

CITY OF DUNDEE

Meeting: Planning Commission Meeting
Location: City Council Meeting Chambers
620 S.W. 5th Street
Dundee, Oregon 97115
Date: June 20, 2012
Time: 7:00 p.m.

I. Meeting called to order.

Chairman Hinson called the meeting to order. Commissioners present, which consisted of quorum, were Wymore, Baird, Mock, Hinson, Manning, and Fiedler. Also present were Planner Nunley and CA Daykin.

II. Approval of Minutes from Previous Meeting(s)

It was moved and seconded to approve the minutes from May 16, 2012. Motion carries, unanimously.

III. Public Comment

There were no members of the public present.

VI. Draft Development Code Workshop

The Commission began a review of the Development Code draft revision Article V. Specific language change requests, questions, and comments are attached to these minutes as "Attachment A".

Once concluded, the Commission began a review of the Development Code draft revision Article I. Specific language change requests, questions, and comments are attached to these minutes as "Attachment B".

The Planning Commission also held a discussion regarding Adjustments and Modifications vs. Minor and Major Variances.

V. Planning Issues from Commission Members.

There was a brief discussion regarding the July agenda; and, a brief discussion regarding design and zoning of the forthcoming Fire Station.

VI. Adjournment

It was moved and seconded to adjourn the meeting. Motion carries, unanimously.



David Hinson, Chairman

ATTEST:



Melody Osborne, Planning Secretary

Field Code Changed

ARTICLE 5 - DEFINITIONS

- 5.1 Grammatical Interpretation
- 5.2 Definitions
- 5.3 Definition Designs

These are the existing definitions from Chapter 1.200.

5.1 Grammatical Interpretation

Words used in the masculine include the feminine, and words used in the feminine include the masculine. Words used in the present tense include the future, the singular number includes the plural, and the word "shall" is mandatory and not directorydiscretionary. Where terms or words are not defined, they shall have their ordinary accepted meanings within the context of their use.

5.2 Definitions

The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Chapter, except in those instances where the context clearly indicates a different meaning. Definitions with a "***" are provided with a visual design in Section 1.200.03.

Comment [n1]: Where is the visual design section?

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

Access Management: Measures regulating access to streets, roads, and highways from abutting public or private property.

Accessway: An easement or right-of-way, not located within a street or road right-of-way, designated for pedestrian and /or bicycle passage. May also be called a multi-use path.

Adequate Access: Direct routes of travel between destinations.

Adequate Area: Space sufficient to provide all required public services to standards defined in this code.

Accessory Building (Structure): A detached, subordinate building or portion of a main building, the use of which is incidental to that of the main building or to the use of the land, but does not include dwellings or living quarters.

Accessory Use: A use incidental, appropriate and subordinate to the main use of the parcel, lot or building.

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

Comment [n2]: PC felt this was confusing. Please recommend a definition with more clarity/readability

Administrative Review: A decision affecting land use within the City which is based on the application and/or enforcement of existing standards contained in this Ordinance. Administrative decisions will be made by the City ~~Recorder~~Planning Official.

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: A request for a review of the decision authority's action on an application or interpretation.

Applicant: The owner of record or contract purchaser.

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.

Automobile 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.

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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 sleeping rooms 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.

Comment [n3]: Update with recently adopted definition.

Bicycle Facilities: Facilities which provide for the needs of bicyclists, including bikeways and bicycle parking.

Bikeway: A designated area located within and parallel to a street or road right-of-way for the primary use of bicycles; generally located abutting the roadway curb or shoulder.

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Block: A parcel of land bounded by three (3) or more streets.

Boarding, Lodging, or Rooming House: A building where lodging with or without meals is provided for compensation for not more than five (5) persons in addition to members of the family occupying such building.

Building: A structure having a roof and built for the support, shelter, or enclosure of persons, animals, or property of any kind. A trailer coach, with or without wheels, shall not be considered a building.

Building, Main: A building in which is conducted a principal or main use of the building site on which it is situated.

Building Official: An individual empowered by the City Council to administer and enforce building regulations.

Building Site: A parcel, lot, or plot of land occupied or to be occupied by a principal use and accessory uses and/or building or group of buildings, which parcel, lot, or plot of land complies with all the requirements of this title relating to building sites.

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

Campground: A premises under one ownership where persons camp or live in any manner other than permanent building constructed entirely of wood or more lasting materials, excepting mobile home parks.

