays changes of zone boundaries or classification, as applicable.

### **2.100.3 DETERMINATION OF ZONING DISTRICT BOUNDARIES.**

Where due to the scale, lack of scale, lack of detail or illegibility of the city Zoning Map, or due to any other reason, there is uncertainty, contradiction, or conflict as to the intended location of district boundary lines, the boundary lines shall be determined by the City Recorder in accordance with the following:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be constructed to follow such center lines;
- B. Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries;
- C. Boundaries indicated as approximately following a city boundary, or the urban growth boundary, shall be construed as following said boundary;
- D. Boundaries indicated as approximately following river, stream and/or drainage channels or basins shall be construed as following river, stream and/or drainage channels or basins, as applicable; and

Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same zoning district designation that is applicable to lands abutting the vacated area. In cases where the right-of-way formerly served as a zoning district boundary, the lands formerly within the vacated right-of-way shall be allocated proportionately between the subject zoning districts.



## **2.101 LOW DENSITY RESIDENTIAL DISTRICT (R-1)**

### **2.101.1 Purpose**

The Low Density Residential District is intended to preserve existing single family residential areas and provide for future single family residential housing opportunities at a density no greater than 4 units per acre. The R-1 district is consistent with the Single Family Residential Comprehensive Plan designation.

### **2.101.2 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Development Code, the following uses are permitted in the R-1 District:

- A. Single-family dwelling unit per lot or parcel, including single family manufactured home subject to Section 2.303, Manufactured Homes, except a manufactured home shall not be placed within an acknowledged historic district nor adjacent to an historic landmark.
- B. Duplex, subject to the provisions of Section 2.101.7, D, Duplex Standards.
- C. Accessory Dwelling Unit, subject to the provisions of Section 2.101.7, B, Special Standards for Certain Uses, Accessory Dwelling Unit Standards.
- D. Accessory structures (buildings) or uses.
- E. Parks and open space uses.
- F. Home occupation, subject to the provisions of Section 2.305, Home Occupations.
- G. Family childcare (Serving fewer than 13 children)
- H. Residential care home (Serving five or fewer individuals).

### **2.101.3 Conditional Uses**

The following uses may be permitted in the R-1 District in accordance with Section 3.103, Conditional Use Permits:

- A. Public and institutional land uses, government structure, communications towers for emergency services, or communications antennas on existing structures, subject to the provisions of Section 2.101.7, A, Special Standards for Certain Uses, Public and Institutional Land Uses.
- B. Bed and breakfast establishment
- C. Cemetery
- D. Golf Course
- 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 and standards set forth in Section 2.101.7, C, Special Standards for Certain Uses, House of Worship Uses.

## 2.101.4 Dimensional Standards

The following minimum dimensional standards shall be required for all development in the R-1 District except for modifications permitted under Section 2.402, General Exceptions.

### A. Minimum Lot Area

- |    |                            |  |
|----|----------------------------|--|
| 1. | Single-family dwelling     | 10,000 square feet   |
| 2. | Duplex                     | 10,000 square feet   |
| 3. | Public utility structures: | Lot area shall be adequate to contain all proposed structures within required yard setbacks. |
| 4. | All other uses             | 10,000 square feet   |

### B. Minimum Yard (Building) Setbacks.

1. Building setbacks provide space for private yards, and building separation for fire protection/security, building maintenance, sunlight, and air circulation.
2. Building setbacks are measured from the *exterior wall of the building* to the respective property line. Setbacks for decks and porches are measured from the edge of the deck or porch to the respective property line. The setback standards set forth in Section 2.101.4, B, 4, apply to principal structures. A variance is required in accordance with Section 3.104 to modify any setback standard.
3. Setback exceptions for architectural features are in Section 2.209, Yard and Lot Standards. Walls and fences may be placed on property lines, subject to standards in Section 2.207, Site and Landscaping Design. Walls and fences within front yards shall additionally comply with the vision clearance standards in Section 2.209.8, Yard and Lot Standards, Vision Clearance.
4. All principal structures shall maintain the following minimum yard setbacks:

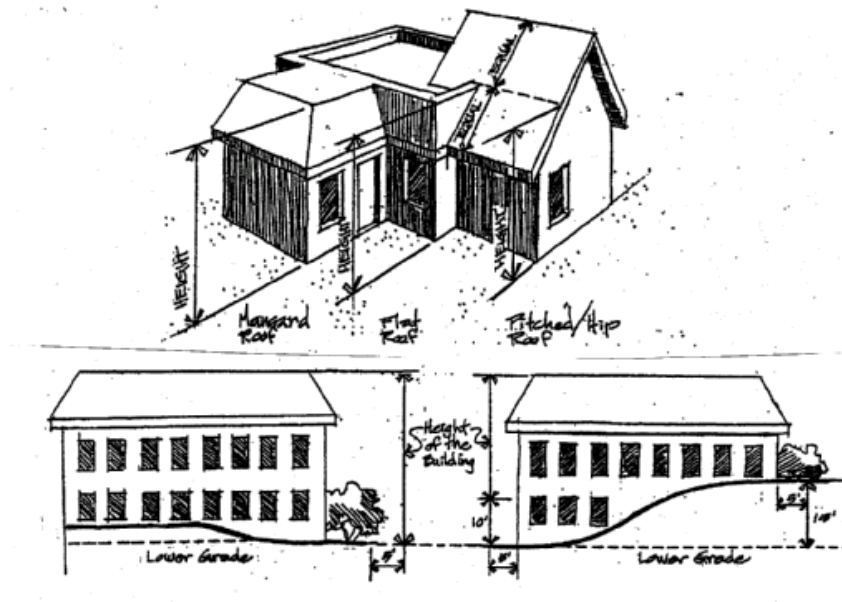
a.	Front Yard	20 feet
	Front Yard in front of a garage (non-arterial street)	24 feet
	Front Yard (Frontage on existing or proposed arterial street)	30 feet
b.	Rear Yard	20 feet
	Rear Yard (Abuts existing or proposed arterial street)	30 feet
	Rear Yard (duplex located on a corner lot)	15 feet
c.	Side Yard (interior)	10 feet
	Side Yard (duplex located on a corner lot)	15 feet
d.	Side Yard (adjacent to local/collector street)	15 feet
	Side Yard (adjacent to arterial street)	30 feet

### C. Maximum Structure Height

1. Principal Structures within the Low-Density Residential District shall be no more than 35 feet or three (3) stories in height whichever is greater. Building height may be restricted to less than these maximums when necessary to comply with the Building Height Transition standard in "4" below.

2. Method of Measurement. "Structure height" is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. See figures below. The reference datum shall be selected by either of the following; whichever yields a greater height of building:
  - a. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above the lowest grade;
  - b. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in subsection 'a' is more than ten (10) feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building. Not included in the maximum height are: chimneys, bell towers, steeples, roof equipment, flag poles, and similar features that are not for human occupancy.
3. Building Height Transition. To provide compatible building scale and privacy between developments, taller buildings shall "step-down" to create a building height transition to adjacent single-story building(s).
  - a. This standard applies to new and vertically expanded buildings within 30 feet (as measured horizontally) of an existing single-story building with a height of 20 feet or less, as shown below.
  - b. The building height transition standard is met when the height of the taller building ("x") does not exceed one (1) foot of height for every one (1) foot separating the two buildings ("y"), as shown below.

Building Height Measurement (Composite of Several Roof Forms)



D. Minimum Lot Width

70 feet

## 2.101.5 Development Standards

All development in the R-1 District shall comply with the applicable provisions of Section 2.400, General Provisions. In addition, the following specific standards shall apply:

- A. Off-street parking. Parking shall be as specified in Section 2.203
- B. Subdivisions and partitions. Land divisions shall be reviewed in accordance with the provisions of Section 2.208.
- C. Lot Coverage. "Lot Coverage" means all areas of a lot or parcel covered by buildings (as defined by foundation perimeters) and other structures with surfaces greater than 36 inches above finished grade. The following shall mean the maximum permitted lot coverage:
  - 1. Single-Family Detached Houses 65%
  - 2. Duplexes 65%
  - 3. Public Facility 65%
  - 4. Church 65%
- D. Signs. Signs in the R-1 District shall conform to the standards of Section 2.206
- E. Yards and Lots. Yards and lots shall conform to the standards of Section 2.209.
- F. Recreational vehicles, trailers, boats, and other similar vehicles shall not be parked in the front yard area of the dwelling.
- G. All driveways shall be separated from an intersection by at least twenty (20) feet.
- H. Accessory uses and structures are incidental and subordinate to the principal use or structure on the same lot or parcel. Typical accessory structures in the Low-Density Residential District include detached garages, sheds, workshops, in-ground pools, greenhouses, and similar structures. All accessory structures shall comply with the following standards:
  - 1. Primary use required. An accessory structure shall not be allowed without another permitted use.
  - 2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
  - 3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
  - 4. Accessory structures shall be located as follows:
    - a. Within a required rear or interior side yard, but not closer than 5 feet to the rear or interior side property line, and
    - b. Within a required side yard adjacent to a public or private street, a minimum of 10 feet behind the front building line of the residential structure and no closer than 15 feet to the side property line adjacent to a public or private street.

Exception: Garden and storage buildings that are 200 square feet or less, and less than 12 feet in height are exempt from this standard.

5. No more than two (2) accessory structures between 50 square feet and 200 square feet in size may be located on a residential lot.
6. The area of an accessory structure shall not exceed 65 percent of the lot area minus the area of impervious surface of the lot, including all buildings, driveways, walkways, and other impervious surfaces. Applications for a building permit for an accessory structure over 200 square feet in size shall include a site plan detailing all buildings and other impervious surfaces on the lot..
7. Two (2) accessory structures may be permitted on a lot. The total number of accessory structures does not include the primary garage or garden/storage buildings that are 200 square feet or less and less than 12 feet in height.
8. Accessory structures, excluding garden/storage buildings, in-ground pools, and light gauge metal awnings that do not exceed 40% enclosure from peak down, shall be constructed of materials that are similar in color, material, and appearance to the house. The roof shall be similar in pitch, design, and materials, subject to approval by City Staff.
9. Garden/storage buildings that are 200 square feet or less and less than 12 feet in height are not required to meet property line setbacks but shall be in compliance with State Building and Fire Code requirements.
10. An accessory structure, excluding the primary garage, may be allowed a 40-foot driveway width.
11. An accessory structure located on a corner lot may have an additional driveway on the side, one driveway per street frontage, provided the Public Works Design Standards are met.
12. Accessory structures, including light gauge metal buildings, awnings, and/or covers, shall not exceed the height of the primary dwelling.
13. Structures built from frameworks of light gauge metal including, but not limited to patio covers and swimming pool covers, which exceed 200 square feet in exterior dimensions shall meet the applicable setbacks in Section 2.101.5, H.

#### **2.101.6 Design Standards**

All dwelling units in the R-1 District shall comply with the following design standards:

- A. A minimum size of 1,000 square feet of habitable space.
- B. A nominal roof pitch of no less than 4/12.
- C. Roofing materials: composition asphalt, fiberglass shingles, wood shake, tile, metal shakes, or standing rib metal roof.
- D. Exterior siding: standard wood siding, T - 111, brick, stucco, rock, cement plank or a siding of equivalent appearance.
- E. Constructed with an enclosed, attached or detached garage. The garage shall be constructed of materials that are similar in color, material, and appearance to the house. Construction of carports is not allowed to meet the garage requirements. The garage shall be constructed prior to occupancy. If attached, the garage may be offset from the front elevation (i.e., living area or covered front porch) by a maximum of four (4) feet.

- F. The following standards will be applied to all single-family and duplex dwellings, whether modular or manufactured homes or site-built homes, to be constructed or located in any zone. All single-family homes or duplexes shall utilize at least three of the following design features to provide visual relief along the front of the home:

1. Dormers;
2. Gables;
3. Recessed entries;
4. Covered porch entries;
5. Cupolas;
6. Pillars or posts;
7. Bay or bow windows;
8. Eaves (minimum 6" projection)
9. Off-sets on building face or roof (minimum 16")

#### **2.101.7 Special Standards for Certain Uses**

- A. Public and Institutional Land Uses. Public and institutional land uses, as listed in Section 2.101.03.A, Conditional Uses, are allowed in the Low Density Residential District subject to the following land use standards, which are intended to control the scale of these developments and their compatibility with nearby residences:

1. Development Site Area. The maximum development site area shall be four (4) acres, except that this standard shall not apply to parks and open space uses.
2. Vehicle Areas and Trash Receptacles. All vehicle areas (i.e., parking, drives, storage, etc.) and trash receptacles shall be oriented away from adjacent residences to the greatest extent practicable and shall be screened with an evergreen hedge or solid fence or wall of not less than six (6) feet in height.
3. A minimum front yard setback is not required, except as necessary to comply with the vision clearance standards in Section 2.209.08. A maximum setback standard shall not be required for buildings that do not receive the public (e.g., buildings used solely for storage or housing mechanical equipment, and similar use).

- B. Accessory Dwelling Unit (ADU) Standards.

1. An ADU may be detached from the primary dwelling, an addition to the primary dwelling, the conversion of a portion of the primary dwelling, or an addition to or the conversion of an attached or detached garage or other accessory structure.
2. An ADU shall comply with the development standards, including setback and coverage requirements, of the underlying zoning district, except as set forth in this section.
3. Building Construction. An ADU shall comply with all applicable Building Code requirements.
4. Number of Units. A maximum of one (1) ADU is allowed per single-family dwelling.

5. An ADU shall not be a manufactured home or a modular structure. A storage container is not allowed.
6. An ADU shall not be located in a front yard or a side yard adjacent to a public or private street, unless it is the conversion of an existing accessory structure located in a front yard or a side yard adjacent to a public or private street. Where the existing structure is nonconforming, the conversion shall not increase the nonconformity of the structure.
7. A new ADU shall be recessed back at least five (5) feet behind the front building elevation of the primary dwelling facing a public or private street. An existing garage that is not recessed back at least five (5) feet behind the front building elevation of the primary dwelling facing a public or private street can be converted to an ADU.
8. When the ADU is interior to the primary residence, its entrance shall not be located on the front, street-facing side of the primary residence.
9. A new detached ADU shall be separated from the primary dwelling at least 6 feet or be constructed with a two-hour firewall, or comply with the applicable building code requirement, whichever is more stringent.
10. If provided, ADU parking spaces shall be accessed via an existing driveway, which may be increased to a maximum 40-foot width for the ADU. If the property is a corner lot, an additional driveway may be added on the side, one driveway per street frontage.
11. Floor Area.
  - i. Minimum: An ADU shall have a gross floor area of at least two hundred square feet.
  - ii. An ADU shall not exceed 800 square feet of gross floor area, or 75 percent of the primary dwelling's gross floor area, whichever is smaller. The floor area of a garage attached to the primary dwelling shall not be included in the calculation of the maximum floor area. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 800 square feet.
12. Height. A detached ADU shall not exceed a height of 15 feet, unless the primary residence is two stories, in which case the ADU may be two stories or unless the ADU is a conversion of an existing structure.
13. An ADU's siding and roofing materials shall be similar to the siding and roofing materials of the primary dwelling or materials typical of single family construction in the city.
14. New construction of ADUs shall comply with the design standards set forth in Section 2.101.6 of the Sublimity Development Code, except for the minimum size requirement in Section 2.101.6A and the garage requirement in Section 2.101.6E.
15. Conversion of an existing legal non-conforming structure to an ADU is allowed, provided the conversion does not increase the non-conformity.

16. Screening and Buffering. A sight obscuring landscape hedge or fence shall be installed on the property line separating a detached ADU from an abutting lot containing a single-family dwelling for the purpose of visual screening and privacy between uses when an existing accessory structure located within the side or rear setback is converted to an Accessory Dwelling Unit.
17. The rental of an ADU on a short-term basis (less than one month) is prohibited.

C. House of Worship Uses.

House of worship uses include, but are not limited to:

1. Worship services;
2. Religious classes;
3. Weddings;
4. Funerals;
5. Meal programs;
6. Childcare, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education;
7. 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 Subsection 8, below.
8. Where a house of worship is in a residential district, in addition to, or in place of, the housing allowed in Subsection 7, above, housing or space for housing in a building that is detached from the place of worship, is allowed provided:
  - a. At least 50 percent of the residential units provided under this paragraph 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;
  - b. The real property is in an area zoned for residential use that is located within the urban growth boundary; and
  - c. 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.
  - d. Housing and space for housing provided under Subsection 8, of 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 Subsection 8, 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.

D Duplex Garage Standards. Duplexes receiving access directly from a public or private street shall comply with the following standards to minimize interruption of adjacent sidewalks by driveway entrances, to slow traffic, to improve appearance of the streets, and to minimize paved surfaces for better storm water management.

1. Garages facing a street may be offset from the front elevation (i.e., living area or covered front porch) by a maximum of four (4) feet.



2. Driveway approaches shall meet the requirements specified by the Sublimity Public Works Design Standards for maximum allowable driveway width (24 feet per dwelling unit).
3. Duplex garages shall meet the setback requirements in 2.101.4, B, 4, a, Front Yard Setbacks.
4. Two adjacent garages shall share one driveway when individual driveways would otherwise be separated by less than 20 feet (i.e., the width of one on street parking space). When a driveway serves more than one lot, the developer shall record an access and maintenance easement/agreement to benefit each lot, prior to building permit issuance

## **2.102 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)**

### **2.102.1 Purpose**

The Medium-Density Residential R-2 District is intended to provide for single family and multifamily housing opportunities at a density no greater than 20 units per acre. The R-2 zone is consistent with the Multifamily Residential Comprehensive Plan Designation.

### **2.102.2 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Development Code, the following uses are permitted in the R-2 District:

- A. Single family dwelling unit per lot or parcel, including single family manufactured home subject to Section 2.303, Manufactured Homes, except a manufactured home shall not be placed within an acknowledged historic district nor adjacent to an historic landmark
- B. Single family detached zero-lot line, subject to the provisions of 2.102.7, A, Special Standards for Certain Uses, Zero-Lot Line.
- C. Single family attached townhome, subject to the provisions of Section 2.102.7, B, Special Standards for Certain Uses, Single Family attached (townhomes) and Duplexes.
- D. Duplex, subject to the provisions of 2.102.7, B, Special Standards for Certain Uses, Single family attached (townhomes) and Duplexes.
- E. Accessory Dwelling Unit, subject to the provisions of Section 2.102.7, D, Special Standards for Certain Uses, Accessory Dwelling Unit Standards.
- F. Multi-family housing, including, but not limited to apartments and condominiums, at a density no greater than 20 units per acre, subject to the provisions of Section 2.102.7, C, Special Standards for Certain Uses, Multi-family Housing, and Section 3.105, Site Development Review.
- G. Bed and breakfast establishment, subject to the Site Development Review procedures of Section 3.105.
- H. Residential care home and residential care facility
- I. Family childcare
- J. Home occupation, subject to the provisions of Section 2.305, Home Occupations.
- K. Parks and open space areas
- L. 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 2.102.7, E, Special Standards for Certain Uses, House of Worship Uses.
- M. Accessory structure or use
- N. Manufactured home parks, subject to the provisions of Section 2.304, Manufactured Home Parks. Within manufactured home parks, only the following uses are permitted outright:
  - 1. Manufactured homes and occupied recreational vehicles, if lawfully connect 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.

### **2.102.3 Conditional Uses**

The following uses may be permitted in the R-2 District in accordance with Section 3.103, Conditional Use Permits:

- A. Public facilities, government structures, communication towers for emergency services, or communications antennas on existing structures.
- B. Hospitals

### **2.102.4 Dimensional Standards**

The following minimum dimensional standards shall be required for all development in the R-2 District except for modifications permitted under Section 2.402, General Exceptions.

#### **A. Minimum Lot Area**

- |    |   |  |
|----|---|--|
| 1. | Single-family dwelling                  | 7,000 square feet  |
| 2. | Single-family detached zero-lot line.   | 7,000 square feet  |
| 3. | Single-family attached townhome         | 7,000 square feet  |
| 2. | Duplex                                  | 8,000 square feet  |
| 3. | Multi-family dwelling first three units | 9,000 square feet  |
|    | each additional unit                    | 1,500 square feet  |
| 4. | Public utility structures:              | Lot area shall be adequate to contain all proposed structures within the required yard setbacks. |

#### **B. Minimum Yard (Building) Setbacks.**

1. Building setbacks provide space for private yards, and building separation for fire protection/security, building maintenance, sunlight, and air circulation.
2. Building setbacks are measured from the *exterior wall of building* to the respective property line. Setbacks for decks and porches are measured from the edge of the deck or porch to the respective property line. The setback standards set forth in Section 2.102.4, B, 4, apply to principal structures. A variance is required in accordance with Section 3.104 to modify any setback standard.
3. Setback exceptions for architectural features are found in Section 2.209 Yard and Lot Standards. Walls and fences may be placed on property lines, subject to standards in Section 2.207 Site and Landscaping Design. Walls and fences within front yards shall additionally comply with the vision clearance standards in Section 2.209.8, Yard and Lot Standards, Vision Clearance.

4. All principal structures shall maintain the following minimum yard setbacks:
  - a. Front Yard 20 feet  
 Front Yard in front of a garage (non-arterial street) 24 feet  
 Front Yard (frontage on existing or proposed arterial street) 30 feet
  - b. Rear Yard 15 feet  
 Rear Yard (abuts existing or proposed arterial street) 30 feet
  - c. Side Yard (interior) 9 feet  
 Side Yard (adjacent to street other than an arterial) 15 feet  
 Side Yard (adjacent to arterial street) 30 feet
5. When zero-lot line development is permitted, the minimum side yard setbacks shall be ten (10) feet minimum on one side of the dwelling unit, and no setback required on the opposite side. See standards for zero-lot line housing in Section 2.102.7, A.

C. Maximum Structure Height. For method of measurement, see Section 2.101.04.C.2.

Principal Structures within the Medium-Density Residential District shall be no more than 35 feet or three (3) stories in height whichever is greater. Building height may be restricted to less than these maximums when necessary to comply with the Building Height Transition standard in 2.101.04.C.3.

D. Minimum Lot Width

1. Single-family dwelling 70 feet
2. Single-family attached (townhouse) 50 feet

**2.102.5 Development Standards**

All development in the R-2 District shall comply with the applicable provisions of Section 2.400, General Provisions. In addition, the following specific standards shall apply:

- A. Off-street parking. Parking shall be as specified in Section 2.203.
- B. Subdivisions and partitions. Land divisions shall be reviewed in accordance with the provisions of Section 2.208.
- C. Lot Coverage. "Lot Coverage" means all areas of a lot or parcel covered by buildings (as defined by foundation perimeters) and other structures with surfaces greater than 36 inches above finished grade.
  1. Residential Uses 65%
  2. Churches 65%
  3. Public/Institutional Uses 65%
- D. Multi-family residential uses (three units or more) shall comply with the following standards:
  1. Multi-family developments shall be subject to the Site Development procedures in Section 3.105.
  2. All multi-family residential structures within a development shall maintain a minimum horizontal separation distance of fifteen (15) feet.
  3. Access points to public streets shall minimize traffic congestion and avoid directing traffic onto local access streets.

- E. Yards and Lots. Yards and lots shall conform to the standards of Section 2.209.
- F. Signs. Signs shall conform to the requirements of Section 2.206.
- G. Recreational vehicles, trailers, boats, and other similar vehicles shall not be parked in the front yard area of the dwelling. Recreational vehicles, trailers, boats, and other similar vehicles may be parked in a driveway that leads to a garage or a designated parking area located in the side or rear yard.
- H. Driveways shall be separated from an intersection by at least twenty (20) feet.
- I. Accessory uses and structures are incidental and subordinate to the principal use or structure on the same lot or parcel. Typical accessory structures in the Medium-Density Residential District include detached garages, sheds, workshops, in- ground pools, greenhouses and similar structures. All accessory structures shall comply with the following standards:
  - 1. Primary use required. An accessory structure shall not be allowed without another permitted use.
  - 2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
  - 3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval.
  - 4. Accessory structures shall be located as follows:
    - a. Within a required rear or interior side yard, and not closer than five (5) feet to the rear or interior side property line, and
    - b. Within a required side yard adjacent to a public or private street and a minimum of ten (10) feet behind the front building line of the residential structure and no closer than 15 feet to the side property line adjacent to a public or private street.

Exception: Garden and storage buildings that are 200 square feet or less, and less than 12 feet in height are exempt from this standard.

