

## **Halfway - Land Usage**

### **TITLE XV: Land Usage**

Chapter

**150. LAND USE AND DEVELOPMENT**

**151. FLOOD DAMAGE PREVENTION**

## Halfway -Land Usage and Development

### Chapter 150: Land Use and Development

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### ***INTRODUCTORY PROVISIONS***

#### ***Amendment***

The Ordinance numbers: Ord. 10-15, passed 6-9-2005; updated 2-16-2023.

#### ***Section 150.001 Title***

This chapter shall be known as the City of Halfway Land Use and Development Ordinance. (Ord. 10-15, passed 6-9-2005)(Ord. Passed 2-16-2023).

#### ***Section 150.002 Purpose***

It is the purpose of this chapter to.

- A. Implement the comprehensive plan as adopted by the City Council.
- B. Comply with ORS Chapter 195, 197 and 227.
- C. Promote public health, safety and welfare of the citizens of the city.
- D. Replace the prior zoning and subdivision ordinances with an up to date set of implementation measures for the city.

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### *Section 150.003 Definitions*

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. As used in this chapter, the singular includes the plural and the masculine in the feminine and neuter; the word MAY is discretionary, the word SHALL is mandatory.

**Access** - The way or means by which pedestrians and vehicles enter and leave property, which is commonly open to use by the public.

**Accessory use or Accessory structure** - A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.

**Accessway** - A walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Generally including a walkway and additional land on either side of the walkway, often as 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 that provides convenient access for pedestrians.

**Alley** - A street which affords only a secondary means of access to the property.

**Apartment** - A building (or portion thereof) consisting of separate living units designed for occupancy by three or more families living independently of each other.

**Appeal** - A request for the review of the interpretation of any provision of this chapter or a request for a variance.

**Automobile Wrecking Yard** - Premises used for the commercial storage or sale of used automobile or truck parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts thereof, unless said activity takes place solely within an enclosed structure.

**AirBnB** - A short-term rental where the owners or managers are not on site. The stay is limited to thirty (30) days or less. The name is derived from the company (AIRBnb) that advertises properties for rent and makes reservations and collects fees for such rental properties.

**Bed and Breakfast** - An establishment in a residential district or a commercial residential district that contains up to five (5) guest bedrooms, is owner or manager occupied, provides a morning meal, and is a short term rental that limits the length of stay to thirty (30) days or less.

**Bicycle** - A vehicle designed to operate on the ground on wheels, propelled solely by human or battery power, upon which any person or persons may ride, and with two tandem wheels. A tricycle is considered a Bicycle with three wheels; and a Unicycle with one wheel.

**Bicycle Facilities** - A general term denoting improvements and provision made to accommodate or encourage bicycles, including parking facilities and all bikeways.

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

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

**Boarding House, Lodging or Rooming House** - A building where lodging with or without meals is provided for compensation, for over four guests to a maximum of 12 guests.

**Building** - A structure or mobile home unit built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.

**CC&R** - A method of controlling development in an area, usually a subdivision, that is enforced by the business of the area involved. The city cannot enforce the CC&Rs.

**Church** - A building or edifice used primarily for religious worship.

**City** - City of Halfway

**City Council** - Halfway City Council

**Conditional Use** - A zoning exception that allows use of a property in non-conforming ways. A conditional use is not authorized outright as it may have adverse impacts on the surrounding area, such as the desired character, appearance or on the transportation network or other public infrastructure. It is an alternative to re-zoning and can allow properties to be used in a unique way where the rezoning is not desirable or possible.

**Conditional Use Permit** - An authorization by the City Council for a specific “conditional use”. (Refer to conditional use definition).

**Contiguous Land** - Two or more parcels or units of land, including water, under a single ownership which is not separated by an intervening parcel of land under a separate ownership (including limited access rights-of-way) which would deny access between the two parcels under single ownership.

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**Development** - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, located within the area of special flood hazard.

**Drip-line** - A line of the ground when water drips off a roof.

**Duplex** - A building containing two dwelling units in which each dwelling unit is designed for occupancy by one family.

**Dwelling, Single-Family** - Any building designed or used exclusively for occupancy by one family and containing one dwelling unit, including manufactured homes meeting the requirements of 150.064.

**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. Family shall include two or more persons with a handicap as defined in the Fair Housing Amendments Acts of 1988, 42 U.S.C. Section 3601 and following, living as a single housekeeping unit.

**Fourplex** - A building containing four dwelling units in which each dwelling unit is designed for occupancy by one family.

**Home Occupation** - The lawful occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling, provided:

1. There is no more than one additional person employed other than the resident of the dwelling.
2. The occupation is carried on in such a manner as not to impact the outward appearance of a business in an ordinary meaning of the term, or cause or lead to unreasonable increase of the flow of traffic in the neighborhood or production of noise or other forms of environmental pollution.