Carpool: Two or more persons each with a valid driver's license commuting in a single vehicle.

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.

Church: A permanently located building primarily used for religious worship. A church shall also include accessory buildings for related religious activities and a residence.

City: The City of Dundee, Oregon.

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Clear-Vision Area: A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lines measured from the corner intersection of the right-of-way lines. 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. The size of clear-vision areas are listed in Section 2.209.08.

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 Storage: See Warehouse.

Commission: The City Planning Commission of Dundee, Oregon.

Common Open Space: An area, feature, or building or other facility within a development designed and intended for the use or enjoyment of all occupants of the development or for the use and enjoyment of the general public.

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

Comprehensive Plan: The Comprehensive Plan of the City of Dundee, Oregon.

Condominium: Property submitting to the provisions of ORS 94.004 to 94.480, and, 94.991.

Conforming: In compliance with the regulations of the Code.

Council: The City Council of Dundee, Oregon.

Critical Feature: An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Day Care Facility: An institution, establishment or place, not a part of a public school system, in which are commonly received three (3) or more children, not of common parentage, under the age of 14 years, for a period not exceeding 12 hours per day for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

Density: The number of dwellings, mobile homes, or mobile home spaces per gross acre.

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

Driveway: A minor private way used by vehicles and pedestrians to gain access from an approved public access or right-of-way onto a lot or parcel of land.

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

Dwelling-Townhouse: A multi-family structure so designed that each individual dwelling unit is located upon a separate lot or parcel.

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: One or more rooms designed for occupancy by one family and not having more than one cooking facility. Includes all conventional and prefabricated housing which meets Uniform Building Code specifications and is constructed on a permanent foundation.

~~Easement: A grant of right to use an area of land for a specific purpose.~~

Comment [n4]: PC felt it was unnecessary to have this definition as this is a common legal term.

Family: An individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

Farming: The use of land for purposes defined in ORS Chapter 215.

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 plastic.

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

Flag Lot: A lot, the major portion of which has access by means of a comparatively narrow strip of land.

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.

Garage, Private: A detached accessory building or portion of a main building used for the parking or temporary storage of automobiles in which no business, occupation, 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.

** 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.

Guest House: A detached accessory building used as sleeping quarters for guests of the occupants of the main dwelling on a non-commercial basis and having no cooking facilities.

Height of Building: The vertical distance from the "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof.

Home Occupation: A lawful occupation carried on by a resident of a dwelling as a secondary use within the same dwelling.

Hospital: An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care with nursing service on a continuous basis.

Hotel: Any building in which lodging is provided to guests for compensation and in which no provision is made for cooking in individual rooms.

Junk Yard: The use of more than 200 square feet of the 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: Any partition or subdivision of a lot or parcel.

Livestock: Domestic animals of 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.

Lot: A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yard and other open spaces as herein required; such lots shall have frontage on a public street, and may consist of:

1. Single lot of record;
2. Portion of a lot of record; or
3. Combination of complete lots of record and portions of lots of record.

Lot Area: The total area of a lot, measured in a horizontal plane within the lot boundary lines, exclusive of public and private roads and easements of access to other property. For flag-shaped lots, the access strip shall not be included in lot area for the purposes of minimum lot area requirements of this Ordinance.

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

** 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: The portion of a lot covered or occupied by buildings or other structures.

** 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 or parcel of land taking access by a relatively narrow strip of land between the major portion of the parcel and the point of public access to the parcel, all of which is in the same ownership or title.

** Lot Frontage: The distance between the two side lot lines measured at the minimum front setback line, parallel to the street line.

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

Lot Line Adjustment: The realignment of a common boundary between two contiguous lots or parcels which does not involve the creation of a new lot or parcel.

** 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 which is not a front or rear lot line.

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

** Lot Width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

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

Manufactured Home:

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, that is being used for residential purposes and that was constructed before January 1, 1962.
2. A mobile home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
3. A home, a structure with a Department of Housing and Urban Development label certifying that the structure is constructed in accordance with the National Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), as amended August 22, 1981 and constructed after June 15, 1976.

Manufactured Home Park: Any place where four or more manufactured homes are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental, lease, or use of facilities or to offer space free in connection with securing the trade or patronage of such person. A person shall not construct a new manufactured home park or add lots to an existing manufactured home park without approval by the Department of Commerce. "Manufactured home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured home per lot if the subdivision was approved pursuant to this Ordinance.