  - 5. The maximum area of an accessory structure shall not exceed 65 percent of the lot area minus the area of impervious surface of the lot, including all buildings, driveways, walkways, and other impervious surfaces. Applications for a building permit for an accessory structure over 200 square feet in size shall include a site plan detailing all buildings and other impervious surfaces on the lot.
  - 6. Accessory structures, excluding garden / storage buildings, and in-ground pools, shall be constructed of materials that are similar in color, material, and appearance to the house. The roof shall be similar in pitch, design and materials.
  - 7. Garden / storage buildings that are 200 square feet or less and less than 12 feet in height are not required to meet property line setbacks but shall be in compliance with State Building and Fire Code requirements.
  - 8. An accessory structure, excluding the primary garage, may be allowed a 40-foot driveway width.
  - 9. An accessory structure located on a corner lot may have an additional driveway on the side, one driveway per street frontage provided the Public Works Design Standards are met.

10. Accessory Structures shall be no more than 25 feet in height.

## **2.102.6 Design Standards**

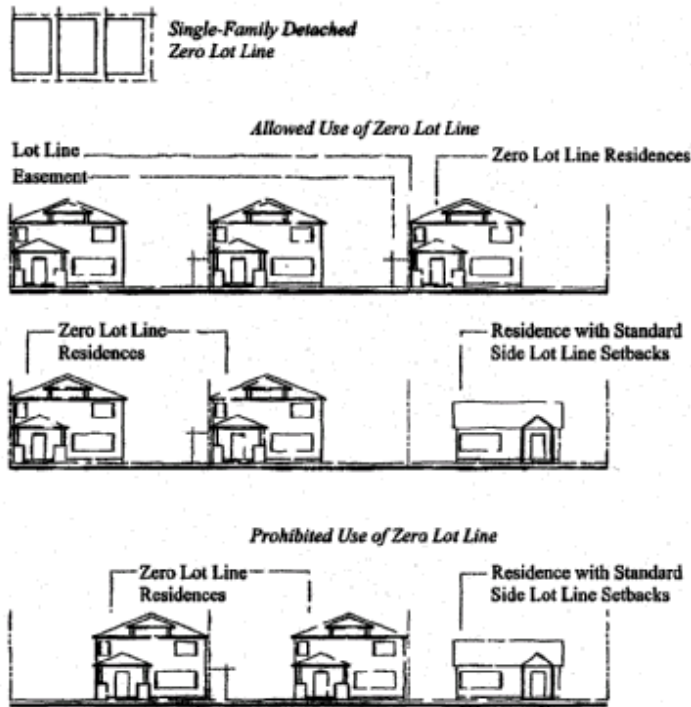
All dwelling units in the R-2 District shall comply with the following design standards:

- A. A minimum of 800 square feet in size of habitable space for single family dwellings. There is no minimum size requirement for multi-family dwellings.
- B. A nominal roof pitch of no less than 4/12.
- C. Roofing materials: composition asphalt, fiberglass shingles, wood shake, tile, or other roofing material approved by the Planning Commission.
- D. Exterior siding: standard wood siding, T-111, brick, stucco, rock or a siding of equivalent appearance.
- E. Constructed with an enclosed, attached or detached garage. When a garage faces the street, it may be offset from the front elevation by a minimum of four (4) feet. Multi-family apartment structures are exempt from this requirement.
- F. For duplexes, triplexes, and other multifamily structures, the horizontal face of the structure shall provide offsets at a minimum of every 30 feet by providing any two of the following:
  1. Recesses (decks, patios, entrances, etc.) with a minimum depth of two (2) feet, or
  2. Extensions (decks, patios, entrances, etc.) with a minimum depth of four (4) feet, or
  3. Offsets or breaks in roof elevation of two (20) or more feet in height.

## **2.102.7 Special Standards for Certain Uses**

- A. "Zero-lot line" (single family detached home). "Zero-lot line" houses are subject to the same standards as single-family housing, except that a side yard setback is not required on one side of a typical lot (as shown below). This type of housing is permitted to allow development on smaller (i.e., narrower) lots and still provide usable outdoor living area in side-oriented courtyards. The following standards are intended to promote compatibility and privacy between adjacent buildings and allow for building maintenance:
  1. Setbacks Adjacent to Non-Zero Lot Line Development. When a zero-lot line house shares a side property line with a non-zero lot line development, the zero-lot line building shall be setback from the common property line by a minimum of ten (10) feet;
  2. Construction and Maintenance Easement. Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero-lot line house that guarantees rights for the purpose of construction and maintenance of structures and yards. The easement shall stipulate that no fence or other obstruction shall be placed in a manner that would prevent maintenance of structures on the subject lot; and

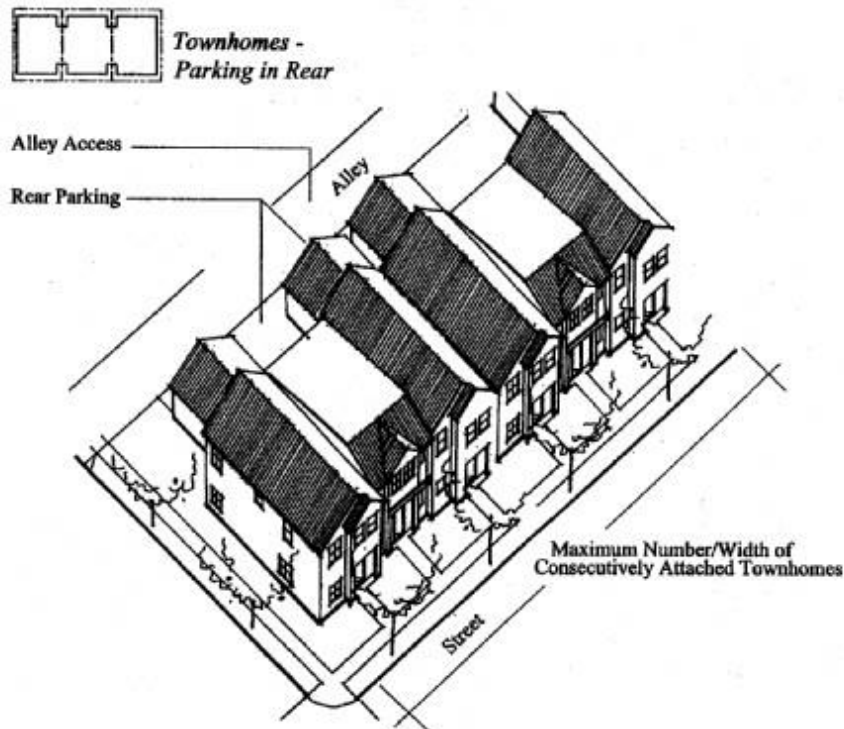
## Zero-Lot Line Housing



3. Buffering. The building placement, landscaping, and/or design of windows shall provide a buffer for the occupants of abutting lots. For example, this standard is met by placing ground-floor windows (along the zero setback) above sight lines with direct views into adjacent yards, or by directing views away from yards (e.g., bay window), or by using frosted/non-see-through windows, as necessary.
- B. Single-family attached (townhomes), and Duplexes. Single-family attached housing (townhome units on individual lots), and duplex developments shall comply with the standards in 1 – 4, below. The standards are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure proper management and maintenance of common areas.
  1. Alley Access. Townhome, and duplex subdivisions (4 or more lots) shall receive vehicle access only from a rear alley. Alley(s) shall be created at the time of subdivision approval, in accordance with Section 3.107 – Subdivisions. Alleys are not required when existing development patterns or topography makes construction of an alley impracticable (See #3 for standards). As necessary, the city shall require dedication of right-of-way or easements and construction of pathways between townhome lots (e.g., between building breaks) to implement the standards in Section 2.200 – General Development Standards.
  2. Street Access Developments. Townhomes and duplexes receiving access directly from a public or private street shall comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, and minimize paved surfaces for better storm water management.
    - a. When garages face the street, they may be offset from the front elevation (i.e., living area or covered front porch) by a maximum of four (4) feet.

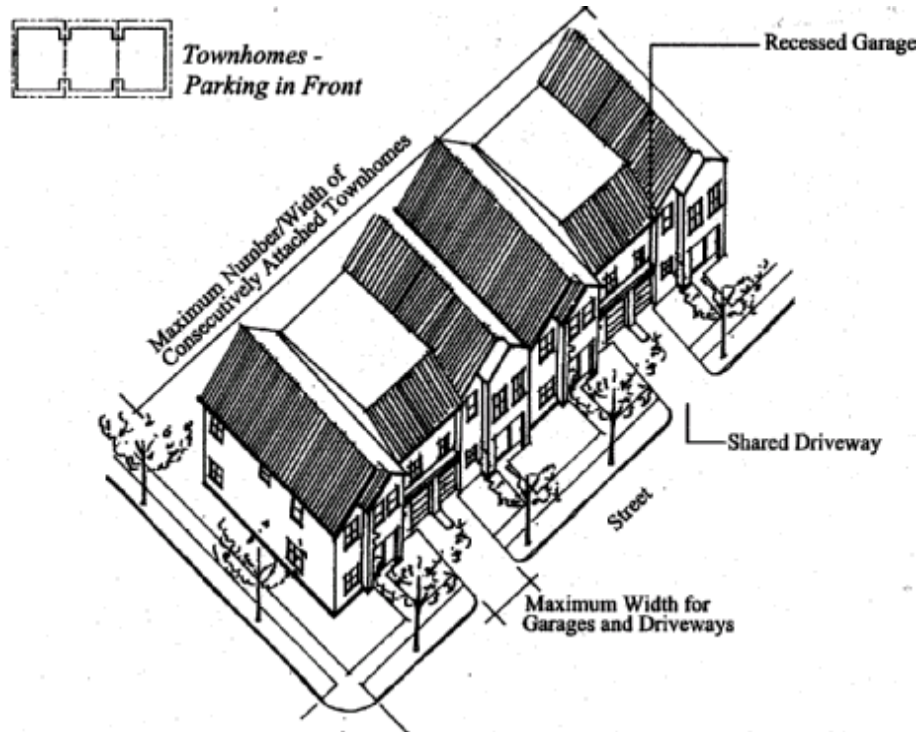
- b. Driveway approaches shall meet requirements specified by the Public Works Design Standards for maximum allowable driveway width (24 feet per dwelling unit). The maximum combined garage width per unit is 50 percent of the total building width. For example, a 24-foot wide unit may have one 12-foot wide recessed garaged facing the street. Garages for townhomes and duplexes shall meet the setback requirements found in 2.102.04(B)(1)(a).
- c. Two adjacent garages shall share one driveway when individual driveways would otherwise be separated by less than 20 feet (i.e., the width of one on-street parking space). When a driveway serves more than one lot, the developer shall record an access and maintenance easement/agreement to benefit each lot, prior to building permit issuance.

#### **Townhomes and Multiplex Housing with Alley Access**





### Townhomes and Multiplex Housing with Street Access



3. Common Areas. "Common areas" (e.g., landscaping in private tracts, shared driveways, private alleys, and similar uses) shall be maintained by a homeowners' association or other legal entity. A homeowners' association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

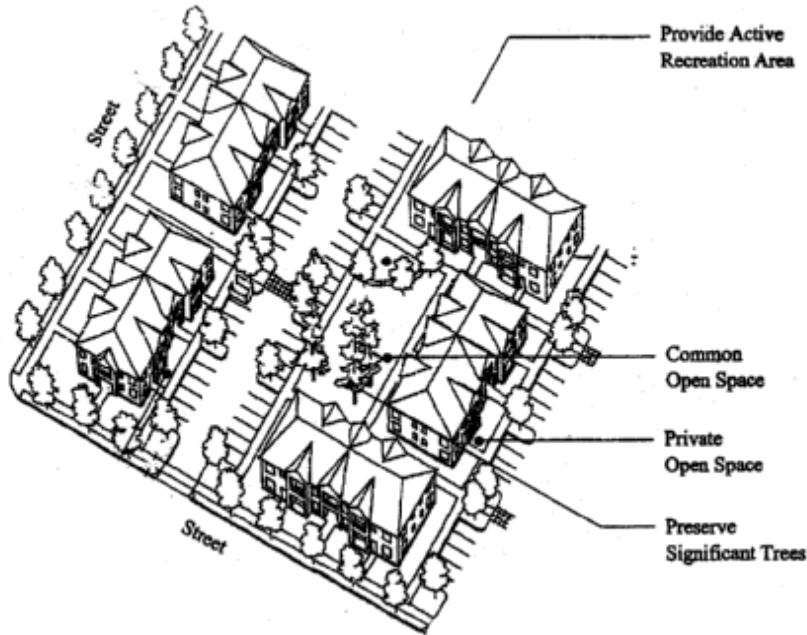
#### C. Multifamily housing.

Multifamily housing is allowed within the Medium Density Residential District. Multifamily housing means housing that provides three (3) or more dwellings on an individual lot or parcel (e.g., triplexes, multiplexes, apartments, condominiums, etc.). New multifamily developments shall comply with all of the following standards:

1. Building Mass Supplemental Standard. Within the R-2 District, the maximum width or length of a multiple family building shall not exceed 160 feet (from end-wall to end-wall).
2. Common open space standard. Inclusive of required setback yards, a minimum of fifteen (15) percent of the site area shall be designated and permanently reserved as usable common open space in all multifamily developments. The site area is defined as the lot or parcel on which the development is planned, after subtracting any required dedication of street right-of-way and other land for public purposes (e.g., public park or school grounds, etc.). Sensitive lands and historic buildings or landmarks open to the public and designated by the Comprehensive Plan may be counted toward meeting the common open space requirements.
3. Private open space standard. Private open space areas shall be required for ground-floor and upper-floor housing units based on all of the following standards:

- a. All ground-floor housing units shall have front or rear patios or decks measuring at least 48 square feet. Ground floor housing means the housing unit entrance (front or rear) is within five (5) feet of the finished ground elevation (i.e., after grading and landscaping);
- b. A minimum of 50 percent of all upper-floor housing units shall have balconies or porches measuring at least 21 square feet. Upper-floor housing means housing units that are more than five (5) feet above the finished grade;
- c. Private open space areas shall be oriented toward common open space areas and away from adjacent single-family residences, trash receptacles, parking and drives to the greatest extent practicable.

## Multifamily Housing (typical site layout)



4. Exemptions. Exemptions to the common open space standard may be granted for multi-unit developments of up to ten (10) units. Exemptions may be granted for the first twenty (20) units of a larger project when these developments are within one-quarter mile (measured walking distance) of a public park; and there is a direct, accessible (i.e., Americans With Disabilities Act-compliant), lighted, and maintained pedestrian trail or sidewalk between the site and the park. An exemption shall be granted only when the nearby park provides active recreation areas such as play fields; children's play area, sports courts, walking/fitness course, or similar facilities.
5. Trash receptacles. Trash receptacles shall be oriented away from adjacent residences and shall be screened with an evergreen hedge or solid fence or wall of not less than 6 feet in height.

### D. Accessory Dwelling Unit (ADU) Standards.

1. An ADU may be detached from the primary dwelling, an addition to the primary dwelling, the conversion of a portion of the primary dwelling, or an addition to or the conversion of an attached or detached garage or other accessory structure.
2. An ADU shall comply with the development standards, including setback and coverage requirements, of the underlying zoning district, except as set forth in this section.
3. Building Construction. An ADU shall comply with all applicable Building Code requirements.
4. Number of Units. A maximum of one (1) ADU is allowed per single-family dwelling.
5. An ADU shall not be a manufactured home or a modular structure. A storage container is not allowed.

6. An ADU shall not be located in a front yard or a side yard adjacent to a public or private street, unless it is the conversion of an existing accessory structure located in a front yard or a side yard adjacent to a public or private street. Where the existing structure is nonconforming, the conversion shall not increase the nonconformity of the structure.
7. A new ADU shall be recessed back at least five (5) feet behind the front building elevation of the primary dwelling facing a public or private street. An existing garage that is not recessed back at least five (5) feet behind the front building elevation of the primary dwelling facing a public or private street can be converted to an ADU.
8. When the ADU is interior to the primary residence, its entrance shall not be located on the front, street-facing side of the primary residence.
9. A new detached ADU shall be separated from the primary dwelling at least 6 feet or be constructed with a two-hour firewall, or comply with the applicable building code requirement, whichever is more stringent.
10. Parking. If provided, ADU parking spaces shall be accessed via an existing driveway, which may be increased to a maximum 40-foot width for the ADU. If the property is a corner lot, an additional driveway may be added on the side, one driveway per street frontage.
11. Floor Area.
  - i. Minimum: An ADU shall have a gross floor area of at least two hundred square feet.
  - ii. An ADU shall not exceed 800 square feet of gross floor area, or 75 percent of the primary dwelling's gross floor area, whichever is smaller. The floor area of a garage attached to the primary dwelling shall not be included in the calculation of the maximum floor area. However, Accessory Dwellings that result from the conversion of a level or floor (e.g. basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 800 square feet.
12. Height. A detached ADU shall not exceed a height of 15 feet, unless the primary residence is two stories, in which case the ADU may be two stories or unless the ADU is a conversion of an existing structure.
13. An ADU's siding and roofing materials shall be similar to the siding and roofing materials of the primary dwelling or materials typical of single family construction in the city.
14. New construction of ADUs shall comply with the design standards set forth in Section 2.102.6 of the Sublimity Development Code, except for the minimum size requirement in Section 2.102.6A and the garage requirement in Section 2.102.6E.
15. Conversion of an existing legal non-conforming structure to an ADU is allowed, provided the conversion does not increase the non-conformity.

16. Screening and Buffering. A sight obscuring landscape hedge or fence shall be installed on the property line separating a detached ADU from an abutting lot containing a single-family dwelling for the purpose of visual screening and privacy between uses when an existing accessory structure located within the side or rear setback is converted to an Accessory Dwelling Unit.
17. The rental of an ADU on a short-term basis (less than one month) is prohibited.

#### E. House of Worship Uses.

House of worship uses include, but are not limited to:

1. Worship services;
2. Religious classes;
3. Weddings;
4. Funerals;
5. Meal programs;
6. Child care, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education;
7. 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 Subsection 8, below.
8. Where a house of worship is in a residential district, in addition to, or in place of, the housing allowed in Subsection 7, above, housing or space for housing in a building that is detached from the place of worship, is allowed provided:
  - a. At least 50 percent of the residential units provided under this paragraph 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;
  - b. The real property is in an area zoned for residential use that is located within the urban growth boundary; and
  - c. 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.
  - d. Housing and space for housing provided under Subsection 8, of 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 Subsection 8, 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.

## **2.103 COMMERCIAL-GENERAL DISTRICT (C)**

### **2.103.1 Purpose**

To provide areas for the broad range of commercial operations and services required to meet the economic needs of the City of Sublimity. The Commercial district is consistent with the Commercial Comprehensive Plan designation. A city goal is to establish the core area as a vital component of the community. The Commercial District is a logical place for people to gather and create a business center. The District is intended to support this goal through elements of design and appropriate mixed-use development. This chapter provides standards for the orderly improvement and expansion of the Commercial-General District based on the following principles:

- Efficient use of land and urban services;
- A mixture of land uses to encourage walking as an alternative to driving, and provide more employment and housing options;
- There is a distinct storefront character that identifies The Commercial District's core area;
- The Commercial District is connected to neighborhoods.

### **2.103.2 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Development Code, the following uses are permitted in the C zone. Only land uses that are specifically listed, and land uses that are approved as "similar" to those permitted may be permitted. Similar use determinations shall be made in conformance with the procedures in Section 3.108.

- A. Retail trade establishments engaged in selling goods or merchandise to the general public for personal or household consumption such as retail groceries, hardware stores, gas stations, department stores, and sporting goods stores.
- B. Personal and professional service establishments offering services and entertainment to the general public for personal or household consumption such as non-drive through eating and drinking establishments (e.g., catering/food services, restaurants), childcare center, laundromats and dry cleaners, barber shops, motels, bed and breakfasts, banks, real estate, and financial services and similar uses.
- C. Business service establishments engaged in rendering services to other businesses on a fee or contract basis such as building maintenance, employment services, and consulting services.
- D. Medical and dental offices, clinics, and laboratories
- E. Office uses (i.e., those not otherwise listed)
- F. Dwelling units accessory and subordinate to a permitted use or above a permitted use in accordance with R-2 development standards
- G. Child care facilities, including family day care
- H. Residential care home and residential care facility subject to the standards in Section 2.102.07
- I. Entertainment (e.g. theaters, clubs, amusement uses and recreational services)

- J. Single Family Residential Home or Duplex on existing lots between Johnson Street and Center Street and not fronting on Center Street, south of Starr Street and north of Division Street, and meeting all lot size and setback standards of the R-1 zone.
- K. 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 worship services, religious classes, weddings, funerals, and meal programs.

### 2.103.3 Conditional Uses

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

- A. Except as provided in Section 2.307, any commercial service or business activity otherwise permitted, involving the processing of materials which is essential to the permitted use and which processing of materials is conducted wholly within an enclosed building.
- B. Government or public facility structures
- C. Automobile-Oriented Uses and Facilities (e.g. Drive-through eating and drinking establishments), subject to the special standards set forth in Section 2.103.07.
- D. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications antennas or towers
- E. Light Manufacture, subject to the special standards set forth in Section 2.103.8.
- F. Manufactured Home, Trailer, and Vehicular Sales, Service and Related Uses, subject to the special standards set forth in Section 2.103.9.

### 2.103.4 Dimensional Standards

The following minimum and maximum dimensional standards, with the exception of modifications permitted under Section 2.402, shall be required for all development in the Commercial District.

- |    |                                     |  |
|----|-------------------------------------|--|
| A. | Minimum lot area:                   | No Limitation                          |
| B. | Minimum yard setbacks:              |  |
|    | 1. Front Yard                       | None                                   |
|    | 2. Rear Yard                        |  |
|    | Abutting a non-residential district | None                                   |
|    | Abutting a residential district     | 10 feet                                |
|    | 3. Side Yard                        |  |
|    | Abutting a non-residential district | None                                   |
|    | Abutting a residential district     | 10 feet                                |
|    | Abutting a street                   | 10 feet                                |
| C. | Minimum Building Size:              | 10 percent of the lot's square footage |
|    | Maximum Building Size:              | 100,000 Square feet                    |
| D. | Maximum structure height:           | Two-stories not exceeding 24 feet      |

### **2.103.5 Development Standards**

All developments in the Commercial District shall comply with the applicable provisions of Section 2.400 of this Development Code. In addition, the following specific standards shall apply:

- A. Off-Street Parking. Off-street parking shall be as specified in Section 2.203. No parking or loading areas shall be located between the primary building and the street.
- B. Signs. Signs in the Commercial District shall be subject to the provisions of Section 2.206.
- C. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Section 3.107.
- D. Design Review. All new development and expansion of an existing structure or use by 20% or more in first floor area in the Commercial District shall be subject to the Site Development Review procedures of Section 2.103.6 and 3.105.
- E. Outdoor Display. There shall be no outdoor display or storage of materials or merchandise within a designated alleyway, roadway or sidewalk that would impede pedestrian or vehicular traffic except during community retail sales events. Safety precautions shall be observed at all times.
- F. Minimum Landscaped Area. Landscaping in the Commercial District shall be subject to Section 2.207.
- G. Access. All driveways and points of access shall be subject to the provisions of Section 2.202.03(N).

### **2.103.6 Commercial Corridor Overlay Zone Design Standards**

Purpose and Applicability. The Commercial Corridor architectural guidelines and standards are intended to provide detailed, human-scale design, while affording flexibility to use a variety of building styles. All development in the Commercial Corridor as defined on the official City of Sublimity Zoning Map shall comply with the following design standards:

- A. Types and Sizes of Windows. All businesses shall install windows that:

- 1. Cover 60 percent\* of the front building wall, and

\* See definitions, Section 1.200, and accompanying graphic in Appendix A.

- 2. Are translucent or “slightly” tinted.

The Planning Commission may approve exceptions to items 1 and 2 above through the Site Design Review process if the exceptions are consistent with the intent and purpose of this zone.

- B. Buildings shall utilize at least three (3) of the following design features:

- 1. Awnings,
  - 2. Covered porches,
  - 3. Eaves,
  - 4. Building façade materials,
  - 5. Roof line offsets, or



6. Front building wall offsets,

Standards for Numbers 1, 2, and 3: Awnings, Covered Porches, and Eaves. All awnings, covered porches, and eaves shall be attached to the main building, a minimum of ten (10) feet in depth, and extend the full distance of the front wall parallel to Center Street.