**Lot** - A parcel or tract of land.

**Lot Area** - The total area of the lot measured in the horizontal plane within the lot boundary lines.

**Lot Depth** - The average horizontal distance between the front lot line and the rear lot line.

**Lot Line, Front** - The line on the lot facing the street from which the access to the lot is commonly made.

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

**Manufactured Dwelling** -

1. **Manufactured Home** - Only those manufactured dwellings manufactured after June 15, 1976 and conforming to Housing and Urban Development Standards (HUD).

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- a. For any purpose other than that set forth in division (b) below Manufactured Home means a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.
  - b. For purposes of implementing and contract pertaining to manufactured homes between the department and the federal government, Manufactured Home has the meaning given the term in the contract.
  - c. Manufactured Dwelling does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100-455.450 or any unit identified as a recreational vehicle by the manufacturer.
2. **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, 1992 and June 15, 1976, and met the construction requirements or Oregon Mobile Home law in effect at the time of construction.
  3. **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.

**Mobile Home Park** - Any privately owned place where four or more mobile homes used for human occupancy are parked within 500 feet of one another on a lot, tract, or parcel of land under that same ownership, the primary purpose of which is the rental of spaces.

**Multiple-Family Dwelling** - A building or structure containing dwelling units designed or intended for the residence of three or more families.

**Neighborhood Activity Center** - An attraction of destination for residents of surrounding residential areas which includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment areas.

**New Construction** - Structures for which the “start of construction” commenced on or after the effective date of this chapter.

**Non-conforming Structure or Use** - A lawfully existing structure for use at the time this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

**Off Street Parking** - Parking entirely on private land.

**Owner** - A person, their authorized agent or representative having legal authority to use, transfer or lease land.



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**Parking Place** - A rectangular area not less than 20 feet long and ten feet wide, together with maneuvering and access space for an automobile, equipment, or other vehicle to park within the rectangle without the necessity of maneuvering other parked vehicles.

**Partitioning** - Either an act of subdividing land or an area or tract of land subdivided. Creating not more than three (3) lots in a calendar year.

**Pedestrian Facilities (also Walkways)** - A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths and trails.

**Person** - A natural person, firm partnership, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

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

**Recreational Vehicle** - Vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a gross floor space of less than 400 square feet. The unit shall be identified as a Recreational Vehicle by the manufacturer.

**Recreational Vehicle Park** - Any area designed to establish, operate, manage, or maintain the same for picnicking or overnight recreational vehicle or tent camping by the general public or any other segment of the public includes but is not limited to the areas open to use free of charge or through a payment of a tax or fee or by virtue of rental, lease, license, membership, association, or common ownership, and further includes but not limited to those areas divided into two or more lots, parcels, units, or other interests for the purposes of such use. Such Recreational Vehicle Parks as defined are not intended for residential occupancy.

**Residential Facility** - A residential care, residential training, or residential treatment facility licensed or registered by or under the authority of the Department, as defined in ORS 443.400 under ORS 443.400 - ORS 443.460, or license by the Children's Services Division under ORS 418.205 - ORS 418.327 which provides residential care alone or in conjunction with treatment or training, or the combination thereof, for six to 15 individuals who need not be related. Staff persons required to meet the licensing requirement shall not be counted in the number of facility residences and need not be related to each other or to any resident of the Residential Facility.

**Residential Home** - A residential treatment or training or adult foster home licensed by or under the authority of the Department as defined ORS 443.400, under ORS 443-400 - 443.825, a residential facility registered under ORS 443.480 - ORS 443.500, or an adult foster home licensed under ORS 443.705 - 443.825, which provides residential care alone or in conjunction with treatment or training, or a combination thereof, of five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any residents of the Residential Home.

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**Residential Use** - A building or use designed or used for occupancy as a human dwelling or lodging place, such as a single family dwelling, duplex, apartment, boarding, lodging or rooming house, mobile home or mobile home park, or labor camp.

**Safe and Convenient** - Bicycle and pedestrian routes that are:

1. Reasonably free from hazards.
2. Provide a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile for pedestrians and three miles for bicyclists.

**Setback** - An area established for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained.

**Sign** - An outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, billboard, or other thing that is used, designed, or intended for advertising purposes or to inform or attract the attention of the public. The term includes the sign supporting structure, display surface, and all other component parts of the sign. When dimensions of the sign are specified, the term includes the panels and frames, and the term includes both sides of the sign of specified dimension or area, but the term shall not include a sign as reasonably necessary or required by any branch or agency of the government pursuant to any public law or regulation.

**Short Term Rental** - Means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer, RV, or other residential unit or authorized accessory unit, where a person rents a guest bedroom, or the entire unit for transient lodging occupancy, for a fee, for fewer than thirty (30) consecutive nights. Owners may or may not be on site. Payment of Transient Lodging Tax is required if rented for more than 30 days in a calendar year.