Manufactured Home Subdivision: A subdivision intended for and designed to accommodate manufactured homes on individual lots and developed pursuant to the provisions of this Ordinance.

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

Mini-Storage 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.

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. Modular or prefabricated homes are regulated by the Uniform Building Code (UBC).

Motel: A building or group of buildings on the same lot containing 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.

Multi-use Path: See "accessway."

Nearby Uses: Activities or uses within 1/4 mile which can be reasonably expected to be used by pedestrians, and within 1 mile which can be reasonably expected to be used by bicyclists.

Neighborhood Activity Centers: Schools, parks, and other like sites.

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

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

Nursing Home: Any home, place or institution which operates and maintains facilities providing convalescent or nursing care, or both, for period exceeding 24 hours for 2 or more ill or infirm patients not related to

the nursing home administrator, or owner, by blood or marriage. Convalescent care may include, but is not limited to, the procedures commonly employed in nursing and caring for the sick and includes rest homes and convalescent homes, but does not include a boarding home for the aged, a retirement home, hotel, hospital, or a chiropractic facility licensed under ORS.

Official Zoning Map: The map or maps upon which the zone locations in the City of Dundee are indicated.

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.

Park and Ride Lot: Parking spaces, dedicated or shared use, that are provided for motorists who transfer to and from single occupancy vehicles to public transportation vehicles or to a carpool or vanpool operation.

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.

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, and available for use by persons patronizing a particular building or establishment.

Parking Space: An enclosed or open 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 which affords ingress and egress for automobiles. The following are not considered parking spaces for the purposes of OAR 660-12-045(5)(c): park and ride lots, disabled parking and parking for carpools and vanpools.

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. "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).

Pedestrian Connection: A continuous, unobstructed, reasonably direct route intended and suitable for pedestrian use between two points. Pedestrian connections include but are not limited to sidewalks, walkways, access-ways, stairways and pedestrian bridges.

Pedestrian Plaza: A small semi-enclosed area usually adjoining a sidewalk or a transit stop which provides a place for pedestrians to sit, stand, or rest.

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.

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

Plan Map: An officially adopted map of the City, including urban growth boundary, showing land use designations and other graphic information which is part of the City's Comprehensive Plan.

Planned Unit Development: A type of development of a site which, as a single project, is based on a design which incorporates all elements of land, structures and uses in conformance with the applicable standards of this Ordinance.

Planning Commission: The Planning Commission of Dundee, Oregon.

Plat: The final map which is a diagram, drawing, re-plat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or partition.

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.

Public Facilities and Services: Projects, activities, and facilities which are necessary for the public health, safety, and welfare.

Quasi-Judicial Review: A decision affecting land use within the City which requires the **interruption** and/or amendment of existing standards or maps contained in this Ordinance. Quasi-Judicial decisions are heard by the Planning Commission. The decision of the Planning Commission is final except when the decision would necessitate an amendment to this ordinance. In those cases the Planning Commission decision is forwarded as a recommendation to the City Council for a final decision. Quasi-judicial review is required for Variances, Conditional Use Permits, Subdivisions, Planned Unit Developments, Comprehensive Plan and Zone Changes, and Urban Growth Boundary Amendments.

Comment [n5]: Supposed to be "interpretation"?

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Ramada: A stationary structure having a roof extending over a manufactured home, which may also extend over a patio or parking space and is used principally for protection from the elements.

Recreational Vehicle: A vacation trailer or other vehicular or portable unit which is either self-propelled or towed or is carried by a motor vehicle and which is intended for human occupancy and is designed for vacation or recreational purposes but not residential use.

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

Residential Facility: A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility

residents, and need not be related to each other or to and resident of the residential facility.

Residential Home: A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to and resident of the residential facility.

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

Retaining Wall: A wall that is built to resist lateral pressure is a fence only to the extent it projects above the retained grade.

** **Right-of-Way:** The full length and width of a public street or way, planned or constructed.

School, Elementary, Junior High 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.

School, Trade or Commercial: A building where the instruction is given to pupils for a fee in money or otherwise, which fee is the principal reason for the existence of the school.

Semi-Public Use: A structure or use intended or used for a semi-public purpose by a church, lodge, club, or any other non-profit organization.

Service Station: Any lot used primarily for the retail sales of motor vehicle fuels and lubricants for delivery on premises, and minor automobile repair and service.

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

** **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.

Space, Manufactured Home: An area or lot reserved exclusively for the use of a manufactured home occupant.