Standards for Number 4: Restricted building facade materials. All building walls facing streets shall be constructed of brick, stone, dry-vit, log, cedar, or horizontal lap siding. The use of corrugated steel, Quonset hut designs, cinder block, and concrete slab walls are prohibited.

Standards for Number 5: Roof line off-sets. To preclude large expanses of uninterrupted building/roof surfaces, exterior elevations along the building front shall incorporate projections, dormers, gables, or other similar elements. Each building shall have at least one off-set design, and additional off-set designs shall occur at a minimum of every thirty (30) feet.

Standards for Number 6: Building offsets. To preclude long, unbroken building facades and simple box forms, exterior elevations along the building front wall shall incorporate offset design features such as recesses, projections, extensions, or other similar elements. Each building shall have at least one offset design, and additional offset designs shall occur at a minimum of every thirty (30) feet.

Offsets or breaks in roof elevation shall be three (3) or more feet in height.

C. Acceptable building materials include brick, stone, dry-vit, cedar or horizontal lap siding.

**2.103.7 Automobile-Oriented Uses and Facilities.**

Automobile-oriented uses and facilities, as defined below, shall conform to all of the following standards in the Commercial-General (C) District. The standards are intended to provide a vibrant storefront character, slow traffic down, and encourage walking.

- A. Parking, Garages, and Driveways. All off-street vehicle parking, including surface lots and garages, shall be accessed from alleys, placed underground, or located in parking areas located behind or to the side of a building; except that side yards on corner lots shall not be used for surface parking. All garage entrances facing a street (e.g., underground, or structured parking) shall be recessed behind the front elevation by a minimum of four (4) feet. On corner lots, garage entrances shall be oriented to a side street i.e., away from Center Street when vehicle access cannot be provided from an alley. Individual surface parking lots shall not exceed a total of 30 parking spaces, or one-half city block, whichever is smaller.
- B. Automobile-Oriented Uses. "Automobile-oriented use" means automobiles and/or other motor vehicles are an integral part of the use. These uses are restricted because, when unrestricted, they detract from the pedestrian-friendly, storefront character of the district and can consume large amounts of land relative to other permitted uses. Automobile-oriented uses shall comply with the following standards:
  - 1. Vehicle repair, sales, rental, storage, service. Businesses that repair, sell, rent, store, or service automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, and similar vehicles and equipment are permitted when the use is contained within an enclosed building.

2. Drive-up, drive-in, and drive-through facilities shall comply with the following standards:
  - a. The facility is associated with restaurants, banks, car washes, professional offices and similar uses;
  - b. The facility is secondary to a primary commercial permitted use, including but not limited to a commercial “walk-in” use.
  - c. “Secondary” means all components of the facility, in total, occupy less street frontage than the primary commercial or public/institutional building; Driveway queuing areas, windows, teller machines, service windows, and similar facilities shall not be located within 20 feet of a private street or public street right-of-way and shall not be oriented to a street corner. Walk-up only teller machines and kiosks may be oriented to a corner;
  - d. A minimum queuing distance of 100 feet which cannot include a private street or a public street right-of-way.

### **2.103.8 Light Manufacture**

Light manufacture uses are permitted as a Conditional Use in the Commercial-General (C) District. “Light manufacture” means production or manufacturing of small-scale goods, such as crafts, electronic equipment, bakery products, printing and binderies, furniture, and similar goods. Light manufacture uses shall conform to all of the following standards that are intended to protect the pedestrian-friendly, storefront character of the Commercial Corridor:

1. Retail or Service Use Required. Light manufacture is allowed only when it is in conjunction with a permitted retail or service use and does not exceed 50 percent of the gross floor area.
  2. Location. The light manufacture use shall be enclosed within a building or shall be located within a rear yard not adjacent to a street.
- A. Standards. A light manufacturing operation may be permitted in the Commercial General (C) District as a conditional use provided that:
1. The area involved in the manufacturing of the product does not involve more than 4,000 square feet of floor area, and all storage of materials is enclosed.
  2. The building and site plan are not incompatible with the character of the commercial area.
  3. No building shall be located closer than sixty (60) feet to the centerline of a public road; provided, however, that in no case shall any structure be located closer than twenty (20) feet to the right-of-way of any state highway or public road.
  4. There shall be a side yard of forty (40) feet in width adjacent to a residential zone.
  5. There shall be a rear yard of forty (40) feet in width adjacent to a residential zone.
  6. All sign requirements of Section 2.206 are met.
  7. All height requirements of the C District are met.

8. Off-street parking shall be provided for all customers and employees of the manufacturing business consistent with the provisions of Section 2.203.
9. The use shall not be objectionable in relationship to surrounding residential or commercial uses because of odor, dust, smoke, cinders, fumes, noise, glare, heat, or vibration.

B. Process.

1. Light manufacture in the C District shall be reviewed in accordance with the Conditional Use Permit criteria and procedures as specified in Section 3.103; and
2. Light manufacture uses in the C District shall be subject to the criteria and procedures of Site Development Review process as set forth in Section 3.105.

The above reviews shall include consideration of the standards of this Section. Approval shall not be granted unless all standards of this Section and other applicable provisions of this Development Code are met.

**2.103.9 Manufactured Home, Trailer, and Vehicular Sales, Service and Related Uses**

A. Scope. The provisions of this Section shall apply to the following uses:

1. Automobile service stations;
2. Automobile, truck, manufactured home, recreation vehicle or trailer sales;
3. Boat and marine accessory sales;
4. Motorcycle sales;
5. Retail tire shop, sales, service, and repair.

B. Standards. In addition to other development standards established elsewhere in this Development Code, the following standards shall apply to the development of the uses listed in Subsection A, above.

1. All parking areas, loading areas or areas used for storage of boats, automobiles, manufactured homes, recreational vehicles, trucks, trailers, motorcycles, or other vehicles shall be paved with a concrete or asphalt surface.
2. The lot or parcel shall be screened from adjoining residentially zoned properties in accordance with the provisions of Section 2.207.
3. All merchandise and supplies, other than vehicles, manufactured homes and trailers, shall be stored within a building.

C. Process. The uses listed in this subsection shall be reviewed for compliance with the standards of this subsection pursuant to the Site Development Review process set forth in Section 3.105.

## **2.104 INDUSTRIAL-COMMERCIAL DISTRICT (IC)**

### **2.104.1 Purpose**

To provide appropriate regulations for the development of Industrial designated land in the City of Sublimity. The Industrial-Commercial District represents areas that are suitable for a mixture of uses allowed in the Commercial zone as well as other specific manufacturing uses permitted subject to conditional use approval. It is intended to segregate incompatible developments from other districts, while providing a high-quality environment for businesses and employees.

### **2.104.2 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Development Code, the following uses are permitted in the Industrial Zone:

- A. Establishments engaged in manufacturing processing, packing, assembly, distribution, repair, finishing or refinishing, testing, fabrication, research and development, warehousing, and servicing activities. Examples of uses that would be appropriate include: aircraft or auto parts, bottling plants, bakery products, communication equipment, drugs, fabricated textile products, office machines, building materials, recycling centers, and motor freight terminals.
- B. Land extensive commercial activities such as lumber yards, warehouse and storage activities.
- C. Motels and hotels
- D. Any non-residential use permitted in the C district, Section 2.103.02.
- E. Manufactured Home, Trailer, and Vehicular Sales, Service and Related Uses, subject to the special standards set forth in Section 2.103.09.

### **2.104.3 Conditional Uses**

The following uses may be permitted in the IC District when authorized by the Planning Commission pursuant to Section 3.103, in addition to site development review (Section 3.105).

- A. Fuel oil distribution
- B. Public and private utility buildings and structures such as electric substations, telephone exchanges, communications towers and/or antennas, and vocational schools co-located with parent industry or sponsoring organization.
- C. Automotive towing service
- D. Uses with Significant Noise, Light/Glare, Dust, Odor, Vibration, or Traffic Impacts:
  - 1. Uses With Significant Noise, Light/Glare, Dust, Odor and Vibration Impacts. Uses that are likely to create significant adverse impacts beyond the Industrial-Commercial District boundaries, such as noise, light/glare, odor, dust, or vibration, shall require conditional use approval, in conformance with Section 3.103. The following criteria shall be used in determining whether the adverse impacts of a use are likely to be "significant":
    - a. Noise. The noise level beyond the property line exceeds 55 dBA (24-hour average) on a regular basis.

- b. Light/glare. Lighting and/or reflected light from the development exceeds ordinary ambient light and glare levels (i.e., levels typical of the surrounding area).
  - c. Dust, exhaust, and odor. Dust, exhaust and/or odor emissions from the development exceeds ambient dust, exhaust and/or odor levels, or levels that existed prior to development.
  - d. Vibration. Vibration (e.g., from mechanical equipment) is sustained and exceeds ambient vibration levels (i.e., from adjacent roadways and existing land uses in the surrounding area).
2. Traffic. Uses that are likely to generate unusually high levels of vehicle traffic due to shipping and receiving. “Unusually high levels of traffic” means that the average number of daily trips on any existing street would increase by 20 percent or more as a result of the development. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by ODOT for developments that increase traffic on state highways.

#### 2.104.4 Dimensional Standards

The following dimensional standards, with the exception of modifications allowed under Section 2.402, shall be required for all development in the Industrial Commercial District.

A.	<u>Lot Size:</u>	None
B.	<u>Setback Requirements:</u>	
1.	Front yard (for a buildings 30 feet in height or less) The setback standard shall increase by one foot for every one foot of building height in excess of 30 feet.	20 feet
	Front Yard (Frontage on existing or proposed arterial street)	30 feet
2.	Side yard	
	Abutting a commercial district	25 feet
	Abutting an industrial district	None
	Abutting an existing or planned arterial street	30 feet
	Abutting a residential district	40 feet
3.	Rear Yard	None
	Abutting a commercial district	25 feet
	Abutting an industrial district	None
	Abutting an existing or planned arterial street	30 feet
	Abutting a residential district	40 feet
4.	Other Yard Requirements	
a.	<u>Buffering.</u> The city may require landscaping, walls, or other buffering in setback yards to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent properties.	
b.	<u>Neighborhood Access.</u> Construction of pathway(s) within setback yards may be required to provide pedestrian connections to adjacent neighborhoods or other districts.	
c.	<u>Building and Fire Codes.</u> All developments shall meet applicable fire and building code standards, which may require setbacks different from those listed above (e.g., combustible materials, etc.).	

- C. **Building Height:** The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale.
1. **Base Requirement.** Buildings shall be no more than five (5) stories or 55 feet in height, whichever is greater, and shall comply with the other building setback/height standards in Section 2.104.04.
  2. **Performance Option.** The allowable building height may be increased to 75 feet, when approved as part of a Conditional Use Permit. The development approval may require additional setbacks, stepping-down of building elevations, visual buffering, screening, and/or other appropriate measures to provide a height transition between industrial development and adjacent non-industrial development. Smoke stacks, cranes, roof equipment, and other similar features which are necessary to the industrial operation may not exceed 80 feet in height without approval of a Conditional Use Permit.
  3. **Method of Measurement.** "Building height" is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following; whichever yields a greater height of building:

#### **2.104.5 Development Standards**

All development in the Industrial District shall comply with the applicable provisions of Section 2.400 of this Development Code. In addition, the following specific standards shall apply:

- A. **Off-street parking.** Off-street parking in the Industrial District shall conform to the standards of Section 2.203.
- B. **Signs.** Signs in the Industrial District shall conform to the provisions of Section 2.206.
- C. **Minimum Landscaped Area.** All development in the Industrial District shall provide a minimum landscaped area equal to 15 percent of the gross site area. The Planning Commission may allow a reduction to this requirement through the Site Development Review process.
- D. **Subdivisions and Partitions.** All subdivisions and partitions shall be reviewed in accordance with the provisions of Section 2.208.
- E. **Design Review.** All new development or expansion of existing structure or use in the Industrial District shall be subject to the Site Development Review procedures of Section 3.105.
- F. **Access.** Site access points shall be located to minimize traffic hazards.

#### **2.104.6 Building Orientation**

All of the following standards shall apply to new development within the Industrial-Commercial District in order to reinforce streets as public spaces and encourage alternative modes of transportation, such as walking and bicycling.

- A. **Building Entrances.** All buildings shall have a primary building entrance oriented to a street. "Oriented to a street," means that the building entrance faces the street, or is connected to the street by a direct and convenient pathway not exceeding 40 feet in length. Streets used to comply with this standard may be public streets, or private streets

that contain sidewalks and street trees, in accordance with the development standards in Section 2.200.

- B. Corner Lots. Buildings on corner lots shall have their primary entrance oriented to the street corner, or within 30 feet of the street corner (i.e., as measured from the lot corner). In this case, the street corner shall provide an extra-wide sidewalk or plaza area with landscaping, seating, or other pedestrian amenities. The building corner shall provide architectural detailing or beveling to add visual interest to the corner.
- C. Pathway Connections. Pathways shall be placed through yard setbacks as necessary to provide direct and convenient pedestrian circulation between developments and neighborhoods.
- D. Arterial Streets. When the only street abutting a development is an arterial street, the building's entrance(s) may be oriented to an internal drive. The internal drive shall provide a raised pathway connecting the building entrances to the street right-of-way.
- E. Buffers. The city may require a 30-foot wide landscape buffer and wall between development in the Industrial-Commercial District and adjacent Residential District(s) to reduce light, glare, noise, and aesthetic impacts.

## **2.105 PUBLIC/SEMI-PUBLIC DISTRICT (P)**

### **2.105.1 Purpose**

To recognize existing public facility land uses and to provide for the development of public facility services and other public-oriented uses. The Public/Semi-Public zone shall be consistent with the Public/Semi-Public Comprehensive Plan designation.

### **2.105.2 Permitted Uses**

Unless otherwise subject to Conditional Use provisions or requirements of this Development Code, the following uses are permitted in the Public/Semi-Public (P) Zone:

- A. Public parks
- B. Publicly owned and operated facilities or structures, including government offices and stations, and public use buildings
- C. Church
- D. Residential care home and residential care facility
- E. Public and private schools.

### **2.105.3 Conditional Uses**

The following uses may be permitted in the P District when authorized by the Planning Commission pursuant to Section 3.103.

- A. Hospital
- B. Public and private utility buildings and structures, including but not limited to electric substations, telephone exchanges, and communications antennas or towers
- C. Public parking areas
- D. Public schools
- E. Fire stations

### **2.105.4 Dimensional Standards**

- A. Lot Size: None
- B. Setback Requirements:
  - 1. Front Yard 20 feet
    - Front Yard (Frontage on existing or proposed arterial street) 30 feet
  - 2. Side Yard 5 feet
    - Abutting an Industrial or Public/Semi-Public zone 5 feet
    - Abutting a residential or commercial zone 20 feet
    - Abutting an existing or planned arterial street 30 feet
  - 3. Side Yard adjacent to a local/collector street 20 feet
    - Side Yard adjacent to an existing or proposed arterial street 30 feet
  - 4. Rear Yard 30 feet



C. Maximum Building Height

70 feet\*

\* An additional setback of one (1) foot per each foot in height over 35 feet shall be required.

**2.105.5 Development Standards**

All development in the P District shall comply with the applicable provisions of Section 2.400 of this Development Code. In addition, the following specific standards shall apply:

- A. Off-street Parking. Off-street parking in the P District shall conform to the standards of Section 2.203.
- B. Signs. Signs in the P District shall conform to the provisions of Section 2.206.
- C. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Section 2.208.
- D. Design Review. All new development or expansion of an existing structure or use in the P District shall be subject to the Site Development Review procedures of Section 3.105.
- E. Access. Site access points shall be located to minimize traffic hazards.

## **2.106 INTERCHANGE MANAGEMENT AREA OVERLAY DISTRICT (IA)**

### **2.106.1 Purpose**

The objective of this overlay zone is to protect and preserve the safe and efficient functional operation of the local street network in the vicinity of the Sublimity Interchange for all users. A goal of the City's Transportation System Plan (TSP) is to "*ensure that the objectives of mobility and safety are preserved for Center Street [Cascade Highway], the city's only arterial.*" The establishment of this overlay zone acknowledges that an increase of vehicular traffic directly onto Center Street will have a deleterious effect on both the safety and mobility functions of that roadway.

Implementation of the overlay zone objective is achieved through the utilization of access management measures, as called for in the TSP.

### **2.106.2 Regulations**

- A. Inside the IA Overlay Zone, access permits are required for all proposed developments that can reasonably be expected to generate more than 200 vehicle trip ends during a single day or more than 40 vehicle trip ends during a single hour.
  - 1. Marion County Roadway Access Permits: Permits for access onto Marion County roadways shall be subject to review and approval by Marion County, except where the county has delegated this responsibility to the City of Sublimity, in which case the City of Sublimity shall determine whether access is granted based on adopted City of Sublimity standards.
- B. Inside the IA Overlay Zone, development involving additional significant trip generation or change of use shall not be permitted to access onto Center Street.
- C. Inside the IA Overlay Zone, the location of access placement for a development involving a change of use must be provided from the lowest functional classification roadway.
- D. Interchange Management Area. On Center Street south of 9<sup>th</sup> Street, Commercial-zoned properties are close in proximity to the Highway 22 Interchange. It is the intent of the city to eliminate the number of driveways in this area as required in Section 2.106. Upon commercial development, these properties shall dedicate a sufficient amount of land on their west side to create a future "backage" road for ingress and egress to the commercial structures.

## **2.200 GENERAL DEVELOPMENT STANDARDS**

### **2.201 GENERAL PROVISIONS**

#### **2.201.1 Purpose**

The purpose of this Section is to:

- A. Carry out the Comprehensive Plan with respect to development standards and policies.
- B. Ensure that natural features of the landscape, such as landforms, natural drainageways, trees and wooded areas, are preserved as much as possible and protected during construction.
- C. Promote energy conservation and efficiency in development through site planning and landscaping.
- D. Promote and maintain healthy environments and minimize development impacts upon surrounding properties and neighborhoods.

#### **2.201.2 Application of Standards**

- A. The standards set forth in Section 2.200 shall apply to partitions; subdivisions;; commercial, industrial, and public projects; single-family dwellings, duplexes and multifamily structures of three (3) or more dwellings.
- B. The application of these standards to a particular development shall be modified as follows:
  - 1. Development standards that are unique to a particular use, or special use, shall be set forth within the district or in Section 2.300.
  - 2. Those development standards which are unique to a particular district shall be set forth in the Section governing that district.

#### **2.201.3 Application of Public Facility Standards**

Standards for the provision and utilization of public facilities or services available within the City of Sublimity shall apply to all land developments in accordance with the following table of reference. No development permit shall be approved unless the following improvements are provided prior to occupancy or operation, or unless future provision is assured in accordance with Subsection 3.201.01.

## I. Public Facilities Improvement Requirements Table

Type of Use	Fire Hydrant	Street Improvement	Water Hookup	Sewer Hookup	Storm Drain	Street Lights
Single Family Dwelling & Duplex	No	C-2	Yes	Yes	Yes	No
Multifamily Dwelling	Yes	Yes	Yes	Yes	Yes	Yes
New Commercial	Yes	Yes	Yes	Yes	Yes	Yes
Commercial Expansion	C-1	C-3	Yes	Yes	Yes	Yes
New Industrial Building	Yes	Yes	Yes	Yes	Yes	Yes
Industrial Expansion	C-1	C-3	Yes	Yes	Yes	Yes
Partition, Subdivisions, and Manufactured Home Park	Yes	Yes	Yes	Yes	Yes	Yes

Legend: No = Not required; Yes = Required; C = Conditional, as noted:

C-1. Fire Hydrants for Commercial or Industrial Expansions  
One or more fire hydrants are required when the total floor area of a new or expanded building exceeds 2,500 square feet, or the proposed use is classified as Hazardous (H) in the Uniform Building Code or Uniform Fire Code.

C-2. Street Improvements for Single-Family Dwellings

New single-family dwellings that require a street extension must provide street improvements to City street standards.

C-3. Street Improvements for Commercial or Industrial Expansions

Lots fronting on County roads must obtain access permits from the Marion County Public Works Department.

The city will require improvement to full City standards when the use meets any of the following criteria:

- a. The use generates an average of 100+ trips per day per 1000 gross square feet of building as documented in the Trip Generation Manual of the Institute of Transportation Engineers or other qualified source; or
- b. The use includes daily shipping and delivery trips by vehicles over 20,000 pounds gross vehicle weight.

## **2.202 STREET STANDARDS**

### **2.202.1 Purpose**

- A. To provide for safe, efficient, and convenient multi-modal movement in the City of Sublimity.
- B. To provide adequate access to all existing and proposed developments in the City of Sublimity.
- C. To provide adequate area in all public rights-of-way for sidewalks, bikeways, sanitary sewers, storm sewers, water lines, natural gas lines, power lines and other utilities commonly and appropriately placed in such rights-of-way.

For purposes of this section:

- 1. "adequate access" means direct routes of travel between destinations, such as between residential neighborhoods and parks or commercial developments.
- 2. "adequate area" means space sufficient to provide all required public services to standards defined in this code, such as sidewalks, bikeways or storm sewers.

### **2.202.2 Scope**

The provisions of this Section shall be applicable to:

- A. The creation, dedication or construction of all new public or private streets, pedestrian facilities, and bikeways in all subdivisions, partitions, or other developments in the City of Sublimity.
- B. The extension or widening of existing public or private street rights-of-way, easements, or street improvements including those which may be proposed by an individual or the City, or which may be required by the City in association with other development approvals.
- C. The construction or modification of any utilities, sidewalks or bikeways in public rights-of-way or private street easements.
- D. The planting of any street trees or other landscape materials in public rights-of-way.

### **2.202.3 General Provisions**

The following provisions shall apply to the dedication, construction, improvement or other development of all public streets, bikeways, and pedestrian facilities in the City of Sublimity. These provisions are intended to provide a general overview of typical minimum design standards. All streets shall be designed in conformance with the specific requirements of the most current Public Improvement Design Standards of the City of Sublimity.

- A. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, bikeways, pedestrian facilities, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.
- B. 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.

- C. Alignment: All streets other than local streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the centerlines thereof. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of two hundred (200) feet between the center lines.
- D. Future extension of streets: Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of a tract being developed and the resulting dead-end streets may be approved without turn-a-rounds. Reserve strips and street plugs may be required to preserve the objectives of street extensions.
- E. Radius at street intersections: The property line radius at street intersection that has a designated right-of-way width of eighty (80) feet or more shall be governed by the interior angle at the intersection and will be based on the square root of the interior angle formed at the intersection of the property lines which equals the radius in feet. The distance shall be increased to the next full foot above the figure established by said formula.

The minimum angle of any intersection shall be forty (40) degrees.

- F. Existing Streets: Whenever existing public streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.
1. Minimum 3/4 street improvements to all existing streets adjacent to, within or necessary to serve the property shall be required at the time of partitioning or development unless the applicant demonstrates to the satisfaction of the City Engineer that the condition and sections of the existing streets meet City standards and are in satisfactory condition to handle projected traffic loads. Storm water drainage shall be provided for on the non-curbed side of 3/4 street improvements as required by the City Engineer. In cases where the property within a subdivision or development fronts both sides of an existing street, full street improvements shall be required.
  2. The City may allow the applicant to record an approved "Waiver of Rights to Remonstrance for Street and Public Utility Improvements" in lieu of street improvements where the following criteria are met:
    - a. The contiguous length of the existing street to be improved (including the portion of the existing street which must be improved to serve the development) is less than 250 feet, and
    - b. The existing roadway condition and sections are adequate to handle existing and projected traffic loads, and
    - c. Existing public utilities (water, sanitary sewer & storm sewer) located within the existing roadway are adequate or can be improved without damaging the existing roadway surface.

G. New Streets

1. Where new streets are created by a subdivision or partition, full street improvements shall be required. 3/4 streets may be approved in lieu of full street improvements 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 may be allowed by the city if all of the following criteria are met:
  - a. The adjoining land abutting the opposite side of the street is undeveloped and,
  - b. The adjoining land abutting the opposite of the street is within the City Limits and the Urban Growth Boundary and,

- c. The proposed street improvements will encompass the entire paved surface of the existing street and,
  - d. Storm water drainage is provided for on the non-curbed side of 3/4 street improvements in areas judged by the City Engineer to have drainage concerns.
- H. 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. 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 four hundred (400) feet in length.
  - b. All cul-de-sacs shall terminate with circular turn-a-rounds, except where the Planning Commission finds that a "pear" or "hammerhead" turn-around 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 Planning Commission to be necessary to insure safe, efficient, and convenient multi-modal access.