**Start of Construction** - Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building or structure on a site, such as the pouring of slab or footings, the installation of pylons, the installation of manufactured homes on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of accessory buildings or structures such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building or structure, whether or not that alteration affects the external dimensions of the building or structure. The City Council may, at its discretion, extend authorization for an additional 180 days on request.

**Street** - The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic, and includes the terms road, highway, lane, place, avenue, alley or other similar designation which is commonly open to use by the public.

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**Structure** - Something built or constructed for a specific purpose. Not a building (as defined in this document). It may or may not have a floor or walls. Examples: carport or hay shed.

**Substantial Damage** - Damage of any origin sustained by a building or structure, whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the building or structure either.

- A. Before the improvement or repair is started.
- B. If the building or structure has been damaged and is being restored, to the condition before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building or structure.

The term does not, however, include either.

- A. Any project for improvement of a building or structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- B. Any alteration of a building or structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Subdivide** - Divide land or create four or more lots within a calendar year.

**Subdivision** - Either an act of subdividing land or an area or tract of land subdivided.

**Tract or Area** - The area within a measurable boundary of land or contiguous parcels of land.

**Triplex** - A building containing three dwelling units in which each dwelling unit is designed for occupancy by one family.

**Use** - The purpose, for which land or building is designed, arranged, or intended, or for which it is occupied or maintained.

**Urban Growth Boundary or UGB** - Refers to the boundary lines of descriptive areas of land outside the incorporated boundary of the city, which areas are considered to be Urbanizable Land.

**Urbanizable Land** -

1. Land areas outside the incorporated boundary of the city but within the UGB, which land areas are identified and determined to be necessary and suitable for future urban uses; can be served by urban services and facilities and are needed for the expansion of the urban area.

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2. The annexation of urbanizable land shall be consistent with the applicable provisions of the land use plan and state law.
3. The land use regulations of the city shall apply to lands annexed; provided, however, that newly annexed land shall take the zoning designation of the contiguous land use zone until changes by the City Council. A zoning change shall be consistent with the land use plan.

**Variance** - A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

**Walkway** - A hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways.

**Yard** - An open space on a lot, which is unobstructed except as otherwise provided in this chapter, and includes driveways.

**Yard, Front** - A yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition abutting on a street other than an alley shall be considered a Front Yard.

**Yard, Rear** - A yard between the side lot lines and measured horizontally at a right angle to the rear lot line from the rear lot line to the nearest point of a building.

**Yard, Side** - A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.

### *Basic Provisions*

#### ***Section 150.015 Compliance with Chapter Provisions***

The land may be used and a building or structure or part of a building or structure may be constructed, reconstructed, altered, occupied or used only as this chapter shall permit.

#### ***Section 150.016 Establishment of Land Use Zone***

This chapter hereby establishes the following land use zones for the city.

<b>Zone</b>	<b>Abbreviated Designations</b>
Residential	R
Commercial-Residential	CR
Public	P

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### ***Section 150.017 Location of Zones***

The boundaries of the zones listed in this chapter are indicated on the zoning map, which is attached to Ordinance 10-15.

### ***Section 150.018 Zoning Map***

The zoning map of the city is attached to Ordinance 10-15 and is hereby adopted by reference as a part of this code. Zoning map amendments shall be dated with the effective date of the ordinance that adopts the map amendment and filed in the office of the City Recorder.

### ***Section 150.019 Zoning Boundaries***

Unless otherwise specified, zone boundaries are centerlines of streets, lot lines, and city limit lines.

### ***Section 150.020 Application***

The provisions of this chapter shall apply to all areas inside the incorporated boundary of the city.

### ***Section 150.021 Violations and Permits***

- A. No person shall locate, construct, maintain, repair, alter the use, or transfer land in violation of any provisions of this chapter.
- B. Where a permit or approval is required by any provision of this Ordinance, no person shall take any action or do any of the things mentioned in (A) of this section without such permit or approval. If such work commences without the proper permits and/or authorization, the city may issue a stop work order, report violations to the Baker County Building Department or take other action as identified on the last page of this ordinance. Penalty see Section 150.999.

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### Land Use Zones

#### *Section 150.035 Residential Zone “R”*

Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the “R” Residential Zone shall comply with the following regulations.

##### *A. Regulations.*

1. Be reasonably free of objectionable odor, noise, glare, heat, vibration or other adverse effect on the neighboring property.
2. Reflective products or products that glare, will not be used for roofing, skirting, fencing, or other uses unless treated to prevent reflection or glare. These products must be approved by the City Recorder and Ordinance Officer.