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.

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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 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.

1. 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.
2. Arterial: A street of considerable continuity which is used primarily for through traffic and interconnection between major areas of the City.
3. Collector: A street supplementary to the arterial street system, used partly by through traffic and partly for access to abutting properties.
4. Cul-de-sac (dead-end): A short street with one end open to traffic and the other terminated by a vehicle turn-around.
5. Dead-end Street: A street which terminates without a turn-around area and is intended to continue at some time in the future.
6. Half Street/Three-Quarter Street: A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

Typically this includes the near side curbs and sidewalks, paved surface, and drainage facilities.

7. 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.

8. Local Street: A street intended primarily for access to abutting properties, but protected from through traffic.

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: To divide an area or tract of land into four or more parcels within a calendar year for the purpose of transfer of ownership or building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the division of property.

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

Substantial Improvement: The cost of any repair, reconstruction or improvement of a structure equal to or greater than fifty percent (50%) of its market value before such alteration occurred.

Trailer (Travel or Vacation): See Recreational Vehicle.

Travel Trailer Parks: See Campground, or, Recreational Vehicle Park.

Unstable Soil: Any soil type, as defined by the U.S. Soil Conservation Service and identified in the Comprehensive Plan, which has severe limitations for development due to potential flooding, erosion, structural instability or inadequate sewage waste disposal.

Urban Growth Boundary: An adopted boundary around the City which defines the area in which the City expects to grow, where public facilities will be extended, and where joint planning responsibilities are exercised with Yamhill County.

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

Vanpool: More than five persons each with a valid driver's license commuting in a single vehicle.

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.

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.

** 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 thereto at 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 primary 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.

** Yard, Side: A yard, between a primary building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard or the rear lot line if no rear yard is required; 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 a primary building.

** 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.

Comment [n6]: PC would like to see conformity in terms – i.e. all references to Ordinance (Dundee Development Ordinance) shall be changed to Code.

Comment [n7]: PC wondered if we should add definitions for modification and adjustment or if having them defined in their relevant Code sections was adequate.

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ARTICLE 1 — INTRODUCTION AND GENERAL PROVISIONS

Chapters:

- 1.1 Introduction
- 1.2 Title, Purpose, and Authority
- 1.3 Lot of Record
- 1.4 Nonconforming Situations
- 1.5 Code Interpretations

Chapter 1.1 — Introduction

The City of Dundee Development Code (“Code”) is administered by the City Manager or his or her designee. The Code regulates land use and development within the City of Dundee, and is organized as follows:

Article 1 describes the title, purpose, organization and general administration of the Code. Article 1 also explains how the City interprets and enforces the Code.

Article 2 sets forth the land uses allowed in the City’s zoning districts, and the lot and development standards for each use or zone, consistent with the City of Dundee Comprehensive Plan. Before beginning a new land use or development, changing an existing use, or applying for a building permit, the property owner must complete a Zoning Checklist for review and approval by the City. The City will then determine whether a formal land use application or other City permit is required.

Article 3. Article 3 sets forth the City’s site development and land division standards related to street access; pedestrian and vehicle circulation; parking; landscaping, screening, fences and walls; outdoor lighting; transportation improvements; water, sanitary sewer, and storm drainage improvements; and utility requirements.

Article 4. Article 4 sets forth the City’s land use application requirements and review procedures, including but not limited to procedures for land divisions, property line adjustments, conditional use permits, site plan reviews, and variances. Property owners should contact the City of Dundee before commencing any development or a change in land use to determine whether a project requires a permit or other City approval.

Article 5. Article 5 contains definitions and other exhibits that the City uses in interpreting and administering this Code. ~~For example, where Article 2 sets forth the land uses that are allowed in each zone, Article 5 provides examples of allowed uses.~~

Chapter 1.2 — Title, Purpose, and Authority

Sections:

Section 1.2.010	Title
Section 1.2.020	Purpose
Section 1.2.030	Conformance Required
Section 1.2.040	Violations
Section 1.2.050	Interpretation
Section 1.2.060	Savings Clause
Section 1.2.070	Conflicting Codes
Section 1.2.080	Pre-Existing Approvals

1.2.010 Title

The official name of this Title is “The City of Dundee Development Code.” It may be referred to as “Development Code” and “Code.”

1.2.020 Purpose

This Code is enacted to:

- A. Implement the goals and policies of the City of Dundee Comprehensive Plan;
- B. Provide methods of administering and enforcing City land use standards and procedures, consistent with State requirements; and
- C. Promote the public health, safety, and general welfare of the community.