For purposes of this section:

- 1. "Unusual or unique circumstances" exist when one of the following conditions prevent a required street connection:
    - a. excess slope (8% or more),
    - b. presence of a wetland or other body of water that is recognized by the Planning Commission, or
    - c. existing development on adjacent property prevents a street connection.
  - 2. "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, trees and lighting. Where accessways cross driveways, they are generally raised, paved or marked in a manner which provides convenient access for pedestrians.
- I. Street Lighting: Street lights shall be installed within right of way for all streets according to City approval and City standards.
  - J. Street Names: Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the Planning Commission.
  - K. Grades and Curves: Grades shall not exceed 8 percent on public or private streets. To provide for adequate drainage, all streets shall have a minimum slope of 0.5 percent. On arterials there shall be a tangent of not less than 100 feet between reversed curves.
  - L. Marginal Access Streets: If a development abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

M. Clear Vision Areas: Clear vision areas shall be maintained on corner lots at the intersection of all public streets and at the intersections of a public street with a private street, alley or drive which serves more than three parcels. No structure, object, or planting shall be permitted within a clear vision area which would impede visibility between a height of 30 inches and 10 feet above the curb grade of the intersecting streets. (See definition for Clear Vision Area and Section 2.209.08.)

N. Driveways and Points of Access. Approaches shall be constructed according to City standards and shall meet the minimum separations of five (5) feet between residential driveways, twenty (22) feet between commercial and industrial driveways, twenty (20) feet from intersections for residential streets, fifty (50) feet for collectors, and one hundred (100) feet for arterials. The separation shall be measured between the nearest outside edges of each access lane and the edge of the radius of the street.

Construction of driveways and points of access inside the Interchange Area Overlay Zone (IA) shall be subject to the special access provisions of that zone (2.106).

The construction of a duplex on a corner shall provide one driveway per unit per street frontage unless the Planning Commission allows a combined access or access on one street frontage based upon a conflict created by the topography of the lot, the location of a public utility, significant vegetation, or different street classifications.

For public safety purposes and wherever possible, driveways shall align with the access points to properties across the street and other street intersections. Where impractical due to lot configuration, driveways shall be as approved by the City's Public Works Director.

O. Restricted parking at Intersections. On all streets, excluding those classified as local, no parking is permitted within twenty (20) feet of an intersection. The distance is measured from a point at the edge of the curb radius. The areas where parking is not allowed shall be indicated by curbing painted yellow and/or signage according to City approval and City standards.



## 2.202.4 General Right-of-Way and Improvement Widths

The following standards are general criteria for public streets, bikeways, and sidewalks in the City of Sublimity. These standards shall be the minimum requirements for all streets, bikeways, and pedestrian facilities except where modifications are permitted under Subsection 2.202.05.

The following are the standards for new streets:

**Table 2**  
**Standards for New and Existing Streets**

Street Classification	Access Spacing	Right-of-way Width	Curb to Curb Width	Sidewalk Width <sup>1</sup>	PUE Width	Bike-lane Width	On Street Parking	Street Trees	Travel Lanes <sup>2</sup>
Arterial	250 ft. <sup>3</sup>	60 ft.	40 ft.	5 - 8 ft. <sup>4</sup>	10 ft.	option	option	yes	2 @ 12 ft.
Collector	-	51 ft.	40 ft.	5 - 8 ft. <sup>4</sup>	9.5 ft.	option	option	option	2 @ 12 ft.
Local	-	45 ft.	34 ft.	5.5 ft.	7.5 ft.	option	option	option	2 @ 9 ft.
Cul-de- sac	Per Street Classification (PSC)								
Cul-de- sac bulb	-	46 ft. radius	40 ft. radius	PSC	PSC	PSC	PSC	option	-

<sup>1</sup> All sidewalk widths include curbs.

<sup>2</sup> Minimum width.

<sup>3</sup> Measured from center line to center line.

<sup>4</sup> Eight (8) foot sidewalks shall be provided on Center Street for all contiguous commercial properties.

### Arterial Options:

1. On-street parking: One side or both sides, eight (8) foot minimum width or
2. Bikeways: Both sides, six (6) foot minimum width, or
3. On-street parking on one side, eight (8) foot minimum, and bike lanes on both sides, six (6) foot minimum.

### Collector Options:

1. On-street parking: One side or both sides, eight (8) foot minimum width, or
  2. Bikeways: Both sides, six (6) foot minimum width.
- \* Street trees are allowed with approval from the Planning Commission and in accordance to the Development Code.

### Local Street Options:

1. On-street parking: One side or both sides, eight (8) foot minimum width, or
  2. Bikeways: Both sides, six (6) foot minimum width.
- \* Street trees are allowed with approval from the Planning Commission and in accordance to the Development Code.

Please note: The above options shall be coordinated with the Street Plan and Bike Plan within the Transportation System Plan. The type of improvements are assessed by the Planning Commission at the time of the development.

### **2.202.5 Modification of Right-of-Way and Improvement Width**

The Planning Commission, pursuant to the review procedures of Section 3.203, may allow modification to the public street standards of Subsection 2.202.04, when both of the following criteria are satisfied:

- A. The modification is necessary to provide design flexibility in instances where:
  - 1. Unusual topographic conditions require a reduced width or grade separation of improved surfaces such as slopes in excess of 15 percent; or
  - 2. Parcel shape or configuration that would severely limit buildable area on the lot(s) precludes accessing a proposed development with a street which meets the full standards of Section 2.202.04; or
  - 3. A modification is necessary to preserve trees or other natural features determined by the Planning Commission to be significant to the aesthetic or historical character of the area, be significant because of its age and/or size; or
- B. Modification of the standards of Section 2.202.04 shall only be approved if the Planning Commission finds that the specific design proposed provides adequate vehicular, pedestrian and bicycle access based on anticipated traffic volumes.

### **2.202.6 Construction Specifications**

Construction specifications for all public streets, bikeways and sidewalks shall comply with the criteria of the most recently adopted public works/street standards of the City of Sublimity.

### **2.202.7 Private Streets**

- A. Private streets shall only be allowed where the applicable criteria of Section 2.208.3.(D) are satisfied. Private streets shall have a minimum 30-foot-wide easement and a minimum seventeen (17) foot wide paved surface.
- B. All private streets serving more than one (1) ownership shall be constructed to the same cross-sectional specifications required for public streets. Provision for the maintenance of the street shall be provided in the form of a maintenance agreement, homeowners association, or other instrument acceptable to the City Attorney.
- C. A turn-around shall be required for any private residential street, in excess of 150 feet long, which has only one (1) outlet and which serves more than three (3) residences. Non-residential private streets serving more than one (1) ownership shall provide a turn-around if in excess of 200 feet long and having only one outlet. Turn-arounds for private streets shall be either a circular turn-around with a minimum paved radius of thirty-five (35) feet, or a "tee" turn-around with a minimum paved dimension across the "tee" of seventy (70) feet.
- D. The Planning Commission may require provision for the dedication and future extension of a public street.

## **2.203 OFF-STREET PARKING AND LOADING**

### **2.203.1 Purpose**

The purpose of this Section is to provide adequate areas for the parking, maneuvering, loading, and unloading of vehicles for all land uses in the City of Sublimity.

### **2.203.2 Scope**

Development of off-street parking and loading areas for commercial, industrial, or multi-family development shall be subject to the Site Development procedures of Section 3.105 and shall be reviewed pursuant to Section 3.203.

The provisions of this Section shall apply to the following types of development:

- A. Any new building or structure erected after the effective date of this Development Code.
- B. The construction or provision of additional floor area, seating capacity, or other expansion of an existing building or structure.
- C. A change in the use of a building or structure which would require additional parking spaces or off-street loading areas under the provisions of this Section.

### **2.203.3 Location**

Off-street parking and loading areas shall be provided on the same lot with the main building or structure or use except that:

- A. In any residential zone, automobile parking areas for dwellings and other uses permitted in a residential zone may be located on another lot if such lot is within two hundred (200) feet of the lot containing the main building, structure or use;
- B. In any non-residential zone, the parking area may be located off the site of the main building, structure or use if it is within five hundred (500) feet of such site.

### **2.203.4 Joint Use**

Parking area may be used for a loading area during those times when the parking area is not needed or used. Parking areas may be shared subject to Planning Commission approval for commercial and industrial uses where hours of operation or use are staggered such that peak demand periods do not occur simultaneously. The requirements of Subsection 2.203.05 may be reduced accordingly. Such joint use shall not be approved unless satisfactory legal evidence is presented which demonstrates the access and parking rights of parties.

### **2.203.5 Off Street Automobile Parking Requirements**

- A. The minimum number of required off street vehicle parking spaces (i.e., parking that is located in parking lots and garages and not in the street right-of-way) shall be determined based on the standards in the table shown in 2.203.05(E) below.
- B. Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway, or landscape area.

- C. Use Not Listed in Table. The number of parking spaces required for buildings and uses not specifically listed in table 2.203.05 (E) below shall be determined by the Planning Commission.
- D. Fractional Measurements. When calculations for determining the number of required off-street parking spaces result in a requirement of fractional space, any fractional number shall be rounded to the next highest whole number.
- E. Minimum Off-Street Automobile Parking Requirements

Type of Use		Number of Spaces
A.	Single family dwelling or duplex, including manufactured homes and parks	2 spaces per dwelling unit
B.	Accessory Dwelling Unit (ADU)	2 spaces per ADU, in addition to the required spaces for the primary dwelling unit
C.	Multi-family dwellings, including town homes	2 spaces per dwelling unit plus 1 visitor space per four units
	Retirement complexes for persons 55 years or greater	1.75 per unit
D.	Hotel, motel and boarding house	1 space per guest room plus 1 space per two employees
E.	Club, lodge	Spaces sufficient to meet the combined minimum requirements of the heaviest uses being conducted, such as hotel, restaurant, auditorium, etc.
F.	Hospital	2 spaces per patient bed
	Nursing and convalescent homes	1 space per three patient beds
	Rest homes, homes for the aged, or assisted living	1 space per two patient beds or one space per apartment unit.
G.	Churches and similar places of worship, chapels, auditorium, stadium, theater, and mortuaries	1 space per 4 seats or 8 feet of bench length in the main room.
H.	Elementary or Junior High School	2 spaces per classroom, plus off-street loading facility
	Pre-school nursery; kindergarten	2 spaces per teacher
I.	High School	1 1/2 spaces per classroom, plus 1 space per administrative employee, plus 1 space per six students the school is designed to accommodate, and an off-street student loading facility

J.	Bowling alley, skating rink, community center	1 space per 100 sq. ft. of gross floor area
K.	Business, general retail, except as provided in "L"	1 space per 350 sq. ft. of gross floor area
L.	Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles, boat or trailer sales, retail nurseries, furniture, and similar bulk retail uses.	1 space per 600 sq. ft. of gross floor area; and 1 space per two employees
M.	Bank; office buildings; medical and dental clinic	1 space per 200 sq. ft. of gross floor area
N.	Eating and drinking establishment, ice cream parlors and similar uses	1 space per 100 sq. ft. of gross floor area
	Fitness center	1 space per 200 sq. ft. of gross floor area, plus 1 space per employee
	Childcare centers having 13 or more children	1 space per two employees; a minimum of 2 spaces is required.
O.	Wholesale establishment	1 space per 1,000 sq. ft. of gross floor area, plus 1 space per 700 sq. ft. of retail area
P.	Municipal and governmental	1 space per 200 sq. ft.
Q.	Industrial uses, except warehousing,	1 space per two employees on the largest shift or for each 700 square feet of gross floor area, whichever is less, plus 1 space per company vehicle
R.	Warehousing and storage distribution, terminals (air, rail, truck, water, etc.):	1 space per 1,000 sq. ft. of gross floor area or for each two employees, whichever is greater, plus 1 space per company vehicle.
S.	Public utilities (gas, water, telephone, etc.), not including business offices	1 space per two employees on the largest shift, plus 1 space per company vehicle; a minimum of 2 spaces is required.

## 2.203.6 Standards for Disabled Person Parking Spaces

Parking for the disabled shall be provided in parking lots in accordance with the standards and requirements established in the most recent edition of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations. Parking spaces for the disabled may be included in determining compliance with the total parking space requirements established by this Development Code.

**2.203.7      Off-Street Loading Requirements**

Off-street loading space shall be provided as listed below:

- A. All commercial, institution, or industrial buildings shall require a minimum loading space size of twelve (12) feet wide, twenty (20) feet long and fourteen (14) feet high in the following amounts:
- |    |   |           |
|----|---|-----------|
| 1. | Less than 5,000 square feet                         | No Spaces |
| 2. | More than 5,000 square feet to 30,000 square feet   | 1 space   |
| 3. | More than 30,000 square feet to 100,000 square feet | 2 spaces  |
| 4. | More than 100,000 square feet                       | 3 spaces  |

**2.203.8      Parking and Loading Area Development Requirements**

All Parking and loading areas, except those for single- family dwellings, shall be developed and maintained as follows:

- A.     Surfacing: All driveways, parking and loading areas shall have a durable, hard surface. In residential areas, either a minimum of two and one-half (2 ½) inches of asphalt over a six (6) inch aggregate base or four (4) inches of Portland cement concrete shall be provided. In commercial and industrial areas either a minimum of three (3) inches of asphalt over a six (6) inch aggregate base or five (5) inches of Portland cement concrete shall be provided. Pavers are allowed, and are not included in 35% impervious surface requirement.
- B.     Size of parking spaces and driveways: The design of all off-street parking areas shall comply with the requirements of the most recently adopted City of Sublimity Public Works Design Standards. The following standards shall apply to all parking areas and driveways:
- |    |   |
|----|---|
| 1. | One-way drives shall have minimum improved width of at least twelve (12) feet, exclusive of parking spaces.       |
| 2. | Two-way drives shall have a minimum improved width of at least twenty-two (22) feet, exclusive of parking spaces. |
| 3. | The minimum width of any parking space shall be eight and one-half (8 ½) feet, exclusive of driveways.            |
| 4. | The minimum length of any parking space shall be twenty (20) feet, exclusive of driveways.                        |
- C.     Screening: When any public parking or loading area is within or adjacent to a residential zone, such parking or loading area shall be screened from all residential properties with an ornamental fence, wall or hedge of at least four (4) feet in height but not more than eight (8) feet in height. Along alleys, the fence, wall, or hedge shall be four (4) feet in height, except within the vision clearance area.
- D.     Lighting: Any light used to illuminate a parking or loading area shall be arranged to be directed entirely onto the loading or parking area, shall be deflected away from any residential use, per Public Works Design Standards, and shall not cast a glare or reflection onto moving vehicles on public rights-of-way.

- E. Areas used for parking and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all-weather use and so drained as to avoid flow of water across sidewalks.
- F. Except for parking to serve residential uses, parking and loading areas adjacent to residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.
- G. Groups of more than four (4) parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- H. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrians and vehicular traffic on the site.
- I. Service drive exits shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points fifteen (15) feet from their intersection.
- J. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or a bumper rail at least four inches (4") high, located a minimum of three (3) feet from the property line, to prevent a motor vehicle from extending over an adjacent property or a street.

## **2.203.9 General Provisions Off-Street Parking and Loading**

- A. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Development Code. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking and loading requirements, it shall be unlawful and a violation of this Development Code to begin or maintain such altered use until such time as the increased off-street parking and loading requirements are observed.
- B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission based upon the requirements of comparable uses listed and expectations of parking and loading need.
- C. Mixed uses. In the event 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 all uses computed separately, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.
- D. The construction of a duplex on a corner shall provide one driveway per unit per street frontage unless the Planning Commission allows a combined access or access on one street frontage based upon a conflict created by the topography of the lot, the location of a public utility, significant vegetation, or different street classifications.

- E. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of inoperable vehicles or materials or for the parking of trucks used in conducting the business or use.
- F. Recreational vehicles.
  - 1. Recreational Vehicles located on private property may be temporarily occupied for no more than a cumulative of 60 days in any Calendar Year.
  - 2. The maximum cumulative temporary occupancy period of 60-days established in Section 2.203.09.F.1 shall not be extended by a minor or major variance.
  - 3. Temporary Recreational Vehicle occupancies shall be dependent upon existing bathroom facilities and water and electrical services, subject to all applicable code requirements. Generator usage is prohibited.
  - 4. Prior to occupying a Recreational Vehicle per this Section, the property owner shall submit a Recreational Vehicle Occupancy Permit application to the City Recorder on a form provided by the City with the required fee. Such applications are subject to a Type I approval process.
  - 5. Approved permits shall be in writing, issued to the property owner and posted on the street frontage of the subject property. If no street abuts the subject property, the permit shall be placed in such a manner as may be readily seen by the public.
  - 6. Recreational Vehicles located on private property for longer than 60-days in any calendar year shall comply with applicable front yard setbacks.

#### **2.203.10      Parking of Bicycles**

- A. Bicycle parking shall be provided as part of all new multi-family residential developments of three (3) units or more, commercial, industrial, and institutional developments, and change of uses where upgraded or additional vehicle parking is required. Bicycle parking shall also be required for expansions and other remodeling that increases the required level of automobile parking.
- B. The following standards shall be required of all new development, expansions and remodels as specified above:
  - 1. A minimum of two (2) spaces at all developments. These spaces, if conveniently placed for the user, may be located in a common area shared by other developments.
  - 2. Above the minimum of two spaces, one bicycle parking space for every twenty (20) automobile spaces required except at schools and parks, where the ratio is one for every ten (10) automobile spaces. When calculating round up to the nearest whole number.
  - 3. Where bicycle parking use is expected to be greater than the above guidelines, additional parking to meet the need may be required.
- C. At a minimum, bicycle parking facilities shall be consistent with the following design guidelines:
  - 1. Bicycle parking shall be convenient and easy to find. Where necessary, a sign shall be used to direct users to the parking facility.



2. Each bicycle parking space shall be at least two (2) feet by six (6) feet with a vertical clearance of six (6) feet.
3. An access aisle of at least five (5) feet shall be provided in each bicycle parking facility.
4. 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.
5. The rack shall support the bicycle in a stable position without damage.

## **2.204 STORM DRAINAGE**

### **2.204.1 Purpose**

To provide for the drainage of surface water from all residential, commercial, and industrial development; to minimize erosion; to reduce degradation of water quality due to sediments and pollutants in storm water runoff.

### **2.204.2 Scope**

The provisions of this Section shall apply to all new residential land partitions and subdivisions, multi-family developments, commercial developments, and industrial development; and to the reconstruction or expansion of such developments.

### **2.204.3 Plan for Storm Drainage and Erosion Control**

A. No construction of any facilities in a development included in Subsection 2.204.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by an engineer registered in the State of Oregon and approved by the City. This plan shall contain at a minimum:

1. The methods to be used to minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.
2. Plans for the construction of storm sewers, open drainage channels and other facilities which depict line sizes, profiles, construction specifications and other such information as is necessary for the City to review the adequacy of the storm drainage plans.
3. Calculations used by the engineer in sizing storm drainage facilities. Calculations shall demonstrate that there are no impacts to the downstream properties and shall provide for drainage from upstream properties.
4. Upon a request from either the Planning Commission or City Council, an area study of the development's impact on the City storm water drainage system.

### **2.204.4 General Standards**

A. Based upon a 50-year flood data, all development shall be planned, designed, constructed, and maintained to:

1. Protect and preserve existing natural drainage channels to the maximum practicable extent;
2. Protect development from flood hazards;
3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;
4. Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeding, phasing of grading;
5. Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;

6. Provide dry wells, French drains, or similar methods, as necessary to supplement storm drainage systems;
  7. Avoid placement of surface detention or retention facilities in road rights-of-way.
- B. Where culverts cannot provide sufficient capacity without significant environmental degradation, the City may require the water course to be bridged or spanned.
  - C. In the event a development or any part thereof is traversed by any water course, channel, stream or creek, gulch or other natural drainage channel, adequate easements for storm drainage purposes shall be provided to the City. This does not imply maintenance by the City.
  - D. Channel obstructions are not allowed except as approved for the creation of detention or retention facilities approved under the provisions of this Code. Fences with swing gates may be utilized.
  - E. Improvements may be required downstream of the development to provide capacity for drainage through and from the development.
  - F. Prior to acceptance of a storm sewer system by the City, the storm sewers shall be flushed and inspected by the City. All costs shall be borne by the developer.
  - G. Easements shall be provided as deemed necessary by the City. Such easements shall be designated on the final plat of all land divisions or recorded with Marion County for individual developments.

## **2.205 UTILITY LINES AND FACILITIES**

### **2.205.1 Purpose**

To provide adequate services and facilities appropriate to the scale and type of development.

### **2.205.2 Standards**

- A. The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site.
- B. All development which has a need for water service shall install water facilities and grant necessary easements pursuant to the requirements of the City. Fire hydrants shall be incorporated into water services where feasible or as required to meet Oregon State Fire Code.
- C. All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.
- D. All development which has a need for public/private sanitary sewers shall install the facilities pursuant to the requirements of the city. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.
- E. Street lights shall be required for all developments inside the City. Installation of street lights shall be pursuant to the requirements of the city and the company serving the development.
- F. Easements shall be provided along property lines as deemed necessary by the City, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivisions, and on the final plat of all major partitions.

## **2.206 SIGNS**

### **2.206.1 Purpose**

The provisions of this subsection are intended to provide for the necessary means of identification while maintaining a safe and pleasing environment for the people of the City of Sublimity.

### **2.206.2 General Provisions**

- A. Conflicting Standards: Signs shall be allowed subject to the provisions of this subsection, except when these provisions conflict with the specific standards for signs in the subject district.
- B. Signs Subject to State Approval: All signs visible to the traveling public from state highways are subject to the regulations and permit requirements of the Highway Division of the State of Oregon Department of Transportation. Where the regulations of the State and City differ, the more restrictive regulations shall govern.
- C. Uniform Sign Code: All signs shall comply with the provisions of the Uniform Sign Code of the Uniform Building Code, except as otherwise provided in this section.
- D. Address Display: The signing program for a multi-family, commercial or industrial development shall include the display of the street number(s) for the development on the sign, support structure or building where it can be seen from adjacent roads.
- E. Sign Clearances: A minimum of eight (8) feet above sidewalks and fifteen (15) feet above driveways shall be provided under free-standing signs.
- F. Setbacks: All signs shall be situated in a manner so as not to adversely affect safety, corner vision or other similar conditions. Unless otherwise specified, all signs shall observe the yard setback requirements of the districts in which they are located.
- G. Blanketing: No sign shall be situated in a manner which results in the blanketing of an existing sign.
- H. Illuminated Signs:
  - 1. Internally illuminated signs, or lights used to indirectly illuminate signs shall be placed, shielded, or deflected so as not to shine into residential dwelling units or structures, or impair the vision of the driver of any vehicle.
  - 2. The light intensity of an illuminated sign shall not exceed the accepted standards of the sign industry, as provided by the Oregon Electric Sign Association.
  - 3. No sign or other illuminating devices shall have blinking, flashing or fluttering lights, with the exception of a time and temperature sign approved by the Planning Commission.
  - 4. No colored lights shall be used at any location or in any manner which may be confused with or construed to be traffic signals or lights on emergency vehicles.
- I. Moving Signs: No sign, sign structure, or portion thereof, shall be designed to rotate, flutter, or appear to move.

- J. Maintenance: All signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and be maintained in a safe condition. All signs and the site upon which they are located shall be maintained in a neat, clean, and attractive condition. Signs shall be kept free from rust, corrosion, peeling paint, or other surface deterioration (normal wear & tear is okay). The display surfaces of all signs shall be kept neatly painted or posted.
- K. Pre-Existing Signs: Signs and sign structures existing prior to the adoption of this Code which complied with applicable regulations existing when the sign was established, but which do not comply with one or more of the requirements of this subsection, shall be subject to the provisions of Section 3.109 for Nonconforming Uses, except:
  - 1. Alterations to a non-conforming sign which reduces or does not increase its non-compliance with the provisions of this ordinance, including changes in display surface, sign area, height and setback, may be allowed.
  - 2. Sign copy which identifies or advertises a business, product or service no longer located on the same site or premises on which the sign is posted shall be replaced, or removed, within one (1) month of the change of occupancy of the premises or vacancy of the premises. Failure to use the copy area of a non-conforming sign for purposes permitted under this section for a period of more than twelve (12) consecutive months shall constitute a discontinuation of use as provided under Section 3.109 and such sign shall be removed or modified to satisfy all applicable requirements of Section 2.206 and the underlying district.