##### *B. Permitted uses.*

1. Single-family dwellings.
2. Duplexes, two unit dwellings.
3. Accessory uses and buildings customarily incidental to the above uses. Detached accessory buildings shall not be located within the required setback areas. Accessory uses are those which are clearly incidental and subordinate to the primary use of the main building.
4. Name plates and signs. One non-illuminated nameplate not to exceed one and one-half square feet in area placed flat against the building, for each dwelling containing a home occupation. One temporary non-illuminated sign not to exceed eight square feet pertaining to the lease, rental, or sale of a building or premises upon which it is located. One bulletin board not to exceed 12 square feet in area for each church, public library, neighborhood or community center.
5. Residential homes.
6. Utilities facilities necessary for public service.

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C. *Conditional Uses.* Permitted with approval of the City Council in accordance with Section 150.080.

1. Churches.
2. Mobile home parks.
3. Schools and libraries.
4. Home occupations.
5. Lodge for civic or fraternal organization carrying on no commercial activity.
6. Triplexes, three-family dwellings, and four-plexes, four-family dwellings.
7. Necessary public utilities and public services, city and county service buildings.
8. Short Term Rental facilities meeting the provisions of Section 150.055.
9. Bed and breakfast facilities meeting the provisions of Section of 150.065.
10. Boarding house.
11. Residential facilities.
12. Golf course or other outdoor recreation.
13. Wireless telecommunication facilities. See Section 150.068.
14. Parks, playgrounds, or community centers owned and operated by a public agency or non profit community organization.
15. Recreational vehicles for residential use.

D. *Height.* Buildings, structures, or portions thereof shall not be erected to exceed a height of two stories or 28 feet at grade of front door, or whichever is less.

E. *Area Requirements.*

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1. *Front yard.* There shall be a front yard of not less than ten feet in depth. With a set back of no less than 5 feet, with clear vision access regulations maintained in accordance with this ordinance
2. *Side yard.* On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than five feet from the drip-line. On corner lots the interior side yards shall have a width of not less than five feet from the drip-line but the side of yard on the street side of such corner lots shall not be less than ten feet in width.
3. *Rear yard.* There shall be a rear yard of not less than five feet from the drip-line in depth.
4. *Lot area.* In the “R” Zone the minimum lot or parcel size shall be as follows.
  - a. *Single, two family, and mobile home dwellings:* 5,000 square feet.
  - b. *Multiple family dwellings:* 5,000 square feet for two dwellings units plus.
    1. 1,000 square feet for each additional one-bedroom dwelling unit.
    2. 1,350 square feet for each additional two-bedroom dwelling unit.
    3. 1,600 square feet for each additional three-bedroom dwelling unit.
    4. 1,800 square feet for each additional four-bedroom dwelling unit.
  - c. All uses shall have adequate area to meet the property line setback requirements and the off street parking space requirements of this chapter.
  - d. All uses shall have a frontage on the street of a minimum of 25 feet.

### *F. Parking regulations.*

- a. *Dwellings.* Two parking spaces shall be provided on the lot for each dwelling unit.
- b. *Uses other than dwellings.* See Section 150.056.



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- G. *Sanitation Regulations.* Before any dwelling is occupied, it must be connected to an approved subsurface disposal system and, ultimately, to the city sewer system at such time as the city sewer system becomes available to the property on which the dwelling is located.

### ***150.036 Commercial-Residential Zone “CR”***

Buildings and structures hereafter erected, structurally altered, enlarged or moved or land hereafter used in the “CR” Commercial-Residential Zone shall comply with the following regulations.

#### A. *Regulations*

- a. Be reasonably free of objectionable odor, noise, glare, heat, vibration or other adverse effect on neighboring property.
- b. Reflective products, or products that glare, will not be used for roofing, skirting, fencing, or other uses unless treated to prevent reflection or glare. These products must be approved by the City Recorder and Ordinance Officer.

#### B. *Permitted Uses*

- a. Residential uses listed in Section 150.035 (B).
- b. Retail trade and service establishments in which the operation takes place solely within an enclosed building.
- c. Public buildings, structures and services.
- d. Retail trade establishments, personal and business services in which the operation takes place solely within an enclosed building and the owner, operator, or lessee of the business lives in an apartment on the premises.
- e. Existing residential uses are the time of adoption of this chapter.
- f. Utilities facilities necessary for public service.

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- g. Any commercial use according to this section shall be reasonably free of objectionable odor, noise, glare, heat, vibration or other effect on neighboring property.
- C. *Conditional Uses.* Permitted with the approval of the City Council in accordance with Section 150.080 of this chapter.
- a. Churches.
  - b. Service commercial establishments in which some activities take place in an enclosed building.
  - c. Agricultural support services including produce storage facilities.
  - d. Commercial amusement.
  - e. Single-family dwellings, duplexes, and apartments on second floor of structure above existing commercial uses on ground floor.
  - f. Recreational vehicle park.
  - g. Light industrial uses provided that all activities and operations except off street parking and loading take place wholly within an enclosed building and that it is not deemed to be incompatible with surrounding uses because of noise, odor, sight or other kinds of environmental pollution.
  - h. Lodge for civic or fraternal organization.
  - i. Mini storage units with the condition that the design and landscaping must be approved by the City Council prior to the construction of the buildings.
  - j. Wireless telecommunication facilities. See Section 150.068.
  - k. Recreational vehicles for residential use.
- D. *Height.* Buildings, structures or portions thereto shall not be erected to exceed a height of two stories or 28 feet at grade of front door, or whichever is less.