“B” replaces the circular provision: “Provide methods of administering and enforcing the provisions of this Ordinance...”

1.2.030 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 Dundee shall conform to the requirements of this Code.

1.2.040 Violations

Upon failure to comply with any provision of this Code, or with any restrictions or conditions imposed hereunder, the **City Council** (Council) may withhold any further permits and may withhold or withdraw City utility services until correction is made. Notwithstanding any such

1.2 – Title, Purpose, and Authority

action taken by the Council, any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of the Code shall be subject to civil penalties of no more than \$250.00 for each offense. Each day that a violation ~~is permitted to exist~~ shall constitute a separate offense.

Is \$250 penalty still appropriate. Should the Code provide other enforcement tools?

Comment [n1]: PC would like to flag this issue for Council to decide. Discussion about whether the \$ amount should be codified or be on a separate fee sheet.

1.2.050 Interpretation

- A.** The provisions of this Code shall be interpreted as minimum requirements. When this Code imposes a greater restriction than is required by other provisions of law, or by other regulations, resolutions, easements, covenants or agreements between parties, the provisions of this Code shall control.
- B.** Where a certain provision of this Code conflicts with another provision of this Code or is unclear, the correct interpretation of the Code shall be determined by the City Council. See also, Chapter 1.5 Code Interpretations.
- C.** Where a certain provision of this Code conflicts with State or Federal law, the applicable State or Federal law shall apply.

Authorize Planning Official? See replacement chapter.

1.2.060 Savings Clause

Should any section, clause, or provision of this ordinance be declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Code as a whole or of the remaining sections. Each section, clause, and phrase is declared severable.

1.2.070 Conflicting Codes

City of Dundee Ordinances No. 168, No. 180, No. ___ and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

City Attorney direction.

1.2.080 Pre-Existing Approvals

Developments and uses for which City approvals were granted prior to *[effective date of new code]* may occur pursuant to such approvals, except that modifications to those approvals shall be subject to Chapter 4.65. Modifications to Approved Plans and Conditions of Approval.

1.2.090 Zoning Checklist??

Chapter 1.3 — Lot of Record

Comment [n2]: PC felt this section was unnecessary as we already have a definition for lot of record. Perhaps better to simply add the ORS reference to the lot of record definition?

Sections:

1.3.010 Purpose and Intent

1.3.020 Criteria

1.3.030 Legal Lot Determination Procedure

1.3.010 Purpose and Intent

Chapter 1.3 sets forth the criteria and procedures for determining when a lot of record exists for the purpose of allowing development on a nonconforming lot. The City shall accept a legal lot determination as sufficient evidence of a hardship for purposes of approving a variance under

Chapter 4~~-.7.~~

1.3.020 Criteria

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

- A. The plot of land was lawfully created through a subdivision or partition plat, pursuant to Oregon Revised Statutes (ORS) Chapter 92;
- B. The plot of land was created through a deed or land sales contract recorded with Yamhill County before the City or County, as applicable, first adopted planning, zoning, subdivision or partition regulations; or
- C. The plot of land was created through a deed or land sales contract recorded with Yamhill County prior to January 1, 2007 and the subject plot of land would have complied with the applicable planning, zoning, subdivision or partition regulations in effect at the time it was created.

1.3.030 Legal Lot Determination Procedure

Requests to validate a lot of record shall follow the procedures in ORS 92.010 to 92.190. The applicant has the burden of proof in demonstrating compliance with the approval criteria.

Chapter 1.4 — Nonconforming Situations

Sections:

- 1.4.010 Purpose and Scope**
- 1.4.020 Applicability**
- 1.4.030 Review of Nonconforming Situations**
- 1.4.040 Nonconforming Use**
- 1.4.050 Nonconforming Development**
- 1.4.060 Nonconforming Lot**
- 1.4.070 Alteration of Nonconforming Situation (Use, Development, or Lot)**

1.4.010 Purpose and Scope

Within the zoning districts established by this Code and amendments thereto, uses and developments 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 Chapter 1.4 is to encourage the conversion of such nonconforming situations to conforming situations. However, this Chapter allows nonconforming uses and developments to be continued, altered, restored or replaced subject to satisfaction of the review criteria. Nothing contained in this Chapter 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 Chapter or any amendment thereto.