### **2.206.3 Residential**

- A. Residential name plates:
  - 1. Shall not exceed two (2) square feet.
  - 2. Shall be limited only to the title, name, and address of the occupant of the premises upon which the sign is located.
  - 3. Only one (1) such sign shall be permitted upon the premises.
  - 4. May be illuminated by indirect lighting only.
- B. Signs pertaining to home occupations, as provided under Section 2.305 of this Code:
  - 1. Shall not exceed three (3) square feet.
  - 2. Shall be located inside the dwelling or located flat against the dwelling within which the home occupation is conducted.
  - 3. Shall be limited to only one (1) such sign upon the premises.
  - 4. May be located within the required setback area of the district provided it is situated in a manner so as not to adversely affect safety, corner vision or other similar conditions.
  - 5. May be illuminated by indirect lighting only.
- C. Signs at multi-family developments or subdivisions:
  - 1. Free-standing and ground-mounted signs shall not exceed twenty-four (24) square feet, as viewed from a single direction, and shall not exceed a height of five (5) feet above the natural ground elevation.

2. On-building signs shall be reviewed as part of the architecture of the building.
  3. No more than one (1) free-standing or ground-mounted identification sign shall be allowed for a development or complex, even when more than one (1) tax lot or ownership is included in the development; however, in mixed use developments a separate free-standing sign may be allowed to identify the multi-family portion of the development.
  4. Directional signs within the development shall not exceed three (3) square feet, except as provided in the district.
  5. Artificially illuminated signs may be allowed subject to Subsection 2.206.02 (H).
- D. Signs for public and semi-public facilities, schools, churches, hospitals, and similar uses:
1. Shall not exceed eighteen (18) square feet.
  2. May be illuminated by indirect lighting only.
  3. Shall be limited to only one (1) such sign upon the premises, and allowing the addition of one (1) additional sign per each separate street frontage when the sign abuts that street frontage.

#### **2.206.4 Permanent Identification Signs for Commercial and Industrial Developments**

- A. Developments located in a commercial zone shall utilize either free-standing/ground-mounted signs or on-building signs. Free-standing/ground-mounted signs shall not be used in conjunction with on-building signs.
- B. Free-standing or ground-mounted signs oriented to off-site circulation identifying the uses on the premises shall be allowed subject to the following conditions:
1. Number of signs: Only one (1) such sign shall be allowed per street frontage.
  2. Maximum height: Twenty (20) feet.
  3. Maximum sign area: Forty (40) square feet as viewed from one direction, except for developments abutting Highway 22 which may have a maximum sign area of 200 square feet.
  4. Setbacks: Signs less than twenty-eight (28) square feet in size must observe at least one-half of the yard setback requirements of the district in which it is located. Signs larger than twenty-eight (28) square feet in size must observe the setback requirements of the district in which it is located.
  5. Sign structure: When visible, the supporting structure of the sign shall be incorporated into the overall sign design, and shall be in scale with the sign. The sign structure, and any street numbers included on the sign structure, shall not be counted for purposes of determining sign area.
  6. Illumination: Such signs may be internally or indirectly illuminated, subject to Subsection 2.206.02(H).
- C. On-building signs identifying the use of the premises shall be allowed as follows:
1. Wall signs shall be limited in sign area to the greater of 32 square feet or 2 percent of the building face to which it is attached.

2. Wall signs are permitted for additional street frontages (limited to one per street frontage) based upon 2 percent of the building face to which it is attached up to a maximum of 20 square feet.
- D. Pedestrian oriented signs perpendicular to building shall be permitted. The intent is to allow pedestrian traffic to safely identify businesses while walking adjacent to buildings or under awnings or porches. Approval is based on the following conditions:
1. Only one such sign shall be used per business.
  2. Signs shall not impede pedestrian traffic.
  3. Pedestrian signs shall not exceed one and one-half (1 ½) square feet in size and shall be placed to allow a minimum of eight (8) feet of clearance above the right-of-way or walkway.
- E. Changeable copy signs may be incorporated into a permanent identification sign for a business or development, subject to review and approval of the Planning Commission. Approval shall not be granted unless the following conditions are satisfied:
1. Only one such sign shall be used in a development.
  2. The changeable copy sign shall be included in the maximum sign area allowed under Subsections 2.206.04(B)(3) or 2.206.04(C)(1).
  3. A changeable copy sign shall not be used on a sign which includes a time and/or temperature display.

#### **2.206.5 On-Site Traffic Control and Identification Signs**

- A. On-site signs shall be those permanent signs which are oriented toward internal circulation roads, driveway, and walkways, or which direct the flow of traffic to and from the site from adjacent roads or walkways.
- B. Traffic Control: Signs which direct the flow of traffic to and from and within the site area shall observe the clear-vision requirements of the district and shall be a maximum of three (3) square feet.
- C. Directories: An on-site sign oriented primarily toward vehicle circulation which identifies and directs traffic to a number of tenants, uses or buildings within the development, shall be limited in area to a maximum of two (2) square feet per tenant, use or building specifically identified, up to a maximum of forty (40) square feet. Directories oriented toward pedestrian circulation areas, including those attached to buildings, shall be a maximum of twenty-four (24) square feet in area, and eight (8) feet in height. Directory signs shall be incorporated into other signage whenever possible.
- D. Identification signs: An on-site, ground-mounted tenant identification sign for an individual building within a development may be allowed as an alternative to an on-building identification sign provided such sign shall:
1. Be located on the most visible side of the building being identified.
  2. Not exceed twelve (12) square feet in area.
  3. Not exceed four (4) feet in height.



4. Use materials and colors which are the same, or substantially the same, as those used on the building identified by the sign.

#### **2.206.6 Temporary Display and Portable Signs**

- A. Temporary Displays: A combination of banners, streamers, strings of lights, flags, beacon lights, balloons, tethered signs, and other similar apparatus; may be displayed for the purpose of advertising a grand opening or similar event under the following conditions and limitations:
  1. Time period and duration per sign: The temporary display shall not exceed a total time period of four (4) weeks in any calendar year and must coincide with the actual event.
  2. Hazards: No sign, light, electrical cord, streamer, banner, or other apparatus shall be situated or used in a manner which creates a hazard.
- B. Portable Identification Signs: A portable sign may be used to temporarily identify a new business until permanent identification signs are installed, or to identify an existing business while permanent identification signs are being repaired or replaced, under the following conditions and limitations:
  1. Need: No portable sign shall be allowed under this provision when any other permanent or portable sign visible from adjacent roads accurately identifies the premises.
  2. Number: Only one (1) portable identification sign shall be displayed for a development or complex.
  3. Time period: The use of a portable identification shall be valid for ninety (90) consecutive days, or until a permanent identification sign is installed, whichever occurs first.
  4. Design review: The application for permanent identification signing for the business shall be submitted for review prior to, or concurrent with, the establishment of a temporary display or portable sign under this Section.
  5. Size limits: Portable signs shall not exceed a sign area of thirty-two (32) square feet, or a height of six (6) feet above the natural ground elevation.
  6. Setbacks: Portable signs shall observe clear-vision area requirements of the district. In no case shall a portable sign be placed within the road right-of-way.
  7. Anchoring: All signs approved under this provision shall be physically established in a manner which both prevents the sign from being moved or blown from its approved location and allows for removal of the sign.
  8. Exceptions: No portable sign shall be allowed under this provision for any business or development which has a changeable copy sign incorporated into their permanent identification sign.
  9. Illuminated Signs: Illumination of any sign, or portion thereof, in the shape of an arrow, or any other shape which may be construed as a traffic control device is prohibited. Signs containing any electrical components or parts, or illuminated by electrical lighting, must be approved under the National Electrical Code as modified by the State of Oregon Rules and Regulations. Lights and illuminated signs requiring an outside power source shall use a state approved power outlet.

10. Hazards: No sign, light, electrical cord, streamer, banner, or other apparatus shall be situated or used in a manner which creates a hazard.
- C. Service Station Signs: A service station may maintain one (1) sign displaying the current prices for fuel sold on the same premises provided such sign does not exceed an area of twelve (12) square feet, or a height of five (5) feet. Such signs shall be subject to clear-vision area requirements, and one-half (1/2) the setback requirements of the district.
- D. Signage posted inside a building. Signs painted or hung on the inside of a window or door are not regulated except that illuminated signs shall not cause a safety hazard or create a nuisance.
- E. Temporary signs advertising the sale, rental, or lease of commercial or industrial premises, or identifying a property developer, lease agent or builder, or advertising a legally recorded subdivision in its entirety, or residential property in excess of one (1) acre, may be allowed, subject to the following limitations:
  1. Shall not exceed sixty (60) square feet in area.
  2. Shall observe the setback provisions under Subsection 2.206.04(A)(4).
  3. Only one (1) such sign shall be permitted on the premises.
  4. Shall not be artificially illuminated.
  5. Such signs shall be removed from the premises after the premises are sold, rented, or leased. Signs pertaining to recorded subdivisions shall not remain upon the premises in excess of eighteen (18) months from the date of filing of the subdivision.
- F. Real estate signs advertising individual lots:
  1. Shall not exceed six (6) square feet.
  2. Shall be located at least five (5) feet behind the front lot line.
  3. Shall not exceed five (5) feet in height.
  4. Shall be temporary in nature and shall be removed within two (2) weeks after the date of sale.
  5. Shall not be artificially illuminated.

#### **2.206.7 Off-Premise Signs**

- A. Along State Highways: All off-premise signs which are visible from a state highway are subject to approval by the Oregon State Highway Division pursuant to the Motorists Information Act.
- B. Billboards: New billboards shall not be allowed in any zoning district.
- C. Temporary Signs: Permitted subject to the following conditions:
  1. Approval of the owner of the property on which the sign is to be posted.
  2. Setbacks: Such signs may be located within the required setback area of the district, provided they are situated in a manner so as not to adversely affect safety, corner vision, or other similar conditions.

3. Right-of-Way Excluded: Signs shall not be posted in city, state, or county rights-of-way, on telephone poles, traffic signs, or other public apparatus.
4. Number: No more than four (4) signs are permitted on a property.
5. Size: The total square footage for all signs on the property shall not exceed forty (40) square feet in size.
6. Time Limit: No lot may display temporary signs for more than ninety (90) days in any 365-day period.

D. Along Public Roads: Off-premise directional signs of a temporary nature such as those used to direct persons to open houses, garage sales, or special one-day events may be allowed subject to the following conditions:

1. Any such sign which is visible from a state highway shall be subject to approval pursuant to Subsection 2.206.07(A), above.
2. All such signs shall comply with conditions 1 through 4 under Subsection 2.206.07(C), above.
3. Time Limit: All such signs shall be removed at the end of the day on which the event, open house or garage sale is conducted.
4. Trailer-mounted reader boards are prohibited unless approved by the City's Public Works Director based upon filing an event schedule and indicating a proposed location. The sign shall be physically established in a manner that prevents the sign from being moved or blown from its approved location and sited to maintain the required vision clearance area.

One (1) reader board per street frontage is allowed. If approved the trailer may be mounted for a period of one (1) week prior to the event and shall be removed at the time and on the date that the event closes.

## **2.207 SITE AND LANDSCAPING DESIGN**

### **2.207.1 Purpose**

- 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 design;
  - 2. Buffer and screen conflicting land uses;
  - 3. Provide for vegetation of streetscapes within the commercial and industrial zone districts;
  - 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.

### **2.207.2 Scope**

All construction, expansion, or redevelopment of structures or parking lots for commercial, multi-family, institutional, or industrial uses shall be subject to the landscaping requirements of this Section. Landscaping plans shall be submitted as required by the Site Development Review procedures of section 2.207 and reviewed by the Planning Commission, subject to Type II review procedures set forth in section 3.200.

### **2.207.3 Minimum Area Requirements**

Landscaped areas may include landscaping: around buildings; in open spaces and outdoor recreation areas; in islands and perimeter planting areas in parking and loading areas; along street frontages; and in areas devoted to buffering and screening as required in this Section and elsewhere in this Code. The following area requirements shall be the minimum areas devoted to landscaping:

For expansions of existing developments and parking lots and change of use, the minimum new landscaped area shall be determined by: first calculating the percentage of the increase of total floor area or parking area; multiplying the gross site area by this percentage of increase; multiplying the resulting area by the minimum percentage for the type of development, as listed below:

- A. Multi-Family Developments: A minimum of 25 percent of the gross land area shall be devoted to landscaping in multi-family developments. Interior courtyards, atriums, solar greenhouses, and roof gardens may be included with general landscaped areas in the calculation of this percentage.
- B. Commercial developments: A minimum of 15 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 boulevards, tree insets within sidewalks, or sidewalk planters. Landscaping located in rights-of-way shall be maintained by the property owner.

- C. Industrial Developments: A minimum of 15 percent of the gross land area shall be devoted to landscaping in industrial developments.
- D. For a change of use, the percentage shall be calculated at 50% of the required landscaping.

#### **2.207.4 General Provisions**

- A. For purposes of satisfying the minimum requirements of this Code, a "landscaped area" must be planted in lawn, ground cover plants, shrubs, annuals, perennials or trees, or desirable native vegetation, or be used for other landscape elements as defined in this Code.
- B. Landscaping shall be designed, developed and maintained to satisfy the specific functional and aesthetic objectives appropriate to the development and the district, 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 Planning Commission may grant the applicant credit toward the minimum requirement for landscaping to be done in the public right-of-way provided the elements set forth for the granting of a variance are met by the applicant. It shall not be necessary to hold a public hearing to grant this credit. The Planning Commission shall consider the need for future use of the right-of-way for street purposes when granting approval for credit under this section.
- D. The landscape design shall incorporate existing significant trees and vegetation preserved on the site.

#### **2.207.5 Screening and Buffering**

- A. Screening shall be used to eliminate or reduce the visual impacts of the following uses:
  - 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. Parking areas for six (6) or more vehicles for multi-family developments, or ten (10) or more vehicles for commercial or industrial uses. Parking areas shall be calculated based on approved projects. Parking areas shall not be calculated by tax lot.
  - 6. At and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners.

7. Any other area or use as required by this Code.
- 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 fifteen (15) feet, planted with the following materials:
    - a. At least one row of deciduous or evergreen trees staggered and spaced not more than fifteen (15) feet apart.
    - b. At least one row of evergreen shrubs which will grow to form a continuous hedge at least five (5) feet in height within one (1) year of planting.
    - c. Lawn, low-growing evergreen shrubs or evergreen ground cover covering the balance of the area.
  2. Berm Plus Planting Area: Width not less than ten (10) feet, developed in accordance with the following standards:
    - a. Berm form should not slope more than forty (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 five (5) feet developed in accordance with the following standards:
    - a. A masonry wall or fence not less than five (5) feet in height.
    - b. Lawn, low-growing evergreen shrubs, and evergreen ground cover 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.

#### **2.207.6 Commercial, Industrial, Institutional Streetscapes**

Trees shall be installed at street frontages as follows:

- A. Types of trees. Street trees shall be limited to a City approved list. The list of acceptable tree species and planting methods shall be established by the Public Works Department and shall be reviewed at the time of a site development review.
- B. Minimum installation size. Street trees shall be a minimum caliper of two (1) inches when measured four (4) feet in height at the time of installation.
- C. Spacing. The spacing of street trees by mature tree size shall be as follows:
  1. Small sized trees (under 25 feet tall and less than 16 feet wide) shall be no greater than 20 feet apart.
  2. Medium sized trees (25 feet to 40 feet tall and more than 16 feet wide) shall be spaced no greater than 30 feet apart.
  3. Large trees (over 40 feet tall and more than 35 feet wide) shall be spaced no greater than 40 feet apart.

- D. Placement. The placement of trees is subject to the site design review process. Tree placement shall not interfere with utility poles, light standards, power lines, utility services, visual clearance areas, or sidewalk access.

#### **2.207.7 Planting and Maintenance**

- A. No sight-obscuring plantings exceeding thirty (30) inches in height shall be located within any required clear-vision area as defined in section 1.200 of this Code.
- B. Plant materials shall not cause a hazard. Landscape plant materials over walks, pedestrian paths and seating areas shall be pruned to a minimum height of eight (8) feet and to a minimum height of fifteen (15) feet over streets and vehicular traffic areas.
- C. Landscape plant materials shall be selected which do not generally interfere with utilities above or below ground. (See recommended tree list, Section 2.207.08.)
- D. Landscape plant material shall be installed to current nursery industry standards.
- E. Landscape plant materials shall be properly guyed and staked to current industry standards as necessary. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.
- F. All landscape material shall be guaranteed by the developer for a period of one year from the date of installation. A copy of the guarantee shall be furnished to the City by the developer.
- G. Plant materials shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas which will not be irrigated should be sufficiently hardy to thrive under these conditions. Plants should have vigorous root systems, and be sound, healthy, free from defects, diseases, and infections.
- H. Deciduous trees should be fully branched, have a minimum caliper of one and one-quarter (1 1/4) inches, and a minimum height of eight (8) feet at the time of planting.
- I. Evergreen trees shall be a minimum of six (6) feet in height, fully branched.
- J. Shrubs should be supplied in one (1) gallon containers or eight (8) inch burlap balls with a minimum spread of twelve (12) to fifteen (15) inches.
- K. Ground cover plants shall be spaced in accordance with current nursery industry standards to achieve covering of the planting area. Rows of plants are to be staggered for a more effective covering. Ground cover shall be supplied in a minimum four (4) inch size container or a two and one-quarter (2 1/4) inch container or equivalent if planted eighteen (18) inches on center.
- L. All developments are required to provide appropriate methods of irrigation for the landscaping. It is recommended that large landscape areas be irrigated with automatic sprinkler systems to insure the continued health and attractiveness of the plant materials. Sprinkler heads shall not cause any hazard to the public. Hose bibs and manually operated methods of irrigation may be appropriate for small landscaping areas. Irrigation shall not be required in wooded areas, wetlands, floodplains, or along natural drainage channels or stream banks.
- M. Appropriate methods of care and maintenance of landscaped plant material shall be provided by the owner of the property.
- N. Landscape plant material shall be protected from damage due to heavy foot traffic or vehicular traffic by protective tree grates.

## 2.207.8 Recommended Street Trees

A. The following tree species are recommended for use as street trees:

1. Trees maturing to small mature stature:

Common Name	Latin Name
Amur Maple	<i>Acer ginnala</i>
Trident Maple	<i>Acer buergeranum</i>
Hedge Maple	<i>Acer compestre</i>
Globe Norway	<i>Acer calleryana</i>
Bradford Pear (varieties: aristocrat, chanticleer, etc.)	<i>Pyrus calleryana</i>
Golden Rain Tree	<i>Koelreuteria paniculata</i>
Redbud (needs protection from Southwest sun)	<i>Cercis canadensis</i>
Kwanzan Cherry	<i>Prunus serrulata</i>
Crape Myrtle	<i>Lagerstroemia indica</i>
Flowering Plum (varieties: Flireiana, Thundercloud, etc.)	<i>Prunus cerasifera</i>
Raywood Ash or Flame Ash	<i>Fraxinus oxycarpa</i>
Snowdrift Flowering Crabapple	<i>Malus 'snowdrift'</i>
Japanese Crabapple	<i>Malus floribunda</i>
Washington Hawthorne	<i>Crataegus phaenopyrum</i>
European Hornbeam	<i>Carpinus betulus</i>
Profusion Crabapple	<i>Malus 'profusion'</i>

2. Trees maturing to medium stature:

Common Name	Latin Name
Sargent Cherry	<i>Prunus sargentii</i>
Sweet Gum	<i>Liquidambar styraciflua</i>
Kimberly Blue Ash	<i>Fraxinus excelsior</i>
Flowering Ash	<i>Fraxinus ornus</i>
Canyon Live Oak (evergreen)	<i>Quercus chrysolepis</i>
Holly Oak (evergreen)	<i>Quercus ilex</i>
Chinese Pistachio	<i>Pistacia chinensis</i>
Variegated Boxelder	<i>Acer negundo</i>
Grecian Laurel	<i>Laurus nobilis</i>



3. **Prohibited Street Trees:** The following trees are not allowed as street trees, because they cause one or more of the following problems: 1) their roots damage sewer lines or pavement; 2) they are particularly subject to disease or insects; 3) they cause visibility problems along streets or intersections; 4) they create messy sidewalks and pavements, usually due to fruit drop; 5) their average height at maturity is larger than Code standard.

Common Name	Latin Name
Marshall's Seedless Ash	Fraxinus pennsylvanica
Rosehill Ash	Fraxinus americana
Norway Maple Cultivars	Acer platinoides
Red Maple Cultivars	Acer rubrum
Scarlet Oak	Quercus coccinea
Red Oak	Quercus rubra
English Oak	Quercus robur
Ginko Biloba	Ginko biloba
Japanese Zelkova	Zelkova serrata
Amur Cork Tree	Phellodendron amurense
Thornless Honey Locust	Gelitsia triacanthos
English Conifers	numerous species
Poplar and related species	Populus tricarpa and related species
Black Locust	Robinia pseudoacacia
Box Elder (except variegated)	Acer negundo
Sycamore	Platanus species
Siberian Elm	Ulmus pumila
American Elm	Ulmus americana
Walnut	Juglans species
Weeping Willow	Saxix babylonica
Commercial Fruit Trees	numerous species
Catalpa	Catalpa speciosa
Tree of Heaven	Ailanthus altissima
Big Leaf Maple	Acer macrophyllum
Fruiting Mulberry	Morus alba
Osage Orange	Maclura pomifera
Weeping varieties of various trees: i.e. cherry, crabapple, mulberry	

## **2.208 DEVELOPMENT STANDARDS FOR LAND DIVISIONS**

### **2.208.1 Purpose**

To provide for the orderly, safe, efficient, and livable development of land within the City of Sublimity.

### **2.208.2 Scope**

The provisions of this Section shall apply to all subdivisions and partitions within the City of Sublimity.

### **2.208.3 Standards for Lots or Parcels**

- A. Minimum lot area: Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.

New residential subdivisions in an R-1 zoning designation shall provide a mix of housing to provide a minimum of fifteen (15) percent duplex lots, which shall be located on corner lots with dual access, in accordance with Section 2.208.03 (D). The Planning Commission may allow duplexes to be located on lots that are not corner lots when appropriate. The Planning Commission may allow greater than fifteen (15) percent duplex lots in a new R-1 subdivision if the proposed additional duplex lots do not significantly negatively affect the livability of neighboring properties.

To determine the number of units in a new R-1 zoned subdivision, the following formula is applied:

Total number of acres reduced by 25 percent to allow for dedications of rights of way =  
Developable acres

Developable acres times 15 percent to establish the acreage reserved for duplex development.

- B. Access: All lots or parcels created after the effective date of this Code shall provide a minimum of 60 feet of frontage on an existing or proposed public street, with the following exceptions:

1. Residential lots or parcels, excluding townhouse developments may be accessed via a private street developed in accordance with the provisions of Section 2.202 when the Planning Commission finds that public street access is:
  - a. Not feasible due to parcel shape, terrain, or location of existing structures;  
and
  - b. Unnecessary to provide for the future development of adjoining property.
2. Lots or parcels in townhouse developments or may be accessed via public or private streets, in accordance with the following standards:
  - a. Internal local streets or drives may be private and shall be subject to the provisions of Section 2.202.
  - b. Collector and arterial streets shall be public and shall comply with the applicable provisions of Section 2.202.
  - c. Local streets which are needed to provide access to adjoining properties shall be public and shall comply with the applicable provisions of Section 2.202.