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E. *Area Requirements.* In the Commercial-Residential zone, setbacks shall be as follows.

- a. *Front yard.* There shall be a front yard of not less than ten feet in depth. With a set back of no less than 5 feet, with clear vision access regulations maintained in accordance with this ordinance.
- b. *Side yard.* On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than five feet from the drip-line. On corner lots the interior side yards shall have a width of not less than five feet from the drip-line but the side yard on the street side of such corner lots shall not be less than ten feet in width.
- c. *Rear yard.* There shall be a rear yard no less than five feet from the drip-line in depth.
- d. *Lot area.* In the “CR” Zone the minimum of lot or parcel size shall be as follows:
  1. Single, two family and mobile home dwellings: 5,000 square feet.
  2. Commercial use, single family, two family, and mobile home dwellings: 4,000 square feet.
  3. Multiple family dwellings: 4,000 square feet for two dwellings units plus:
    1. One thousand square feet for each additional one-bedroom dwelling unit.
    2. One thousand three hundred fifty square feet for each additional two bedroom dwelling unit.
    3. One thousand six hundred square feet for each additional three bedroom dwelling unit.
    4. One thousand eight hundred square feet for each additional four bedroom dwelling unit.

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4. All uses shall have adequate area to meet the property line setback requirements and the off street parking space requirements of this chapter.
5. All uses shall have a frontage on the street of a minimum of 25 feet.

### *F. Parking Regulations.*

- a. *Residential off-street parking.* For residential uses, two parking spaces for each dwelling unit.
- b. *Off-street parking.* See Section 150.056.
- c. *Parking area approval.* Land used for parking areas, other than residential, in this zone shall be developed in accordance with a plan approved in writing by the City Council. The area must be surfaced with asphalt, concrete or other type of surfacing approved by the City Council and all parking spaces should be individually marked.

### ***Section 150.037 Public Zone “P”***

*Conditional Uses.* The following uses and their accessory uses are permitted when authorized.

#### *A. Regulations*

- a. Be reasonably free of objectionable odor, noise, glare, heat, vibration or other adverse effect on neighboring property.
- b. Reflective products, or products that glare, will not be used for roofing, skirting, fencing, or other uses unless treated to prevent reflection or glare. These products must be approved by the City Recorder and Ordinance Officer.

#### *B. Conditional Uses*

- a. Public reserve areas of natural, historical, or geological facilities.

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- b. Public wildlife reserve or management area.
  - c. Public or private schools.
  - d. Public buildings and uses including community centers.
  - e. Commercial, private, or public picnic or campground.
  - f. Utility facility. Facilities necessary for the health, safety, and welfare of residents.
  - g. Public or private golf courses.
  - h. Commercial recreation use, including marina, riding stable, resort type establishment, gun club, recreation camp, and dude ranch.
  - i. Public marina, recreation camp or resort.
  - j. Public picnic grounds, parks, playgrounds, campgrounds, fair grounds, or nature trails.
  - k. Single family dwelling, including a mobile home for administrative or maintenance personnel of approved uses.
- C. *Standards.* In the “P” Zone, the following standards shall apply if determined to be in the best interest and welfare of residents.
- a. The minimum lot size shall be the minimum necessary to accommodate the use determined by the City Council to be necessary for the protection of the public health and safety and natural resources.
  - b. Setback dimensions shall be the minimum necessary to accommodate the use determined by the City Council. (See minimum setback requirements as determined by this Ordinance in Residential uses and Commercial Residential uses).
- D. *Limitations on Conditional Use.* In addition to the approval standards that may be attached to the approval of a conditional use as provided by the zoning ordinance, the following limitations shall apply to a conditional use in a “P” Zone.

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- a. The city may require establishment and maintenance of fire breaks, the use of fire resistant material in construction and landscaping, or may attach other similar conditions or limitations that will serve to reduce fire hazards or prevent the spread of fire to surrounding areas.
- b. The city may limit changes in the natural grade level, or the alteration, removal or destruction of natural vegetation in order to prevent or minimize erosion, pollution, or degradation of the natural resources or features of the area.
- c. An application for a conditional use in a “P” Zone shall be denied if, in the opinion of the city , the proposed use would exceed the carrying capacity of the area or would be detrimental to the natural resources or features of the area.

### ***Supplementary Provisions***

#### ***Section 150.050 Maintenance of Minimum Ordinance Requirements***

No lot area, yard or other open space existing on or after the effective date of this chapter shall be reduced below the minimum required for it by this chapter; and no lot area, yard or other open space which is required by this chapter for one use shall be used and required lot are, yard, or other open space for another use.