1.4.020 Applicability

- A.** Section 1.4.040 applies to nonconforming uses (e.g., industrial use in residential zone);
- B.** Section 1.4.050 applies to nonconforming developments (e.g., structure does not meet setback standard, or site does not comply with parking or landscaping standards); and
- C.** Section 1.4.060 applies to nonconforming lots (e.g., lot is smaller than minimum area required by code).

1.4.030 Review of Nonconforming Situations

An application for an alteration or expansion of a nonconforming use or structure shall be filed with the Planning Official and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application addressing the review criteria of this Chapter.

- A. Converting a Nonconforming Situation to a Conforming Situation.** Except where other Code provisions require a different review procedure, proposals to convert a nonconforming situation to a conforming situation shall be reviewed by the Planning Official through a **Type I** or **Type II** procedure, as applicable, under Chapter 4.1.
- B. Other Changes to Nonconforming Situations.** Other proposals to modify, expand or otherwise alter a nonconforming use or structure shall be reviewed through a **Type III** procedure.
- C. Conditions of Approval.** In approving the alteration, restoration, or replacement of a nonconforming use, the City decision-making body may impose such conditions as it deems appropriate to ensure that the intent of this Chapter is carried out. Such conditions shall be reasonably related to the criteria set forth in this Chapter.
- D. Alterations Required by Law.** Notwithstanding the above provisions, 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.
- E. Maintenance.** Normal maintenance of a nonconforming use or development, as applicable, is permitted provided there are not major structural alterations as determined by the City Building Inspector.

1.4.040 Nonconforming Use

Where at the time of adoption of this Code a use of land exists that would not be permitted under the current Code but was lawful at the time it was established, the use may continue as a legal nonconforming use, provided:

- A. Location of Nonconforming Use.** A nonconforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.
- B. Discontinuation or Abandonment of Nonconforming Use.** A nonconforming use that is discontinued for any reason (except fire, casualty, natural disaster, or other means beyond the owner's control) for a period of more than twelve (12) months shall be deemed abandoned and shall no longer be an allowed use; except the Planning Commission may approve an extension through a **Type III** procedure, in which case the extension shall be limited to one twelve (12) month period. For purposes of calculating the twelve (12) month period, a use is

1.4 – Nonconforming Situations

discontinued ~~or abandoned~~ upon the first occurrence of any one of the following:

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

C. Application of Code Criteria and Standards to Nonconforming Use. Once the City deems a use abandoned pursuant to subsection 1.4.040(B), any subsequent use of the subject lot shall conform to the current standards and criteria specified by this Code. After the City has deemed a nonconforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership/management, and shall not be altered or replaced by another nonconforming use; any such activity is a violation of this Code.

1.4.050 Nonconforming Development

Where a development exists on the effective date of adoption or amendment of this Code that could not be developed under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, access, parking, landscaping, its location on the lot, or other requirements concerning the development, and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions: ???

1.4.060 Nonconforming Lot

If a lot situated within a partition or subdivision that has been duly platted, approved and recorded at Yamhill County at the time of the passage of this ordinance, or if any other lot or aggregate of other lots held in a single ownership, as so recorded at such time, have an area or dimensions which do not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to other requirements of the zone; provided that if there is an area deficiency, residential use shall be

Comment [n3]: PC discussed having these listed as examples instead of as an exhaustive list of occurrences. Is there rationale for having these listed like this?

Comment [n4]: PC discussed that having separate sections for nonconforming development and lot may be redundant and confusing. Possibly streamline into one – nonconforming developments and lots. Additionally, they would like to see streamlined definitions here that are readable and understandable by the layperson.

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1.4 – Nonconforming Situations

limited to a single-family dwelling. The City shall accept a legal lot determination as sufficient evidence of a hardship for purposes of approving a variance under Chapter 4.7.

Note: The existing regulations under 2.401 do not allow a single family dwelling on a lot of record smaller than 3,000 square feet.