3. Commercial or Industrial uses located in a campus or park-like development may be accessed via private streets when developed in accordance with Subsection 2.202.07.
- C. Access for duplexes on corner lots: Individual driveways for duplexes on corner lots shall be installed at the rate of one driveway per unit per street frontage unless the Planning Commission allows a combined access or access on one street frontage based upon a conflict created by the topography of the lot, the location of a public utility, significant vegetation, or different street classifications.
- D. Flag-Lots: With the exception of lots or parcels meeting Subsection B, above, and D, 1 and 2, below, all lots shall maintain the lot frontage (width) required in the applicable zoning district. It is not the intention of this Section to allow the creation of "flag-lots" by increasing the required building setback line.
1. Flag-lots may be approved in conjunction with partition or subdivision applications. The allowance of flag parcels in partitions is not intended to encourage the division of a parcel through a series of subsequent partition applications. If City Staff determines a series of subsequent partitions is occurring or could occur, the applicant shall be required to submit a street and lot plan which covers land under contiguous ownership of the applicant.
  2. Flag parcels or lots may be approved only if allowing a flag parcel or lot is the only reasonable method by which the rear portion of a parcel or lot being unusually deep or having an unusual configuration may be accessed.
  3. If a flag parcel or lot is permitted, the following standards shall be met:
    - a. The access strip shall not be less than twenty-five (25) feet wide. The access strip shall be improved with a minimum fifteen (15) foot wide, paved driveway and driveway drop/driveway apron which meet applicable City standards. If said access strip is over two hundred (200) feet in length, the driveway shall terminate in a turn-around capable of accommodating emergency fire vehicles and approved by the Fire Chief.
    - b. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Code.
    - c. Where the access strips of two flag-lots abut, access shall be via a shared drive wherever practicable. Shared drives shall be developed as private streets, shall conform to the standards of Subsection 2.202.7, and shall be recorded on the deed.
- E. Through Lots: Through lots shall be avoided except where essential to provide separation of residential development from major traffic arteries, adjacent non-residential activities, or to overcome specific disadvantages of topography and orientation. Screening or buffering, pursuant to the provision of Section 2.207, may be required by the Planning Commission during the review of the land division request.
- F. Lot Side Lines: The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.
- G. Lot Grading: Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards.
1. Cut slopes shall not exceed one and one-half (1½) feet horizontally to one (1) foot vertically.
  2. Fill slopes shall not exceed two (two) feet horizontally to one (1) foot vertically.

3. The character of soil for fill shall be suitable for the purpose intended.
  4. The minimum elevation at which a structure may be erected, taking into consideration the topography of the lot, the surrounding area, drainage patterns and other pertinent data, shall be established by the City Engineer.
- H. Utility Easements: Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Such easements shall have a minimum total width of twelve (12) feet six (6) feet on each lot if located on a common lot line.

#### **2.208.4 Standards for Blocks**

- A. General: The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic including pedestrians and bicyclists; and recognition of limitations and opportunities of topography.
- B. Sizes: Blocks shall not exceed 1600 feet in perimeter between street lines, except blocks adjacent to arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 250 feet.

#### **2.208.5 Improvement Requirements**

- A. Partitions: During the review of partition proposals, the City requires as a condition of approval, the improvement of:
  1. Public streets upon which the property fronts to public standards, including: surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines and other necessary public utilities.
  2. Sidewalks and bikeways, meeting City standards, along public street frontage.
  3. Private driveways serving flag lots, per the requirements of Subsection 2.202.07. All improvements required as a condition of approval of a partition shall be completed prior to the issuance of any building permits for the subject property.
  4. The construction of all new public or private streets to the standards of Section 2.202.
  5. The installation of storm sewers, sanitary sewers, water lines and other utilities necessary to serve lots accessing off of the new street.
  6. The construction of sidewalks and bikeways along all new public streets to the standards of Section 2.202.
  7. Cluster mailboxes, as approved by the Post Master.

All improvements required under this Section shall be completed or assured through a performance bond or other instrument acceptable to the City Attorney prior to the approval of the final plat of the partition.

- B. Subdivisions: The following improvements shall be required for all subdivisions in the City of Sublimity:

1. Frontage Improvements: Three-quarter (per design standards) street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts. Such improvements shall be blended to match with existing improved surfaces across the center line and for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks and bikeways, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.
2. Project Streets: All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.202.
3. Monuments: Upon completion of street improvements, monuments shall be re-established and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines. Elevation bench marks shall be established at each street intersection monument with elevations to US Geological Survey datum.
4. Surface Drainage and Storm Sewer System: Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.
5. Sanitary Sewers: Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided.

If the required sewer facilities will, without further sewer construction, directly serve property outside the subdivision, the Planning Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is equitable to assure financing his share of the construction.

The City may require that the subdivider construct sewage lines of a size in excess of that necessary to adequately service the development in question, where such facilities are or will be necessary to serve the entire area within which the development is located when the area is ultimately developed. The City may also require that the construction take place as an assessment project with such arrangement with the subdivider as is desirable to assure his share of the construction.

6. Water System: Water lines with valves and fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed. The design shall take into account provisions for extension beyond the subdivision to adequately grid the City system and to serve the area within which the development is located when the area is ultimately developed. However, the City will not expect the subdivider to pay for the extra cost of mains exceeding six inches in size.
7. Sidewalks: Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision. The Planning Commission or City Council may postpone sidewalk construction until the dwellings or structures are constructed.

8. Other:
  - a) Curb cuts and driveway installations are not required of the subdivider, but, if installed, shall be according to the City standards.
  - b) Street tree planting is not required of the subdivider, but, if planted, shall be according to City requirements and of a species compatible with the width of the planting strip.
  - c) Accessways shall be installed when required for cul-de-sacs or dead-end streets.
9. Street Lights. The installation of street lights is required at locations, and of a type required by City standards.
10. Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the city and shall be of a type required by City standards.
11. Parks. The dedication of park land to the City, equal to seven percent (7%) of the gross land area of the subject property, fee in lieu of the park land dedication which is equal in value to the fair market value of seven percent (7%) of the gross land area of the subject property, or a combination of both land and fee. The City will determine which will be required.
  - a) Fee in Lieu of Land: When a fee in lieu of land is required, the fair market value of the subject property for purposes of calculating the fee established above will be established by the higher of:
    1. The Marion County Assessor's current tax year fair market value of the subject property or
    2. The purchase price of the subject property if the sale or transfer occurred within the last twenty-four (24) months.
    3. Appraisal of the land conducted within the twelve (12) months prior to the date of application.
    4. An equitable value agreed to by the City and the subdivider.
  - b) A date which is within sixty (60) days of the submission of the tentative plan shall be used for the purposes of fixing the value (except that appraised value shall always be determined subsequent to the parcel's annexation to the City if being annexed.
  - c) The fee established by this procedure shall be paid to the City prior to the signing of the final plat by the Planning Commission chairperson.
12. Cluster Mailboxes as approved by the Post Master..

All improvements required under this Section shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision.

## **2.208.6 Improvement Procedures**

In addition to other requirements, improvements installed by a developer for any land division, either as a requirement of these regulations or at the developer's own option, shall conform to this Code as well as improvement standards and specifications adopted by the City. In addition, improvements shall be installed in accordance with the following procedure:

- A. Improvement work shall not commence until plans have been checked for adequacy and approved by the City. Plans shall be prepared in accordance with requirements of the City.
- B. Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.

- C. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer. The City may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.
- D. All underground utilities, sanitary sewers, and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length sufficient to eliminate the necessity for disturbing the street improvements when service connections are made. The Developer shall not disrupt a street to perform work on any improvements underneath or within the street within 24 months of paving without written permission from the City.
- E. A map showing all public improvements as built shall be filed with the Public Works Director upon completion of the improvements.
- F. The size, configuration, and location of any dedicated park land, as provided in 2.208.05.B.11 shall be determined by the City. Plans shall be prepared in accordance with the requirements of the City.

## **2.209 YARD AND LOT STANDARDS**

### **2.209.1 New Buildings Shall be on a Lot**

Every building erected shall be located on a lot as herein defined.

### **2.209.2 Yards Apply Only to One Building**

No required yard or other open space or required driveway provided around or for any building or structure for the purpose of complying with the provisions of this Development Code shall be considered as providing a yard or open space for any other building, nor shall any yard or other required space on an adjoining lot be considered as providing a yard or open space on the lot whereon the building is to be erected.

### **2.209.3 No Parking in Front Yard, or Yards Adjacent to a Street**

No parking shall be allowed exclusive of driveways within the required front yard area. The side yard and rear yard areas may be used for parking of vehicles unless otherwise prohibited by this Development Code.

The yard areas and driveways adjacent to a street shall not be used for the permanent storage of utility trailers, house or vacation trailers, boats, or other similar vehicles.

### **2.209.4 Zero Side Yard Setback**

Zero side yard dwelling units shall meet the following use and development standards:

- A. Number of attached units. No more than six (6) dwelling units on two or more lots held in separate ownership may be attached in the R-2 zone.
- B. Yards adjacent to a street. The requirements of this Development Code for yards adjacent to a street are not relieved by this Section.
- C. Maintenance easement. As a condition of issuance of a permit for any building having an exterior wall contiguous to a property, the applicant shall furnish an easement from the owner of the property adjacent to said wall providing for ingress, egress, and use of such adjacent property for the purpose of maintaining, repairing, and replacing the building. Said easement shall be appurtenant to the property on which the building is located and shall be approved as to form by the city attorney and shall be recorded with the County Clerk prior to issuance of the permit.

### **2.209.5 Front Yard Projections**

Planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, planter boxes, window bays, greenhouse windows, and other ornamental features of not more than twenty four (24) inches, from main buildings, uncovered porches and decks, covered but unenclosed porches and decks when not more than one story high and which do not extend more than ten (10) feet beyond the front walls of the building, but in no case shall such projection come closer than ten (10) feet from the property line (except structures located within the Center Street Commercial Corridor) and the floors of which are not more than eighteen (18) inches above grade, are exempt from the front yard setback provisions and need not be included when determining the average setback.



#### **2.209.6 Side Yard Projections**

- A. Cornices, eaves, gutters, and fire escapes when not prohibitive by any other code or ordinance, may project into a required side yard not more than one-third (1/3) of the width of the side yard, nor more than four (4) feet in any case.
- B. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, planter boxes, window bays, greenhouse windows, and ornamental features may project not more than two (2) feet into a required side yard, provided, however, chimneys and flues shall not exceed six (6) feet in width.
- C. 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 side yard property line when they are eighteen (18) inches or less in height from ground level.
- D. Mechanical equipment, such as heat pumps, and air conditioners not more than five (5) feet in height may project into a required side yard not more than one-third (1/3) of the width of the side yard.

#### **2.209.7 Rear Yard Projections**

- A. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, planter boxes, window bays, greenhouse windows, eaves, gutters, and other ornamental features, may project not more than two (2) feet into a required rear yard, provided, however, chimneys and flues shall not exceed six (6) feet in width.
- B. A fire escape, balcony, outside stairway, cornice, or other unenclosed, unroofed projections in the residential zones, shall be set back at least six (6) feet from any property line.
- C. Covered unenclosed porches including covered patios when not more than one story high and the floors, which are not more than eighteen (18) inches above grade and which shall not come closer than five (5) feet from the rear lot line, are exempt from the minimum rear yard depth requirements.
- D. No permitted projection into a required rear yard shall extend within 10 feet of the center line of an alley or of a rear lot line if no alley exists.
- E. Uncovered decks, porches, and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the rear yard property line when they are eighteen (18) inches or less in height from ground level.
- F. Mechanical equipment, such as heat pumps, and air conditioners not more than five (5) feet in height may project into a required rear yard not more than one-third (1/3) of the depth of the rear yard.

#### **2.209.8 Vision Clearance**

- A. Vision clearance for corner lots located on intersecting street shall be a minimum of twenty (20) feet.
- B. Vision clearance for street-alley intersections and street driveway intersections shall be a minimum of ten (10) feet extending along the length of the driveway or alley, and a minimum of twenty (20) feet extending along the street.

## **2.210 POST APPROVAL REVIEW**

### **2.210.1 Modification of Approved Plan.**

A modification of an approved subdivision plan that does not deviate by more than ten percent (10%) from approved parcel or lot size or dimensions, and does not increase the number of lots, may be approved by the Planning Commission subject to notice, hearing requirements, and conditions pursuant to Section 3.201.02. The plan must substantially conform to the approved subdivision plan.

### **2.210.2 Monitoring Development.**

The Public Works Director, or designee, shall review each approved subdivision on an annual basis to determine whether the subdivision is developing on schedule or in compliance with its approved plan. If the Public Works Director, or designee, determines that the subdivision is not developing on schedule or in compliance with the approved plan, including all conditions of approval, if any, the Public Works Director, or designee, shall notify the applicant and property owner, if different, in writing that the applicant must either apply for a modification to the approved plan or for an extension to the subdivision approval. With regard to a modification, the applicant must make such request and pay the required fee within sixty (60) days of the mailing of the notice in order to bring the subdivision into compliance. With regard to extension of approval, the applicant must make such request and pay the required fee at least thirty (30) days prior to expiration of the approval. If the owner fails to timely apply for a modification or if the city denies the modification, the City may revoke the approval. If the applicant fails to timely request an extension, then the approval will lapse, and no other action is required by the City. In the case of a lapsed or revoked approval, a new application, including payment of a new application fee and compliance with all pre-application requirements will be required.

## **2.300 SUPPLEMENTAL STANDARDS FOR SPECIAL USES**

### **2.301 GENERAL PROVISIONS**

#### **2.301.1 Applicability of Special Use Standards**

Special uses included in this Section are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These special use standards may differ from the development standards established for other uses in the same Zoning District. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

#### **2.301.2 Process**

The status of a special use as a permitted or conditional use is set forth in the underlying Zoning District.

Conditional uses shall be processed in accordance with the criteria and procedures specified in Section 3.103. Permitted uses shall be reviewed for compliance with the standards of Section 2.200 in the manner specified in the particular special use section.

- A. Conditional Uses: Special uses which are conditional uses in the underlying Zoning District shall be reviewed for compliance with the standards of Section 2.200 during the review of the Conditional Use Permit. In addition to any specific requirements under the special use, the following information shall be included with the application submittal:
1. A description of the proposed use and specific reason for the request.
  2. A vicinity map indicating the relationship of the proposed use to the surrounding area.
  3. A site plan of the property, including existing and proposed improvements, and other information necessary to address the requirements and conditions associated with the use.
  4. A building profile of proposed new or remodeled structures, as applicable.
  5. Information addressing the criteria set forth under Section 3.103.

#### **2.302 Section repealed per Ord. 741, January 13, 2020.**

## **2.303 MANUFACTURED HOMES**

### **2.303.1 Scope**

The following general standards are applicable to all manufactured homes sited in the City of Sublimity.

### **2.303.2 General Standards**

- A. The manufactured home shall be multi-sectional and shall enclose a space of no less than 1,000 square feet.
- B. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located no more than twelve (12) inches above grade.
- C. The manufactured home shall have a roof with a nominal pitch of no less than 3/12 (three feet in height for each 12 feet in width).
- D. The manufactured home shall have roofing which in color, material and appearance is similar to the roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings. Roofing materials may consist of, but are not limited to: composition asphalt, metal, wood shake, or tile.
- E. The manufactured home shall have exterior siding which in color, material and appearance is similar to the exterior siding material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings. Exterior siding materials may consist of, but are not limited to: standard wood siding, T-111, cement lap siding, or a siding of equivalent appearance.
- F. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards specified by the State Building Code under ORS 455.010 and Marion County for single-family dwellings.
- G. The manufactured home shall have an enclosed, attached, or detached garage. The garage shall be constructed of materials which are similar in color, material, and appearance to the house. The garage shall be constructed prior to occupancy.
- H. Transportation mechanisms, including wheels, axles, and hitch must be removed prior to occupancy.
- I. The manufactured home shall be provided with gutters and downspouts to direct storm water away from the placement site.
- J. All utilities shall be connected to the manufactured home in compliance with City, County and State requirements prior to occupancy.
- K. The applicant must obtain an installation/set-up permit for the manufactured home from the City.

### **2.303.3 Process**

Compliance with the standards of this Section shall be reviewed administratively by the City Building Inspector during the review of applicable building permits and set-up permits.

## **2.304 MANUFACTURED HOME PARKS**

### **2.304.1 Scope**

The following standards shall apply to the design and development of all manufactured home parks in the City of Sublimity.

### **2.304.2 General Standards**

- A. Any lot or site used for a manufactured home park and any modifications to a manufactured home park shall comply with the provisions of ORS 446.002 to ORS 446.210 and Manufactured Home Park Standards, adopted as Oregon Administrative Rule, Chapter 814, Subdivision 3, Manufactured Home Parks, Sections 28.010 to 18.170, inclusive.
- B. All parks shall require a minimum of one acre.
- C. Density. The maximum density of a manufactured home park shall not exceed six (6) units per gross acre.
- D. Minimum area. The minimum area to be contained on a manufactured home space by a manufactured home or recreational vehicles and its accessory structures shall be 3,000 square feet.
- E. Yard Setbacks. Adjacent to any public street, there shall be a yard of at least twenty (20) feet in depth. Adjacent to any property line other than along a street, there shall be a minimum of at least ten (10) feet. The units on the periphery of a manufactured home or modular home park shall maintain the same yard setbacks required on the adjacent parcels.
- F. Minimum width. No manufactured home space shall be less than forty (40) feet in width at its driveway frontage.
- G. Boundaries of space. The boundaries of each manufactured home space shall be clearly marked by a fence, landscaping or by permanent markers.
- H. Driveways. All driveways shall be paved with an asphaltic material or concrete and shall be a minimum of twenty (20) feet in width. In addition, if parking is to be permitted along the driveway, a minimum width of thirty (30) feet is required. All driveways shall be adequately designed as to permit safe, easy access by emergency vehicles.
- I. Parking. A minimum of two (2) off-street parking spaces shall be provided for each unit.
- J. Walks. Provisions shall be made for a walk from each manufactured home or recreational vehicle to each driveway. All walks must be hard surfaced, well drained and not less than thirty-six (36) inches in width. All walks adjacent to driveways and thoroughfares shall be curb line walks.
- K. Patio. Each manufactured home space shall have a slab or patio or concrete, asphalt or flagstone or similar substance not less than twenty (20) feet in length and ten (10) feet in width adjacent to each manufactured home parking site.
- L. Storage area. A storage space in a building having a gross floor area of at least sixty (60) square feet shall be constructed and completed prior to occupancy of the manufactured home for storing the outdoor equipment and accessories necessary to residential living.
- M. Accessory buildings. Accessory buildings shall not be placed closer than five (5) feet to any property line. Accessory buildings which are placed on a manufactured home space shall be sited in a manner so as not to hinder or restrict access to the side and rear yard areas adjacent to the manufactured home.

- N. Manufactured home space coverage. Not more than 45 percent of a manufactured home space may be occupied by a manufactured home or recreational vehicle and its accessory structures, whether or not it is attached to the manufactured home.
- O. Signs. All signs shall be in accordance with Section 2.206 of this ordinance.
- P. Lighting. Common driveways and walkways must be adequately lighted.
- Q. Skirting. All manufactured homes shall have skirting around the exterior of the manufactured home or they may be situated upon a continuous foundation meeting the approval of the city building code.
- R. Open space. A minimum of at least 2,500 square feet per the first 30 manufactured home spaces or portion thereof shall be provided for a recreational play area. The play area shall have a minimum length to width aspect ratio of 3:1 Each additional manufactured home space above 305 units shall require a minimum of 80 square feet of recreational play area.. No approved play area shall contain less than 2,500 square feet. Play areas shall conform to the requirements of Section 10-7 of the Oregon Manufactured Dwelling and Park Specialty Code.
- S. Utilities. All utility services shall be underground. The applicant shall furnish the city with proper easements for reading the meters and for inspecting water and sewer lines. All meters and water and sewer lines shall be maintained by the park owners to city standards.
- T. Water, sewer and surface drainage. Adequate provisions shall be made for an ample supply of safe and potable water and adequate provisions shall be made for sewage disposal and surface drainage and plans for such must have prior approval of the health department and the city engineer before a manufactured home park is approved. All manufactured home spaces shall have individual water meters. All meters, sewer and water lines shall be inspected while being installed and the installation shall meet normal city standards. All utilities shall be built to City Public Work's Design Standards.
- U. Additions to manufactured homes. Awnings and all other structures, whether defined herein or not, which are situated upon a manufactured home space and are attached to the manufactured home, shall conform to the requirements of the city building code, as well as City Development Code. Such additions and structures shall be considered as a portion of the manufactured home for determining the extent of lot coverage, setback lines and all other requirements for manufactured homes, as if such additions and structures were a part of such manufactured home.
- V. No part of any manufactured home park shall be used for the parking or storage of any heavy equipment or trucks.
- W. A caretaker, owner or manager shall be responsible for keeping the manufactured home park, its facilities and equipment in a clean, orderly, and sanitary condition.
- X. Landscaped buffer areas shall be developed around the perimeter of all manufactured home parks. Buffering shall comply with the standards of Section 2.207.
- Y. All units placed within a manufactured home park after the effective date of this Code shall be "manufactured homes" as defined in Section 1.200 of the Development Code.

### **2.304.3 Process**

Manufactured home parks shall be subject to the Site Development Review procedures of Section 3.105. Submittal requirements and review procedures shall be as specified in that Section.

Approval shall not be granted unless all provisions of this Section and other applicable requirements of this Code are met.

## 2.305 HOME OCCUPATIONS

### 2.305.1 Standards

Home occupations may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:

- A. Participation: The home occupation shall include at least one member of the family residing in the residence.
- B. Character: The character and primary use function of the residence and premises shall not be changed by the use of colors, materials design, construction, lighting, landscaping or lack of landscaping.
- C. Traffic: A home occupation located on a local street, or privately maintained road serving three or more residences, shall not generate more than twenty (20) vehicle trips in one day. A "trip" is a vehicle traveling in one direction to or from a source. Twenty (20) trips is equivalent to ten (10) round trips.
- D. Noise: A home occupation shall not create noise of a type, duration or intensity which, measured at the property line, exceeds 60 DBA between the hours of 7:00 a.m. and 6:00 p.m. No noise shall be created by the home occupation between the hours of 6:00 p.m. and 7:00 a.m. that is detectable to normal sensory perception, off the premises of the home occupation.
- E. Equipment and Process Restrictions: No home occupation conducted within a single-family detached residence or an accessory structure shall create vibration, glare, fumes, odors, or electrical interference detectable to the normal sensory perception, off the property. No home occupation conducted in a residence other than a single family detached residence shall create vibration, glare, fumes, odors, or electrical interference detectable to normal sensory perception outside the dwelling unit. In the case of electrical interference, nothing shall be used which creates visual or auditory interference in any radio or television off the premises.
- F. Hazards: No equipment, process or material shall be used which will change the fire rating or structure separation, fire wall, or ventilation requirements for the structure in which the home occupation is located. No hazardous materials shall be used or stored on the property on which a home occupation located in quantities not typical of those customarily used in conjunction with activities or primary uses allowed in the zoning district.
- G. Signs: Signing shall be as provided in Section 2.206.
- H. On-Premise Client Contact: Customer and client contact shall be primarily by telephone or mail, and not on the premises of the home occupation, except those home occupations, such as tutoring, counseling or personal services, which cannot be conducted except by personal contact. Services or sales conducted on the premises shall be by appointment only, and shall not be oriented toward, or attract, off-the-street customer or client traffic.
- I. Deliveries and Large Vehicle Storage: Delivery of materials to and from the premises shall not involve the use of vehicles over two (2) ton capacity, except Commercial Delivery Service trucks. No vehicle over one (1) ton capacity used in conjunction with a home occupation shall be stored on public rights-of-way. No more than one, one (1) ton capacity vehicle may be stored on the property.



- J. Parking: Parking spaces needed for the conduct of a home occupation shall be provided off the street, in defined areas which are appropriately designed and surfaced for that purpose, and not located within the side or rear yard setbacks of the district. No more than two (2) home occupation-related vehicles shall be located on the property at one time. In the case of vehicle repair services, only two (2) vehicles shall be located and repaired on the property at one time, and shall be located and repaired within an enclosed structure. Except when access to the property is from a local or collector street, adequate maneuvering room shall be provided on-site to allow vehicles to leave the property front-end first.
- K. Storage and Use of Yard Areas: Storage of tools, equipment and materials, and display of merchandise and all other activities associated with a home occupation, except as provided above for parking, shall be contained and conducted wholly within covered and enclosed structures and shall not be visible from the exterior of the containing structure(s). Home occupations which involve the care of children by a baby sitter, as defined in Section 1.200, may use yard areas.

### **2.305.2 Process**

Home occupations are allowed as an accessory use to any residential use in the City of Sublimity, subject to the Type I approval process listed in Subsection 3.201.01. The standards of this Section shall govern all home occupations.

### **2.305.3 Non-Compliance**

Any home occupation which does not comply with the requirements of this Section and the provisions of the underlying district shall be a violation of this Code and shall be subject to the penalties and remedies of Subsection 1.102.03.