#### ***Section 150.051 Access***

Every lot shall abut a street, other than an alley, for at least 25 feet. If a lot does not abut a street, the owner will provide proof of a legal, recorded easement to access their property, prior to any construction or development.

#### ***Section 150.052 Establishment of Clear-Vision Areas***

- A. In all zones, a clear-vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear-vision area shall contain no planting, fence, wall, building, structure or temporary or permanent obstruction exceeding two and one half (2 ½) feet in height, measured from the top of the curb or where no curb exists, from the established street center line grade; except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above the grade.

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- B. A clear-vision area shall consist of a triangular area two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the nonintersection ends of the other two sides. The clear vision area shall be 20 feet within the city.

### *Section 150.053 Projections From Buildings*

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than three feet into a required yard from the drip line, provided that the projection is not closer than five feet to a property line from the sides or back of all projections and not closer than 10 feet to the front the property line from all projections. (Following all setback requirements within this Ordinance).

### *Section 150.054 Authorization of Similar Uses*

The City Council may permit, by following the procedures outlined in Section 150.080, in a particular zone, a use not listed in this chapter, provided the use is of the same general type as the uses permitted there by in this chapter. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone or which is of the same general type and is similar to a use specifically listed in another zone.

### *Section 150.055 Off-Street Parking Requirements*

At the time of construction, reconstruction, or enlargement of a structure, or at the time a use is changed in any zone, off-street parking spaces shall be provided as follows unless other requirements are established. Where square feet of the structure or use are specified as the basis for the requirements, the area measured shall be the gross floor area primary to the functioning of the particular use of the property. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season. Fractional space requirements shall be counted as a whole space.

<u>Use</u>	<u>Minimum Requirements</u>
Residential 1. One, two and three family dwelling	Residential 1. Two spaces per dwelling unit

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<ul style="list-style-type: none"> <li>2. Residential use containing four or more dwelling units.</li> <li>3. Rooming or Boarding house</li>   <li>4. Bed and Breakfast or AIRBnB</li> </ul> <p>Commercial Residential</p> <ul style="list-style-type: none"> <li>1. Hotel, Motel, Bed and Breakfast and AIRBnB</li> </ul> <p>Institutional</p> <ul style="list-style-type: none"> <li>1. Welfare or correctional institution</li> <li>2. Convalescent hospital, nursing home, sanitarium, rest home, home for the aged</li> <li>3. Hospital</li> </ul> <p>Place of Public Assembly</p> <ul style="list-style-type: none"> <li>1. Church</li>   <li>2. Library, reading room</li> <li>3. Pre-school, nursery, kindergarten</li> <li>4. Elementary or junior high school</li>   <li>5. High school, college, commercial school for adults</li>   <li>6. Other auditorium or meeting room</li> </ul>	<ul style="list-style-type: none"> <li>2. 1 ½ spaces per dwelling unit</li> <li>3. Spaces equal to 80% of the number of guests accommodations plus one additional space for the owner or manager</li>   <li>4. One space per guest room or suite plus one additional space for the owner or manager</li> </ul> <p>Commercial Residential</p> <ul style="list-style-type: none"> <li>1. One space per guest room or suite plus one additional space for the owner or manager</li> </ul> <p>Institutional</p> <ul style="list-style-type: none"> <li>1. One space per six beds for patients or inmates</li> <li>2. One space per four beds for patients or residents</li> <li>3. 1 ½ spaces per bed</li> </ul> <p>Place of Public Assembly</p> <ul style="list-style-type: none"> <li>1. One space per six or eight feet of bench length in the main auditorium or one space for each 75 feet of floor area of the main auditorium not containing fixed seats.</li> <li>2. One space per 400 sq. ft. of floor area plus one space per two employees</li> <li>3. Two spaces per teacher</li> <li>4. One space per classroom plus one space per administrative employee plus one space per four seats or eight feet of bench length in the auditorium or assembly room whichever is greater</li> <li>5. One space per classroom plus one space per administrative employee plus one space for each six students or one space for four seats or eight feet of bench length in the auditorium or assembly room whichever is greater</li> <li>6. One space per six seats or eight ft. of bench length, or one space for each 75 sq. ft. of floor area for the assembly room not containing fixed seats.</li> </ul>
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## Halfway - Land Usage