1.4.070 Alteration to Nonconforming Situations

Alterations to nonconforming situations (uses, developments or lots) are permitted subject to the following requirements:

- A. Restoration or Replacement.** Restoration or replacement of a nonconforming use or development, when necessitated by fire, casualty, or natural disaster, is permitted subject to subsection 1.4.050(C).
- B. Other Alterations.** The Planning Commission may authorize alteration to a nonconforming use, development or lot, subject to the Type III review procedure, provided that the applicant demonstrates that the proposal satisfies the following criteria:

1. If a change in use is requested, the nonconforming use would not be replaced by another nonconforming use (Replacement of a nonconforming use by a use in the same land use category shall not be considered a change of use); and

2. ~~The alteration shall have no greater adverse impact on the neighborhood with regard to noise, traffic, parking, air quality, impact on public facilities, or similar impacts.~~

~~The alteration shall not increase the degree of any nonconformity or create a new nonconformity; or~~

3. ~~Where the alteration increases the degree of nonconformity:~~

- a. ~~The total cumulative increase in nonconformity, as measured by surface area, volume, height, dimensions, count (e.g., parking), and/or other objective measure(s) shall not exceed twenty percent (20%), where the use, structure, development or lot, as applicable, that existed as of [effective date of new code] shall provide the basis for measuring the increase; and~~

- b. ~~The alteration shall have no greater adverse impact on the neighborhood with regard to noise, traffic, parking, air quality, impact on public facilities, or similar impacts.~~

Under the current Code, does unlimited expansion of nonconformities, at some point, subvert the purpose and intent of the Code? Subsection (B)(3) is new. This is a policy question for the City. Is it appropriate to limit expansion of nonconforming uses?

C. Destruction or Removal.

Comment [n5]: Please verify – should this be 1.4.070(C) or are there supposed to be provisions under 1.4.050?

1.4 – Nonconforming Situations

1. Should a nonconforming development or nonconforming portion of development be destroyed to an extent more than fifty percent (50%) of the subject development's market value, as most recently assessed by the Yamhill County Assessor, it shall be reconstructed only in conformity with this Code; except as provided by subsection 1.4.050(B)(3);
2. Where such nonconforming development or nonconforming portion of a development is destroyed by less than fifty percent (50%) of the subject market value, per subsection 1, it may be rebuilt but only within the building envelope that had existed just before the destruction; for the purposes of this subsection, building envelope means the three-dimensional plane defined by the front, side and rear yard setbacks, and the structure's height, including all portions of the structure and all building stories, as applicable.
3. The Planning Official shall authorize restoration or replacement of a nonconforming building when restoration or replacement is made necessary due to circumstances beyond the owner's control, such as fire, casualty, or natural disaster, provided the physical restoration or replacement is lawfully commenced within one (1) year of the damage or destruction.
4. A nonconforming structure or development, upon being moved for any reason and by any distance, shall thereafter conform to the regulations of this Code.

Comment [n6]: PC had concerns over using market value. Discussion instead about using improvement value or square footage – what is the standard language? Reason being that a small building on a large lot might not have much valuation but the lot would, requiring that the structure could not be rebuilt even if the structure were destroyed less than 50%.

Comment [n7]: Verify section – should be 1.4.070??

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Chapter 1.5 — Code Interpretations

Sections:

- 1.5.010 Purpose**
- 1.5.020 Authorization of Similar Uses**
- 1.5.030 Other Code Interpretations**

1.5.010 Purpose

Some terms or phrases within this Code may have two or more reasonable meanings. Chapter 1.5 provides a process for resolving differences in the interpretation of the Code text.

1.5.020 Authorization of Similar Uses

- A.** 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.
- B.** The Planning Official through a Type II procedure, or the Planning Commission through a Type III procedure, may determine that a use not specifically listed among the allowed uses in a zone is permitted, permitted with special use standards, or allowed subject to approval of a conditional use permit based on all of the following criteria:
 - 1. 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;
 - 2. The use does not conflict with the standards and limitations of the underlying zoning district. The City shall determine whether additional land use review, such as conditional use approval or a site plan review, is required;
 - 3. The use, by definition, is not limited to a different zone.
- C.** The determination by the City decision-making body that a proposed similar use cannot be accommodated in a given zone does not preclude an application by the appropriate party for an amendment to the text of the Comprehensive Plan and/or Development Code.

1.5.030 Other Code Interpretations

Requests for Code interpretations other than Similar Use determinations shall be made in writing to the Planning Official. Where the Planning Official finds that the Code is not clear, he or she shall refer the request to the Planning Commission for review through a Type III procedure; alternatively, the Planning Official may refer the request to the City Council for review through the Type III procedure if interpretation pertains to legislative intent. The Planning Official shall either issue a written interpretation, or advise the person making the inquiry in writing as to whether the Planning Commission or City Council will review the request, within fourteen (14) days of receiving the request. See Section 4.1.040 for Type III procedure.