## **2.400 GENERAL PROVISIONS**

### **2.401 GENERAL STANDARDS**

#### **2.401.1 Minimum Requirements**

In interpreting and applying this Code, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

#### **2.401.2 Completion of a Structure Within a Reasonable Length of Time**

A structure not completed within one year of beginning construction shall constitute a violation of this Code.

#### **2.401.3 Lots of Record**

- A. A parcel is a legal lot of record for purposes of this Code when the lot conforms to all zoning requirements, Subdivision Code requirements, and Comprehensive Plan provisions, if any, in effect on the date when a recorded separate deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract; except
- B. Contiguous lots under the same ownership when initially zoned shall be combined, for the purposes of this Code, when any of these lots do not satisfy the lot size requirement of the initial district. A lot or parcel which is a separate legal lot or parcel prior to the adoption of this provision shall remain a separate legal lot regardless of ownership.
- C. Lots in recorded plats shall not be combined under Subsection 2.401.03 (B).
- D. The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use is commenced, irrespective of the lot width, street frontage, depth or area, but subject to all other regulations. However, no dwelling shall be built on an existing lot less than 3,000 square feet in area, unless the property owner obtains a valid, approved variance permit from the City under Chapter 3.104 of this Code.

#### **2.401.4 Lots Abutting a Partial Street**

New structures which are proposed to be constructed on lots abutting an existing public street which does not meet the minimum standards of Section 2.202 for right-of-way width shall provide setbacks sufficient to allow for the future widening of the right-of-way. Building permits shall not be issued unless a yard setback equal to the minimum yard requirements of the zoning district plus the required minimum additional right-of-way width is provided.

#### **2.401.5 Protection of Solar Access**

The use of solar energy systems including solar collectors, storage facilities, and distribution components for space heating and cooling and domestic water heating is a permitted use within all zones, whether as a part of a structure or incidental to a group of structures nearby.

- A. Solar collectors and the equipment used for the mounting and operation of such collectors, where necessary, may be elevated above the two and one half (2 ½) story height limitation in residential zones. However, elevation of solar collectors shall not restrict solar access to adjacent properties.
- B. Chimneys, communication transmission towers, television and radio masts shall not significantly restrict or impair solar access to buildings or solar collector locations.

#### **2.401.6 Unsafe Building**

Nothing in this Code shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

#### **2.401.7 Limitations on Buildings**

In an R-1 and R-2 Zones there shall be only one main building on a lot except in the case where multi-family dwelling units are built in an R-2 Zone; then the lot area requirements for multi-family dwellings shall apply.

#### **2.401.8 Fences Around Swimming Pools**

All swimming pools shall be enclosed by a locking fence of six (6) feet in height. No swimming pool shall be located in a clear vision zone.

#### **2.401.9 Fences, Walls, and Hedges**

Fences, walls, and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision area. A fence or wall may not exceed eight (8) feet in height in a residential zone and 10 feet in height in a commercial, public, or industrial zone.

Fences and walls shall not exceed a height of four (4) feet along the front property line or within a front yard setback.

Fences or walls constructed of unsafe materials, including, but not limited to barbed wire, electric fencing, broken glass, and spikes shall generally be prohibited.

Use of barbed wire is as follows:

- A. Agricultural uses may utilize electric and barbed wire fencing.
- B. Conforming and city approved businesses may use fencing in a commercial or industrial zone district with a height limit of six (6) feet. This may include the use of one (1) foot of double barbed 12 ½ gauge fencing at the top portion. Approval of a fence with barbed wire higher than six (6) feet requires the approval of a variance request.

#### **2.401.10 No Parking in Front Yard, Yards Adjacent to a Street, or Landscaped Areas**

No parking shall be allowed, exclusive of driveways, within the required front yard area of the R-1 or Public Zones. The side yard and rear yard areas may be used for parking of vehicles unless otherwise prohibited by this Code.

#### **2.401.11 Co-Locating Communications Towers and Antennas**

Whenever possible, all requests for locating communications antennas shall be required to use existing structures and/or towers and only as permitted in the appropriate zone district. Requests for new towers and/or support structures requires approval from the Planning Commission under a conditional use process.

## **2.402 GENERAL EXCEPTIONS**

### **2.402.1 Yard Exceptions for Accessory Service Station Structures and Equipment**

- A. In a district where automobile service stations are permitted, free standing gasoline pumps and pump islands, identification signs and lighting standards may occupy a required front or street side yard exclusive of a clear vision zone unless otherwise prohibited by this Code.
- B. In any zone, gasoline pumps and pump islands shall not be located so that any part of a vehicle being served shall extend into any public street right-of-way, alley or private drive used for access or egress to private property.
- C. Gasoline pumps or pump islands shall not be built within 10 feet from a property line.

### **2.402.2 General Exception to Building Height Limitations**

Projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and other similar objects not used for human occupancy are subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.

### **2.402.3 Height Exceptions for Public Buildings**

Public or quasi-public buildings, religious buildings, hospitals, and educational institutions when permitted in a zone may be constructed to a height not to exceed 1.75 times the height limit for the zone, provided the required yards are increased one (1) foot for each two (2) feet of additional building height above the height regulation for the zone.

### **2.402.4 Public Dedications**

Setback restrictions of this Code shall not apply to existing structures whose setback is reduced by a public dedication. Additions to such structures shall be allowed subject to Subsection 3.109.9, Additions to Existing Structures.

### **2.402.5 Miscellaneous Exceptions to Setback Requirements**

Setback limitations stipulated elsewhere in this Code may be modified as follows:

- A. Bus shelters which are intended for use by the general public and are under the ownership and/or control of a city, county, state or municipal corporation shall be exempt from setback requirements.
- B. Side and rear yards of underground structures may be reduced to three (3) feet except:
  - 1. Where the perimeter wall of the structure is above the natural elevation of the adjacent ground, in which case the setback provisions of the district shall apply.
  - 2. All openings into the structure, including doors, windows, skylights, plumbing, intake and exhaust vents, shall meet the minimum setbacks of the district.
- C. An uncovered porch, terrace or patio structure extending no more than two and one-half (2 1/2) feet above the finished elevation may extend within three (3) feet of a side lot line or within ten (10) feet of a front or rear lot line.

## **2.403 USES PERMITTED IN ALL DISTRICTS**

### **2.403.1 Scope**

The following uses and activities are permitted in all zones:

- A. Placement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains, and detention basins within rights-of-ways by public agencies and utility companies for telephone, TV cable, or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, waste waters, sewage, and rainwater.
- B. Railroad tracks and related structures and facilities located within rights-of-ways controlled by railroad companies.
- C. Surfaced travel lanes, curbs, gutters, drainage ditches, sidewalks, bikeways, transit stops, landscaping and related structures and facilities located within rights-of-ways controlled by a public agency.
- D. Consistent with Section 3.109.10, Nonconforming Use Due to Right-of-Way Expansion, expansion of a public right-of-way and widening or adding improvements within the right-of-way, is allowed provided the right-of-way is not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan.
- E. Installation and use of solar photovoltaic energy system or solar thermal energy system on a residential, commercial, industrial, or public structure.
- F. Ham radio antenna, subject to the following standards:
  - 1. Maximum height: 70 feet.
  - 2. The antenna supporting structure shall comply with the Oregon building code standards when applicable and the Telecommunications Industry Association TIA-222-H standards when applicable.
  - 3. The HAM radio operator must be a licensed HAM radio operator.

**CHAPTER 3**  
**APPLICATION REQUIREMENTS AND REVIEW**  
**PROCEDURES**

- 3.100 APPLICATION REQUIREMENTS AND REVIEW CRITERIA**
- 3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES**
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### **3.100 APPLICATION REQUIREMENTS AND REVIEW CRITERIA**

#### **3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES**

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

##### **3.101.1 Type I Action**

A Type I action is a ministerial review process in which City staff apply clear and objective standards that do not require discretion. This process does not provide notice to the public of the application or decision. Copies of the Decision shall be sent to the Planning Commission and City Council. The following actions are processed under the Type I procedure:

- A. Lot line Adjustment
- B. Home Occupation
- C. Recreational Vehicle Occupancy Permit
- D. Extension of Subdivision Approval Period and Extension of Site Design Review

##### **3.101.2 Type II Actions**

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. Conditional Use Permit
- B. Partition
- C. Non-Conforming Uses
- D. Similar Use
- E. Site Development Review
- F. Subdivision
- G. Variance

##### **3.101.3 Type III Actions**

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. The Planning Commission has an advisory role. Public notice is provided and public hearings are held at the Planning Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- A. Comprehensive Plan Amendment
- B. Comprehensive Plan Text Amendment
- C. Development Code Text Amendment
- D. Zone Change

#### **3.101.4 Type IV Actions**

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot request a Type IV action. It must be initiated by City staff, Planning Commission, or City Council. Public notice and hearings are provided in a Type IV process.

- A. Rewriting the City's Comprehensive Plan document
- B. Rewriting the City's Development Code
- C. Creating City Plan documents (e.g. Public Facilities Plan)
- D. City wide changes to the Comprehensive Plan map
- E. City wide changes to the Zone District map

#### **3.101.5 Annexations and Vacations**

Applications requesting annexation of property to within City limits and vacation of public rights of way shall be processed according to the applicable Oregon Revised Statutes.

#### **3.101.6 Preapplication Meeting**

- A. Applicability  
A pre-application meeting is required for the following:
  - 1. Subdivision
  - 2. Partition
  - 3. Site Development Review for a new building, or an addition to an existing building that increases the gross floor area more than 25% or where the subject property includes frontage on Center Street or Starr Street.
  - 4. As determined by City staff, based on the subject property's size and location, size of the proposed building(s), and complexity of the proposed development, an applicant for a Conditional Use, Major Variance, Comprehensive Plan Map Change or Zone Map Change shall request a required pre-application meeting with city staff.
- B. Process.
  - 1. The city shall schedule a preapplication meeting with the applicant within 21 days following receipt of a written request and the pre-application fee from the applicant for a preapplication meeting.
  - 2. Representatives of public and private agencies may attend or may submit such information and recommendation that will assist the applicant in preparing a complete land-use application. The applicant or the city may request additional meetings.



### **3.102 ZONE CHANGE**

#### **3.102.1 Process**

Zone change shall be reviewed in accordance with the Type III review procedures specified in Section 3.201.

#### **3.102.2 Application and Fee**

An application for a zone change shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application. Applications are not ruled complete until the City receives written responses to all applicable criteria.

#### **3.102.3 Criteria for Approval**

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

- A. Approval of the request is consistent with the Comprehensive Plan;
- B. The property and affected area is presently provided with adequate public facilities, services and transportation to support uses allowed within the requested zone, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property; and
- C. There has been a change in circumstance which necessitates the zone change or the original zoning was in error.

### **3.103 CONDITIONAL USE PERMITS**

#### **3.103.1 Process**

Conditional Use Permit applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.

#### **3.103.2 Application and Fee**

An application for a Conditional Use Permit shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

#### **3.103.3 Criteria for Approval**

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. The use is listed as a conditional use in the underlying district.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.
- C. The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services, existing or planned for the area affected by the use.
- D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.
- E. The proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use.

### **3.104 VARIANCES**

#### **3.104.1 Purpose**

The purpose of this section is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met.

#### **3.104.2 Applicability**

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Code, except when one or more of the following applies:

- A. The proposed variance would allow a use which is not permitted in the zone;
- B. Another procedure and/or criteria is specified in the Code for modifying or waiving the particular requirement or standard;
- C. Modification of the requirement or standard is prohibited within the zone; or
- D. An exception from the requirement or standard is not allowed in the zone.

#### **3.104.3 Application and Fee**

An application for a variance shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application, which addresses the review criteria of this Section. Applications are not ruled complete until the City receives written responses to all applicable criteria.

#### **3.104.4 Criteria and Procedure - Minor Variance**

The Planning Commission may allow a minor variance that does not expand or reduce a quantifiable standard by more than 20 percent from a requirement or standard of this Code after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. The intent and purpose behind the specific provision sought to be varied is either clearly inapplicable under the circumstances of the particularly proposed development; or
- B. The particular development as proposed otherwise clearly satisfies the intent and purpose for the provision sought to be varied; and
- C. The proposed development will not unreasonably impact adjacent existing or planned uses and development; and
- D. The minor variance does not expand or reduce a quantifiable standard by more than 20 percent and it the minimum necessary to achieve the purpose of the minor variance; and
- E. There has not been a previous land use action approved on the basis that a minor variance would not be allowed.

### **3.104.5 Criteria and Procedure - Major Variance**

The Planning Commission may allow a major variance from a requirement or standard of this Code after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that the following circumstances substantially exist. Approval shall not be granted unless each of these criteria are met.

- A. The variance requested is the minimum variance which would alleviate the hardship.
- B. Exceptional or extraordinary circumstances or conditions apply to the property which do not apply generally to other properties in the same zone or vicinity; and result from lot size or shape, legally existing prior to the date of this Code, topography, or other circumstances that substantially exist.
- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.
- D. Such variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner that is possessed by the owners of other properties in the same zoning district within the city limits.
- E. Approval of the application does not conflict with policies and objectives of the Comprehensive Plan.
- F. The circumstances or conditions applicable to the specific property involved or to the intended use or development of the specific property does not require the property to be rezoned.
- G. That the special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Code by the applicant.
- H. 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 variances will not impose limitations on other properties in the area, including uses which would be allowed on vacant or underdeveloped sites.

### **3.105 SITE DEVELOPMENT REVIEW**

#### **3.105.1 Purpose**

The Site Development Review Process is intended to:

- A. Guide future growth and development in accordance with the Comprehensive Plan and other related Ordinances;
- B. Provide an efficient process and framework to review development proposals;
- C. Ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
- D. Resolve potential conflicts that may arise between proposed developments and adjacent uses.
- E. The site development review provisions are not intended to preclude permitted multifamily housing development.

#### **3.105.2 Application and Fee**

An application for Site Development Review shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application. Applications are not ruled complete until the City receives written responses to all evaluation standards.

#### **3.105.3 Applicability of Provisions**

- A. Site Development Review shall be applicable to all new developments and major remodeling of existing developments except:
  - 1. Single-family detached dwellings, duplexes, and accessory dwelling units (ADUs); Any commercial, industrial, or public remodel that does not exceed 50% of the total square footage of the existing structure; or
  - 2. Any commercial, industrial, or public expansion or change of use that does not intensify activity on the property. Intensification is defined as a use requiring different development standards, Section 2.200 through 2.207.
  - 3. Installation of solar photovoltaic energy system or solar thermal energy system on a residential, commercial, industrial, or public structure.
- B. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

#### **3.105.4 Review and Approval Process**

Site Development Review applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.

### **3.105.5 Submittal Requirements**

A. The following information shall be submitted as part of a complete application for Site Development Review:

B.

1. Site Analysis

- a. Existing site topography;
- b. Identification of areas exceeding 10% slopes;
- c. Site drainage, areas of potential flooding;
- d. Areas with significant natural vegetation;
- e. Classification of soil types; and
- f. Existing structures and utilities.
- g. Existing and proposed streets, bikeways and pedestrian facilities within 200 feet.

2. Site Plan

- a. Proposed grading and topographical changes;
- b. All proposed structures including finished floor elevations and setbacks;
- c. Vehicular, pedestrian and bikeway circulation patterns, parking, loading and service areas;
- d. Proposed access to public roads and highways, bikeways, pedestrian facilities, railroads or other commercial or industrial transportation systems;
- e. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
- f. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- g. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks;
- h. Proof of ownership and signed authorization for the proposed development, if applicant is not the owner of the site; and
- i. A schedule of expected development.

### **3.105.6 Evaluation of Site Development Plan**

The review of a Site Development Plan shall be based upon consideration of the following:

- A. Characteristics of adjoining and surrounding uses;
- B. Drainage and erosion control needs;
- C. Public health factors;
- D. Traffic safety, internal circulation and parking;
- E. Provision for adequate noise and/or visual buffering from non-compatible uses;
- F. Retention of existing natural features on site;
- G. Connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities; and
- H. Problems that may arise due to development within potential hazard areas.

### **3.105.7 Expiration of Approval--Standards for Extension of Time**

- A. Site Development Review approval shall be effective for a period of 18 months from the date of approval where substantial construction of the approved plan has not begun within the 18 month period the approval shall lapse, unless an extension has been requested and approved in accordance with section 3.105.7, C.
- B. Site Development Review approval shall be voided immediately if construction on the site is a departure from the approved plan.
- C. The City Recorder shall upon written request by the applicant, submitted a minimum of 30 days prior to the expiration of the approval period, and payment of the required Extension fee, grant an extension of the approval for a period not to exceed 12 months provided that:
  - 1. No changes are made to the approved Site Development Plan;
  - 2. The applicant can show intent to initiate construction on the site within the 12-month extension period; and
  - 3. There have been no changes in the facts or applicable policies or ordinance provisions on which the original approval was based.

### **3.105.8 Bonding and Assurances**

If required site improvements cannot be completed prior to the issuance of an occupancy permit, a performance bond or other guarantee acceptable to the City Attorney may be required, as provided for in Subsection 3.201.01(l)(3).

### **3.106 PARTITIONS**

#### **3.106.1 Area of Application**

A partition is required for any land division which creates two or three parcels in a calendar year. The parcels shall meet the Development Standards for Land Division of Section 2.210, other applicable development standards and the following additional requirements:

- A. Access: Each parcel shall meet the access requirements of Subsection 2.210.03. Additionally, each lot in a partition shall have a minimum of twenty-five (25) feet of frontage (in case of a flag lot) and shall meet the minimum frontage requirements of the applicable zone, on an existing state, county, city, or public street; or, a constructed private easement being used for access, when said easement existed prior to the adoption of this Code. A land division which requires the creation of a public or private street to provide access to new parcels shall be either a partition or a subdivision.
- B. Each parcel shall satisfy the dimensional standards of applicable zoning district, unless a variance from these standards is approved.

#### **3.106.2 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.
- C. A master plan for development is required for any application which leaves a portion of the subject property capable of replatting.

#### **3.106.3 Submittal Requirements for Preliminary Review**

- A. Applications for partitions shall be submitted on forms provided by the City to the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.
- B. Each application shall be accompanied by a preliminary partition plat drawn to scale of not less than one (1) inch equals fifty (50) feet nor more than one (1) inch equals two hundred (200) feet, and containing at a minimum, the following:
  - 1. Name and address of the owner of the property to be divided.
  - 2. Legal description of the property, by Township, Range, Section and Tax Lot.
  - 3. Dimensions and size in square feet or acres of all proposed parcels.
  - 4. Individual parcel designation, e.g., Parcel I, Parcel II.
  - 5. Adjacent property under the same ownership.
  - 6. North arrow and scale.
  - 7. All adjacent roads, bikeways and pedestrian facilities, public or private, existing or planned, including name and road width.
  - 8. Location and size of all existing and proposed utilities.



9. Comprehensive plan and zoning designations for the subject property.
10. All existing structures on the property and their setbacks.
11. Slopes on the property exceeding 10 percent.
12. Natural drainage ways, streams, wetlands, or other significant natural features of the property, such as significant vegetative areas or specimen trees.
13. Other pending applications, including building permits, on the subject property.
14. All easements (existing or proposed).

#### **3.106.4 Expedited Land Division**

An expedited land division, as defined by ORS 197.360(1), provides an alternative to the standard review procedures for land divisions set forth in SDC Chapter 300. When an applicant requests an expedited land division, the application shall be processed as provided in ORS 197.360 through ORS 197.380, in lieu of the procedures set forth in SDC Chapter 300.

### **3.107 SUBDIVISIONS**

#### **3.107.1 General Provisions**

- A. All partitions and subdivisions shall conform to all applicable Zoning District Standards, development standards and other provisions of this Code and the Comprehensive Plan.
- B. A Master Plan for development is required for any application which leaves a portion of the subject property capable of redevelopment.
- C. All applications shall submit written responses to the criteria for approval before the application is ruled complete.
- D. All documentation received should be part of the application submitted for review by the Planning Commission or City Council.

#### **3.107.2 Submittal Requirements**

- A. The following submittal requirements shall apply for all Preliminary Plan applications for subdivisions.
  - 1. All applications shall be submitted on forms provided by the City to the City Recorder along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.
  - 2. In addition to the information listed in Subsection 3.106.03 of this ordinance, applicants for subdivisions shall submit the following:
    - a. The name, address and phone number of the applicant engineer, land surveyor, or person preparing the application.
    - b. Name of the subdivision.
    - c. Date the drawing was made.
    - d. Vicinity sketch showing location of the proposed land division.
    - e. Identification of each lot or parcel and block by number.
    - f. Identification of the buildable area of each lot.
    - g. Gross acreage of property being subdivided.
    - h. Direction of drainage and approximate grade of abutting streets.
    - i. Streets proposed and their names (street names to be approved by City Staff), approximate grade, and radius of curves, as well as required bikeways and pedestrian facilities.
    - j. Any other legal access to the subdivision, other than a public street.
    - k. A complete topographic survey, showing existing streets, driveways, structures, utilities, drainage ways, flood plains, floodways, existing and proposed fences and walls, significant vegetation, trees, and contour lines at two (2) foot intervals if 10 percent slope or less, five (5) foot intervals if exceeding 10 percent slope, as prepared by a registered Land Surveyor, licensed in the State of Oregon.
    - l. All areas to be offered for public dedication.
    - m. Transportation Impact Analysis (TIA), by an engineer registered in the State of Oregon. The TIA shall be approved by the City Engineer, or a transportation engineering consultant hired by the City at the applicant's expense, prior to public hearing. This requirement may be waived for subdivisions of six (6) lots or fewer with a letter from an Oregon registered engineer, providing a rationale explaining how the proposal would have no substantial impact.

- n. Vicinity map at 1 inch = 100 feet, showing existing and proposed streets, bikeways, pedestrian facilities, and mail courier stations within 200 feet of the property.

**B. Preliminary Plat**

1. Numbered lots with all dimensions and square footage identified;
2. Proposed conceptual grading and topographical changes,
3. New conceptual street cross sections and improved conceptual street cross sections. Cross sections should include drainage features, such as ditches, swales, walls, fences, and barriers;
4. Conceptual site drainage plan, including methods of storm drainage, sanitary sew, water supply;
5. Existing and proposed easements;
6. Proof of ownership and signed authorization for the proposed development, including rights to necessary easements and/or rights-of-way;
7. Schedule of expected development

**3.107.3 Review Procedures**

- A. All Preliminary Plans for subdivisions shall be heard by the Planning Commission pursuant to the procedures set forth in Section 3.203.
- B. Properties that adjoin or intersect other jurisdictional facilities shall comply with the standards of the other jurisdiction or the City of Sublimity Public Works, whichever is most restrictive.
- C. Approvals of any preliminary plans for a subdivision shall be valid for eighteen (18) months. A Final Plat for a subdivision shall be recorded within this time period or the approval shall lapse.
- D. The Public Works Director may grant up to two extensions to an approval for a period of one (1) year each so long as (1) the City has approved the Construction Plans, and (2) at least (30) days prior to the expiration of the Tentative Plan approval the required fee has been paid and the written extension request has been filed with the City and (3) a schedule of completion within the proposed timeframe is provided. A request for approval extension is a Type I action.
- E. If the approval period is allowed to lapse, a new application, subject to all applicable review, notice, and hearing procedures, must be submitted, and applicable fees paid. The new application will be subject to all criteria and standards currently in effect.
- F. Before a final plat is approved, the applicant shall provide a landscape plan, to show all landscaping that buffers City right-of-way, including new facilities owned by the City, proposed perimeter fencing, retaining walls, masonry sound walls, swales, detention ponds, and associated features.

**3.107.4 Criteria for Approval**

- A. The review body shall approve, approve with conditions, or deny the request based upon the following criteria:
1. Development of any remaining contiguous property under the same ownership can be accomplished as provided in this Code.
  2. Adjoining land use under separate ownership can either be developed or be provided access that will allow its development in accordance with the Comprehensive Plan and this Code.
  3. The proposed street plan affords the most economic, safe, efficient, and least environmentally damaging circulation of the traffic possible under existing circumstances.
  4. The preliminary plan complies with applicable portions of the Sublimity Comprehensive Plan, this Code, and State and Federal laws.
  5. The proposal provides a housing mix of 85 percent single family and 15 percent multifamily for residential developments, based upon the formula presented in section 2.208.03.A.
  6. Potential impacts to adjoining properties have been adequately mitigated through site design and attached development conditions.
  7. The proposal satisfies 2.208.05.B.11. If the proposal satisfies 2.208.05.B.11 through park land dedication, then the dedication is depicted on the plans.