<p><b>Commercial Amusement</b></p> <ol style="list-style-type: none"> <li>1. Stadium, arena, theater</li> <li>2. Bowling alley</li>   <li>3. Dance hall, skating rink</li> </ol> <p><b>Commercial Business</b></p> <ol style="list-style-type: none"> <li>1. Retail store except as provided in division (F)(2) below of this section</li> <li>2. Service or repair shop, retail store handling, exclusively bulky merchandise such as automobiles and furniture</li> <li>3. Bank, office (except medical and dental)</li> <li>4. Medical and dental clinic</li>   <li>5. Eating or drinking establishment</li> <li>6. Mortuary</li> </ol> <p><b>Industrial</b></p> <ol style="list-style-type: none"> <li>1. Storage warehouse, manufacturing establishment, rail or trucking freight terminal</li> <li>2. Wholesale establishment</li> </ol>	<p><b>Commercial Amusement</b></p> <ol style="list-style-type: none"> <li>1. One space per four seats or eight feet of bench length</li> <li>2. Five spaces per alley plus one space for two employees</li>   <li>3. One space per 100 sq. ft. of floor area plus one space per two employees</li> </ol> <p><b>Commercial Business</b></p> <ol style="list-style-type: none"> <li>1. One space per 300 sq. ft. of floor area designated for retail sales</li> <li>2. One space per 600 sq. ft. of floor area</li>   <li>3. One space per 600 sq. ft. of floor area plus one space per two employees</li> <li>4. One space per 300 sq. ft. of floor area plus one space per two employees</li> <li>5. One space per 250 sq. ft. of floor area</li> <li>6. One space per six seats or eight ft. of bench length in chapels</li> </ol> <p><b>Industrial</b></p> <ol style="list-style-type: none"> <li>1. One space per employee</li>   <li>2. One space per employee plus one space per 700 sq. ft. of patron serving area</li> </ol>
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### ***Section 150.056 Off-Street Parking and Loading***

Buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading areas in sufficient number and size to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of these requirements shall not be used for loading and unloading operations except during periods of the day when not required to care for parking needs. General provisions are as follows.

## Halfway -Land Usage and Development

- A. 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 requirement of the several uses computed separately.
- B. Owners of two or more uses, or parcels of land may agree to jointly utilize the same parking and loading space when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the city in the form of deeds, leases or contracts to establish the joint use.
- C. Off-street parking spaces for dwellings shall be located on the same parcel with the dwelling. Other required parking spaces for residential uses shall not be farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.

### *Section 150.057 Design and Improvement Standards for Parking Lots*

- A. Areas used for parking for more than two vehicles may be required to have a durable and dust-less surface.
- B. Except for parking in connection with a single family residential dwelling, parking and loading areas adjacent to or within a residential zone adjacent to a dwelling shall be designed to minimize disturbances to residents.
- C. Parking spaces along the outer boundaries of a parking lot may be required to be contained by a bumper rail or by a curb which is at least four inches high and which is setback a minimum of one and one-half feet from the property line.
- D. The standards set forth in the table below shall be the minimum for parking lots approved under this chapter (all figures are in feet except as noted).

A	B	C	D	E	F1	F2
Parking width angle	Stall two-row bin	Stall to width	Aisle curb (19' long stall)	Curb width per car	Center-center Length of access road	Curb-curb Overlap
0°	8'6"	8.5	12.0	23.0	29.0	- -

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20°	8'6"	14.5	11.0	24.9	40.0	32.0
30°	8'6"	16.9	11.0	17.0	44.8	37.4
40°	8'6"	18.7	12.0	13.2	49.4	42.9
45°	8'6"	19.4	13.5	12.0	52.3	46.3
50°	8'6"	20.0	12.5	11.1	52.5	47.0
60°	8'6"	20.7	18.5	9.8	59.9	55.6
70°	8'6"	20.8	19.5	9.0	61.1	58.2
80°	8'6"	20.2	24.0*	8.6	64.4	62.9
90°	8'6"	19.0	25.0*	8.5	63.0	- -

\*Two way circulation

***Section 150.058 Standards for Transportation Improvements***

The standards in the City of Halfway Transportation Plan adopted October 16, 2001 shall apply.

***Section 150.059 Transportation System Provisions***

The standards in the City of Halfway Transportation Plan adopted October 16, 2001 shall apply.

***Section 150.060 General Provisions Regarding Accessory Uses***

An accessory use shall comply with the requirements for a principal use, except as this chapter specifically allows the contrary.

***Section 150.061 Fences***

Fences are permitted in any zone and do not require zoning permits for construction. Such fencing shall, however, be in compliance with the following provisions.

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1. Fences shall not exceed 6 feet in height. Fences higher than 6 feet in height will require City Council approval, prior to construction.
2. Vision clearance areas on corner lots shall meet standards in Section 150.052.
3. Fences shall be maintained in good condition at all times and shall not create an unsightly or hazardous condition.
4. All fences, or portions thereof, shall be located or constructed in such a way as to not prevent reasonable access to abutting properties for building maintenance or for fire protection purposes.
5. The height of a fence shall be measured from the ground level where located. A berm, or other artificial means to increase ground level in order to increase the fence height is not permitted.