### **3.107.5 Form of Final Subdivision or Plat**

- A. The final plat shall be prepared in a form and with information consistent with ORS 92.010- 92.160, and
- B. The final plat shall contain, at a minimum, the following information:
1. The lines and names of all streets or other public ways, parks, playgrounds, and easements intended to be dedicated for public use or granted for the use of the owners within the subdivision.
  2. The length and bearings of all straight lines, curves, radii, arcs, and the semi-tangents of all circles.
  3. All dimensions along the building footprints under separate ownership or lot lines of each lot, in feet and decimals of a foot to the nearest hundredth, with the true bearings and any other data necessary for the location of any lot line in the field.
  4. Suitable primary control points, approved by the County Surveyor, and description and ties to these control points, to which all dimensions, angles, bearings, and similar data given on the plat shall be referred.
  5. The location of all permanent monuments.
  6. The names of all subdivisions or PUDs immediately adjacent to the subdivision.
  7. The date, true North point and scale.
  8. The boundary of the divided tract, with the bearings, curves and distances marked, as determined by a field survey made by a registered engineer or a licensed land

surveyor by the State of Oregon, and to close with an error of not more than one (1) foot in four thousand (4,000) feet.

9. Any easements, dedications, or notes required by the City.
  10. Open space and common ownerships shall be labeled as tracts and their use identified.
- C. All Homeowners Agreements, Business and Cooperative Agreements, Articles and By-Laws shall be submitted with the final plat for review by the City Attorney.
1. The final plat shall not be approved by the Planning Commission until the Homeowners Association Agreement, Business and Cooperative Agreements, Articles and By-Laws are approved.
  2. Signed, original documents of the Homeowners Association Agreement, Business Cooperative Agreement, Articles and By-Laws and the Certificate of Formation described in (3) above, shall be recorded with the final plat.
- D. All plat names shall conform to ORS 92.090.

### **3.107.6 Final Plat Review of Subdivisions**

- A. The final subdivision plat shall be submitted to the Public Works Director for review. The Public Works Director shall review the plat to assure compliance with the approved preliminary plat and shall signify approval of the final plat by signing the recorder's plat sheet and exact duplicate.
- B. The final subdivision plat shall be filed with the Marion County Department of Assessment and Taxation.

### **3.107.7 Expedited Land Division**

An expedited land division, as defined by ORS 197.360(1), provides an alternative to the standard review procedures for land divisions set forth in SDC Chapter 300. When an applicant requests an expedited land division, the application shall be processed as provided in ORS 197.360 through 197.380, in lieu of the procedures set forth in SDC Chapter 300.

### **3.108 SIMILAR USES**

#### **3.108.1 Purpose and Scope**

The purpose of this Section is to provide for those uses not specifically listed in a particular zoning district but which are similar in character, scale and performance to the permitted uses specified therein.

#### **3.108.2 Application and Fee**

Any application for a similar use shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

#### **3.108.3 Process**

Similar use requests shall be reviewed in accordance with the Type II review procedures.

#### **3.108.4 Review Criteria**

A similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

- A. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale, and performance to permitted uses specified in the underlying district.
- B. The use conforms with the applicable standards and limitations of the underlying zoning district.

#### **3.108.5 Conditions of Approval**

In approving an application for a similar use, the Planning Commission may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out.

#### **3.108.6 Site Development**

Prior to the issuance of a Building Permit for any approved similar use in any zone, the applicant shall be subject to the Site Development Review procedures of Section 3.105.

### **3.109 NONCONFORMING USES**

#### **3.109.1 Purpose and Scope**

- A. Within the zoning districts established by this Code and amendments thereto, uses and structures exist which were lawful before the date of adoption or amendment of this Code but which would be prohibited or restricted under the terms of this Code. The general purpose of this Section is to encourage the conversion of such nonconforming uses to conforming uses. However, this Section allows nonconforming uses and structures to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified in Subsection 3.109.03. Nothing contained in this Code shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of this Code or any amendment thereto. However, no alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section.

#### **3.109.2 Application and Fee**

An application for an alteration or expansion of a nonconforming use shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Nonconforming use requests shall be heard by the Planning Commission pursuant to the provisions of Sections 3.202 and 3.203. Any alteration or expansion will not increase the nonconformity of an existing non-conforming use.

#### **3.109.3 Discontinuation of Use**

- A. If a non-conforming use is discontinued for a period of more than twelve (12) consecutive months, all utilities are disconnected for more than twelve (12) consecutive months, and the structure is falling into a state of disrepair as determined by the Public Works Director, the use shall not be resumed unless the resumed use conforms with the requirements of the Code and other regulations applicable at the time of the proposed resumption.
- B. The 12 month period shall not include any time when a federal, state, or local emergency order limited or prohibited the use or repair or replacement of the use.

#### **3.109.4 Alterations Required by Law**

The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure shall be permitted, subject to all other laws, ordinance, and regulations.

#### **3.109.5 Maintenance**

Normal maintenance of a nonconforming use is permitted provided there are not major structural alterations as determined by the City Building Inspector.

#### **3.109.6 Alteration, Restoration, or Replacement**

- A. The Planning Commission shall authorize restoration or replacement of a nonconforming use or structure when restoration or replacement is made necessary by fire, casualty, or natural disaster, provided the following criterion is met:
1. The physical restoration or replacement is lawfully commenced within 2 years of the damage or destructions.

- B. The alteration of a nonconforming use or structure may be authorized by the Planning Commission, provided the applicant demonstrates the proposal satisfies the following criteria:
1. The alteration of the structure would result in a reduction in nonconformity of the use or structure; and
  2. Would have no greater adverse impact on the neighborhood; and
  3. If a change in use is requested, the non-conforming use would not be replaced by another non-conforming use (replacement of a non-conforming use by a use in the same land use category shall not be considered a change of use).

### **3.109.7 Conditions of Approval**

In approving the alteration, restoration or replacement of a nonconforming use, the Planning Commission may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out. Such conditions shall be reasonably related to the criteria set forth in Subsection 3.109.03.

### **3.109.8 Compliance with Conditions**

Compliance with conditions imposed in granting a permit for alteration, restoration or replacement of a nonconforming use and adherence to the approved plot plan shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this Code. The City Recorder may revoke any permit issued hereunder for failure to comply with any prescribed condition of approval, or for any other violation of this Code.

### **3.109.9 Front Yard Additions to Existing Nonconforming Structures**

When structures exist at the time a zone is adopted which do not comply with front yard setback standards, additions to such structures not conforming to the front yard setbacks shall be allowed, provided:

- A. The setback distance will not be decreased by the addition;
- B. The addition conforms to all other provisions of the zoning district; and
- C. The addition shall not be greater than 40 percent of the square footage on the ground level of the existing structure.

### **3.109.10 Nonconforming Use Due to Right-of-Way Expansion**

A nonconforming use may be continued although not in conformity with the regulations for the district in which the use is located when the nonconformity was created by the expansion of a public right-of-way or widening or adding improvements within the right-of-way and where the right-of-way widening was not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan.



### **3.110 PROPERTY LINE ADJUSTMENTS**

#### **3.110.1 Applicability**

The procedures and requirements in this section apply to the relocation of a common property line between two abutting properties.

#### **3.110.2 Process**

- A. The property owner, contract purchaser or an authorized agent of the owner or contract purchaser, shall submit a lot line adjustment application.
- B. Property line adjustments are processed as a Type I procedure pursuant to Section 3.201.01. A Type I procedure is a ministerial action reviewed by staff based on clear and objective standards. Clear and objective conditions may be placed on the decision and notice of the decision is sent only to the applicant. Copies of the decision shall be sent to the Planning Commission and City Council.

#### **3.110.3 Submittal Requirements**

In addition to the completed application form, the applicant shall also submit:

- A. A map showing the configuration of each parcel before the proposed adjustment.
- B. A map showing the configuration of each parcel after the proposed adjustment.

#### **3.110.4 Evaluation Criteria**

Approval of the property line adjustment shall not be granted unless each of the following criteria are met:

- A. The number of lots or parcels as large as the minimum lot size in the affected zone is at least the same after the adjustment as before the adjustment.
- B. The number of lots or parcels resulting from the adjustment is the same, or less, as the number of lots or parcels existing before the adjustment.
- C. If a lot or parcel will be split-zoned after the adjustment, each portion of the lot or parcel that is in a separate zone shall meet the minimum lot size for that zone.
- D. All lots or parcels having access to a public or private street before the adjustment must retain access after the adjustment.
- E. The adjustment shall not reduce the street access for any lots or parcels to a size or dimension that does not meet the minimum standards required by the Sublimity Development Code or Public Works Design Standards.
- F. The property line adjustment shall not reduce any required development feature or standard, such as parking, landscaping, or building setbacks, to a size or dimension that does not meet the minimum standards of the Sublimity Development Code or Public Works Design Standards.
- G. The adjustment shall not increase the degree of nonconformity of nonconforming lots or parcels.
- H. Where an existing lot or parcel is reduced in size by the adjustment, the lot or parcel shall comply with the applicable provisions of the Sublimity Development Code.

### **3.110.5 Final Survey**

In order to finalize the lot line adjustment process, Oregon Revised Statutes (ORS), Section 92.060(7) requires that the adjustment of a common boundary shall be surveyed and monumented, and a survey complying with ORS 209.250 shall be filed with the county surveyor, with the following exceptions:

- A. The survey requirement shall not apply to the relocation of a common boundary of a lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even width along the common boundary (a line is adjusted parallel to its current location with no change in its length); or
- B. The survey requirement shall not apply to the sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets, or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.

### **3.200 ADMINISTRATIVE PROCEDURES**

#### **3.201 GENERAL PROCEDURES**

##### **3.201.1 Procedure for Type I Review**

Applications subject to administrative review shall be reviewed and decided by the City Recorder or his / her designee.

- A. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
  - 1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
  - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
  - 1. Upon receipt of the additional information, or, if the applicant refuses to submit the information;
  - 2. On the 31st day after the original submittal the application shall be deemed complete for review purposes.
- C. Referrals will be sent to interested agencies such as City departments, police and departments, school district, utility companies, and applicable state agencies.
- D. Within thirty (30) days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, 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 Code;
- E. The applicant shall be notified in writing of staff's decision.
- F. If the staff finds that the facts of the particular case require interpretation of existing standards, then a public hearing before the Planning Commission shall be scheduled. The procedures for conducting the public hearing shall comply with the standards in Sections 3.203.
- G. All administrative land use decisions of the City Recorder may be appealed to the Planning Commission, if such an appeal is filed within fourteen (14) days from the date of the decision, pursuant to the provisions of Section 3.205 for appeals.
- H. The timing requirements established in this Section are intended to allow a final action, including resolution of appeals for all Type II or Type III land use actions within one hundred twenty (120) days of receipt of a complete application. 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 Code.
  - 1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.

2. Public notice shall be mailed to affected parties as specified in Section 3.203.
3. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 3.205 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.

### **3.201.2 General Procedures for Type II and Type III Actions**

- A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.
  1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.
  2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
  1. Upon receipt of the additional information; or, if the applicant refuses to submit the information;
  2. On the 31st day after the original submittal the application shall be deemed complete for scheduling purposes only.
- C. 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.
- D. Referrals will be sent to interested agencies such as City departments, police and departments, school district, utility companies, and applicable state agencies.
- E. The Public Hearing shall be conducted under the following procedures:
  1. Open the public hearing and announce the purpose.
  2. Call for abstentions or declarations from the commissioners or councilors, and
  3. Ask the attendees for any objections to jurisdiction of the commission or council to conduct the hearing.
  4. The commission chairperson or mayor requests the staff report.
  5. Proponents then address Commission / Council in the following order:
    - a. Principal, and
    - b. Others.
  6. Opponents and anyone else just wishing to comment address Commission/Council.
  7. Questions of proponents and opponents from the floor and Commission / Council directed through Chair / Mayor.
  8. Comments from Public Agencies are either presented by an agency representative or written evidence is entered into the record.

9. Any other letters or written / printed materials are entered into the record.
  10. The Proponent is allowed an opportunity for rebuttal.
  11. Staff makes a final recommendation to the Commission / Council.
  12. The Commission chairperson or the Mayor closes the hearing.
  13. Deliberation of Commission / Council of findings of fact.
- F. Within 7 days of any action on a Type II or Type III land use application, the applicant and all individuals who have in writing requested notice of the decision, shall be mailed written notice of the action. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- G. The timing requirements established in this Section are intended to allow a final action, including resolution of appeals for all Type II or Type III land use actions within one hundred twenty (120) days of receipt of a complete application. 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 Code.
1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.
  2. Public notice shall be mailed to affected parties as specified in Section 3.203.
  3. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 3.205 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.
- H. Approvals of any Type II or Type III action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:
1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following:
    - a. Protection of the public from the potentially deleterious effects of the proposed use; or
    - b. Fulfillment of the need for public service demands created by the proposed use.
  2. Changes or alterations of conditions shall be processed as a Type II action by the Planning Commission.

3. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates to the satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Planning Commission may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.
  - a. Types of Guarantees: Performance guarantees may be in the form of performance bond payable to the City of Sublimity, cash, certified check, time certificate of deposit, or other form acceptable to the City and shall be presented in a form that does not include an expiration date. The return of the cash, check, or expiration of the time certificate of deposit bond, etc. is based upon the completion of the requirement(s) according to City approval. The form must be approved by the City Attorney and appropriate documents filed with the City Recorder.
  - b. 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.
  - c. Time Periods: The Planning Commission may grant a waiver of performance for a period not to exceed six (6) months. A request for extension of any waiver granted must be submitted to and approved by the City Council.

### **3.201.3 Procedure for Type IV Actions**

- A. Public Hearing are initially scheduled before the Planning Commission.
  1. A public hearing shall be held by the Planning Commission on all proposed amendments as stated in section 3.101.04. The Planning Commission may continue any hearing in order to make a reasonable decision.
  2. Amendments shall be considered and acted upon by the Planning Commission.
  3. Notice of the time, place and purpose of the Planning Commission's hearings shall be given through mailed notice to all affected property owners or by publication of a notice in a newspaper of general circulation in the City not less than ten (10) days prior to the date of hearing.
- B. The purpose of the public hearing conducted is to make a final decision on the application.
  1. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice shall be as specified in Section 3.202.

### **3.202 PUBLIC NOTICE REQUIREMENTS**

#### **3.202.1 Type I Actions**

Applications subject to administrative review shall be reviewed and decided by City staff. Written notice of the decision, including appeal provisions, shall be provided to the applicant.

#### **3.202.2 Type II and Type III Actions**

- A. Written notice of the initial public hearing shall be mailed at least twenty (20) days prior to the hearing date to the applicant and the owners of property within one hundred (100) feet of the boundaries of the subject property.

If the application requires two or more hearings, written notice may be mailed ten (10) days before the first hearing.

- B. Written notice of a public hearing shall:

1. Explain the nature of the application and the proposed use or uses which could be authorized;
2. List the applicable criteria from the ordinance and the plan which apply to the application at issue;
3. Set forth the street address or other easily understood geographical reference to the subject property;
4. State the date, time and location of the hearing;
5. 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 City Council for Planning Commission decision, and Land Use Appeals Board of Appeals for City Council decisions;
6. Include the name of the City representative to contact and the telephone number where additional information may be obtained;
7. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost;
8. State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and a copy will be provided at reasonable cost;
9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.

- C. At least ten (10) business days and not more than 14 days before the hearing, the applicant shall post notice of the hearing on the property in accordance with the following requirements:

1. The applicant shall prepare and submit an affidavit of posting of the notice, which shall be made part of the administrative record at least five (5) days prior to the hearing.

2. The notices which are to be posted shall be provided by the City of Sublimity and headed "Public hearing affecting this area; ".
  3. Notice of public hearing on any Type II or Type III action shall be given by posting on each street frontage of the subject property. If no street abuts the subject property, the notice shall be placed in such a manner as near as possible to the subject property in such a manner as may be readily seen by the public.
  4. Posted notices, including frames, shall be removed from the subject property by the applicant within seven (7) days of the close of the hearing.
- D. The City shall provide notice to the Department of Land Conservation and Development at least 35 days prior to the first evidentiary hearing for Type III actions.
- E. The City shall provide public notice for Type III Actions that rezone property as defined by ORS 227.186(9) as required by Section 3.202.03(E) below.

### **3.202.3 TYPE IV ACTIONS**

Public notice for Type IV actions may be initiated using a media notification as stated in letters A. and B. (as follow) or using letter C. separately.

- A. Public notice for public hearings conducted by the Planning Commission on all proposed amendments to this Code and on all legislative amendments to the Comprehensive Plan and Zoning Maps shall be given by publication of a notice in a newspaper of general circulation in the City not less than twenty (20) days prior to the date of the hearing.
- B. Public notice for public hearings conducted by the City Council following Planning Commission action shall be as specified in Section 3.202.03.A.
- C. Public notice for both hearings, the Commission's and the Council's may be given by publication in a newspaper of general circulation under one notice when not less than ten (10) days before the Commission's hearing and not less than twenty (20) days prior to Council's hearing.
- D. Notice shall be provided to the Department of Land Conservation and Development at least 35 days prior to the first evidentiary hearing by the City for any legislative action.
- E. Notice for actions that rezone property as defined by ORS 227.186(9)
  1. Public notices for Type IV actions that "rezone property" as defined by ORS 227.186(9), shall be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone, at least 20 days, but not more than 40 days, before the date of the first public hearing.

The notice shall:

Include 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 the City of Sublimity has proposed a land use regulation that will affect the permissible uses of your land."

Include in the body of the notice;



On (date of public hearing), the City of Sublimity will hold a public hearing regarding the adoption of Ordinance Number \_\_\_\_\_. The City of Sublimity has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number \_\_\_\_\_ is available for inspection at the Sublimity City Hall located at 245 NW Johnson Street. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the Sublimity City Recorder at \_\_\_\_\_.

2. If notice is pursuant to a requirement of periodic review, the body of the notice shall include in lieu of the above:

As a result of an order of the Land Conservation and Development Commission, has proposed Ordinance Number \_\_\_\_\_. The City of Sublimity has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number \_\_\_\_\_ will become effective on \_\_\_\_\_.

Ordinance Number \_\_\_\_\_ is available for inspection at the Sublimity City Hall located at 245 NW Johnson Street. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the Sublimity City Recorder 503-769-5475. \_\_\_\_\_.

### **3.203 PUBLIC HEARING BEFORE THE PLANNING COMMISSION**

#### **3.203.1 General Provisions**

- A. Land use actions which require a public hearing by the Planning Commission under the provisions of this Code shall be initially heard by the Planning Commission within sixty (60) days of the receipt of an application which is complete as specified in Section 3.201
- B. The Planning Commission may continue a public hearing for additional information, testimony or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.
- C. 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 seven days after the hearing.
- D. The decisions of the Planning Commission on applications for Type II actions shall be final unless appealed to the City Council pursuant to Section 3.205.
- E. The recommendations of the Planning Commission on applications for Type III actions shall be referred to the City Council for final determination, pursuant to Section 3.204.
- F. Written notice of the decision shall be prepared and mailed within seven days of the decision to affected individuals.
- G. 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 or following the final evidentiary hearing on the proposal before the city. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- H. Appeal of a Type I action shall be heard by the Planning Commission in accordance with provisions of Section 3.205. Findings of the Planning Commission on such appeal shall be final unless further appealed to the City Council

#### **3.203.2 Evidence**

- A. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- B. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form.
- C. All evidence shall be offered and made a part of the public record in the case.
- D. The Planning Commission 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 Planning Commission members may utilize their experience, technical competence and specialized knowledge in evaluation of the evidence presented.
- E. Every party is entitled to an opportunity to be heard and to present and rebut evidence.

F. All interested persons shall be allowed to testify.

**3.203.4 Record of Hearing**

A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review of the record.

**3.203.3 Limits on Oral Testimony**

The Planning Commission Chairman may set a three (3) minute time limit for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

**3.203.4 Exhibits**

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

### **3.204 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL**

#### **3.204.1 General Provisions**

- A. Action on Type III Reviews: The City Council shall hear all Type III actions pursuant to Subsection 3.201.02. The City Council action on such requests shall be the final action of the City on the request.
- B. Appeals: The City Council shall hear appeals of all Planning Commission actions conducted pursuant to Section 3.205. The appeal hearing shall be conducted in a manner consistent with Section 3.204. The action of the Planning Commission shall be final and the appeal shall not be heard by the Council if the appeal period has lapsed.
- C. All hearings or reviews required by the City Council shall be heard within thirty (30) days of the Planning Commission's written decision or appeal request. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant.
- D. The decision shall be made by the City Council and written findings prepared listing findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council. In no case, however, shall this decision and the preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application, unless voluntarily agreed to by the applicant.

#### **3.204.2 Hearings by City Council**

Actions on quasi-judicial requests shall be conducted at public hearings pursuant to the City Council's adopted rules of procedure. The City Council shall allow opportunity for all parties to be heard and may accept new evidence.

#### **3.204.3 Review by City Council**

- A. Review on Record: Except as set forth in Subsection 3.204.3, B, the City Council review of an appeal on an action by the Planning Commission shall be confined to the record of the initial proceeding. Parties may offer testimony regarding alleged errors in the Planning Commission action. The meeting shall be conducted as set forth in the City Council's adopted rules of procedures. The record of the initial proceeding shall include:
  - 1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission as evidence;
  - 2. All materials submitted by the City Staff with respect to the application;
  - 3. A recording of the hearing and the minutes of the hearing; and
  - 4. The findings and action of the Planning Commission and the notice of decision.
- B. Submission of New Testimony and De Novo Hearings: The City 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.

- C. City Council Action: The City Council may affirm, rescind, or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the Comprehensive Plan and as provided for in Subsection 3.201.02. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day review period specified in Section 3.201.02 (G).

### **3.205 APPEAL PROVISIONS**

#### **3.205.1 Appeal Period**

The decision of the City staff under administrative procedure or a decision made by the Planning Commission following a public hearing shall be final unless a notice of appeal from an aggrieved party is received by the City within fourteen (14) days of the date of the final written notice, or unless:

- A. The Planning Commission, on its own motion, orders review within fourteen (14) days of the decision of the City staff under administrative procedure; or
- B. The City Council, on its own motion, orders review within fourteen (14) days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal.

Appeal of staff decision on administrative procedures is appealed to the Planning Commission. An appeal of a decision made by the Planning Commission is appealed to the City Council.

#### **3.205.2 Form of Appeal**

Appeal requests shall be made on forms provided by the City and shall state the alleged errors of the City staff decision or in the Planning Commission action based upon the approval criteria or any other local, state, or federal regulation that applied to the application.

#### **3.205.3 Notice Requirements**

Notice of hearings by the City Council on appeal requests shall be as specified in Section 3.202.

#### **3.205.4 Transcript Fees**

In addition to other fees for appeal requests, if required by the City or requested by the appellant, the appellant shall pay a transcript fee equal to the actual cost of the preparation of the transcript up to \$500.00.

The City shall estimate the cost of the transcript at the time of the filing of the appeal request and shall receive a deposit in that amount. The appellant shall be billed for actual costs in excess of the deposit or receive a refund for surplus deposit funds in excess of transcript fees authorized by this Section.

### **3.206 FEES**

#### **3.206.1 Purpose**

Fees are for the purpose of defraying administrative costs.

#### **3.206.2 General Provisions**

- A. Fees shall be payable at the time of application and shall be as set forth by Ordinance or Resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.
- B. The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. Fees are not refundable unless the application is withdrawn prior to the notification of the hearing.
- D. The City Council may reduce or waive the fees upon showing of just cause to do so.

### **3.207 TYPE IV ACTIONS**

#### **3.207.1 Initiation**

Type IV may be initiated by:

- A. Majority vote of the City Council.
- B. Majority vote of the Planning Commission.

#### **3.207.2 Procedure for Type IV Actions**

##### **A. Public Hearings by Planning Commission**

1. A public hearing shall be held by a majority of the Planning Commission on all proposed amendments to this Development Code and on all legislative amendments to the Zoning Maps.

The Planning Commission may continue any hearing in order to make a reasonable decision.

2. Amendments shall be considered and acted upon by the Planning Commission and no extension granted by the City Council, the City Council may act upon the amendment.
3. Notice of the time, place and purpose of the Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than twenty (20) days prior to the date of hearing.

- B. Public Hearing by City Council: Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice shall be as specified in Section 3.202.