### *Section 150.062 Historic Structure Preservation*

Upon receiving an application for demolition of major exterior alteration involving a historic area, site, building, structure, or object as designed by the Comprehensive Plan, the City Council in a public meeting shall review the application to determine its conformance with the historic preservation factors of this chapter.

#### *A. Demolition procedure*

- a. If it is determined the land use action will result in the demolition or extensive exterior modification of any historical building, the City Council shall review the application taking into account the following:
  1. State of repair of the building.
  2. The reasonableness of the cost of restoration or repair.
  3. The purpose of preserving such designated historical buildings and sites.
  4. The character of the neighborhood.
  5. All other factors the City Council feels are appropriate.

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- b. Following City Council review, the City Council may approve or deny the permit for land use action or delay action for 60 days to allow cognizant agencies to explore alternatives. If no suitable alternatives are available, the permit may be issued. The City Council, upon finding significant progress is being made toward preserving the structure, may extend the delay for an additional 30 days.
- B. *Major Exterior Alteration Procedure.* Exterior alterations shall be in accordance with the following.
- a. Upon receipt for an application for a major exterior alteration of an historic structure listed in the comprehensive plan, the City Council, in a public meeting, shall review the proposed alteration to determine if the resource's historical significance is contained in the comprehensive plan.
  - b. Major exterior alterations as defined by this section include any change or alteration of facade, texture, design, materials, fixtures or other treatment
  - c. All applications for major exterior alteration shall be accomplished by plans and specifications of the proposed alteration. The City Council may request additional sketches and other information deemed necessary to make an informed decision.
  - d. In order to approve the application.
    - 1. The City Council shall find the alteration harmonious and compatible with the resource with the respect to style, scale, texture, and construction materials and/or find the alteration will enhance the historical value of the resource. Conditions may be attached to the approval if the City Council deems it necessary to achieve the above objectives. The City Council shall disapprove the request if the proposal would reduce the resource's value or historical significance.
    - 2. Conditions attached to a permit for major exterior alteration of a historic structure shall be limited to permit requirements addressing architectural design, surface texture, materials, fixtures, or other facade or surface treatments which are deemed inconsistent with the integrity of the historic values being preserved.

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3. The City Council shall not make any recommendation or requirement except for the purpose of preventing developments out of character with the historic aspects of the resource.
- e. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, or the construction, reconstruction, or alteration of such feature which the building inspectors certify is required by the public safety because of unsafe conditions.

### ***Section 150.063 Mobile Homes and Residential Trailers Placed in Mobile Home Parks***

- A. When a mobile home or residential trailer is installed in a mobile home park, it shall comply with the state installation standards. The mobile home or residential trailer shall comply with the following additional provision.
  - (a) The mobile home or residential trailer shall have an Oregon insignia. No reconstruction or equipment installation shall have been made to the mobile home unless it has been state approved as evidenced by an appropriate insignia. Before installation, the mobile home or residential trailer shall be inspected by the Building Official and installation shall be approved only if the Building Official determines the mobile home or residential trailer substantially meets the state standards for mobile home construction, and notwithstanding any deterioration which may have occurred.
  - (b) The mobile home or residential trailer shall be tied down with devices to meet state standards.
  - (c) The mobile home or residential trailer shall have a water closet, lavatory, and bathtub or shower.
  - (d) The mobile home or residential trailer plumbing shall be connected to a potable water supply and approved sewage disposal system.
  - (e) The mobile home or residential trailer shall have continuous fireproof skirting.
  - (f) Wheels of the mobile home or residential trailer shall be removed when the unit is installed.

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- (g) Except for a structure, which conforms to the state definition of a mobile home accessory structure, no extension shall be attached to the mobile home or residential trailer. Accessory buildings shall be separated from the mobile home by not less than five feet.
- (h) The mobile home or residential trailer shall contain at least 500 square feet of space as determined by measurement of the exterior dimensions of the unit, exclusive of any trailer hitch device.

B. The area of a mobile home accessory structure shall not be included.

### ***Section 150.064 Manufactured Home Siting Standards***

Manufactured homes meeting the following criteria are allowed on individual lots in specified residential zones. Only those manufactured homes are used as permanent residences.

- A. The manufactured home shall have a foundation of sufficient strength to support the loads imposed by the manufactured home as specified by the manufacturer's installation instructions. Manufactured home placements shall be reviewed and approved by the City Recorder and Ordinance Officer. In the absence of the specific manufactured home installation instructions, installation of the manufactured home shall follow the installation requirements outlined in Oregon Administrative Rules, Chapter 918. Skirting of a non-corrosive, noncombustible material shall be used.
- B. The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

### ***Section 150.065 Bed And Breakfast and AIRBnB Facilities Development Standards***

A bed and breakfast or AIRBnB facility approved as a conditional use in the residential zones of the city shall have the following approval standards.

- a. The structure shall retain the characteristics of a single-family dwelling.
- b. The number of guest rooms shall be limited to five.
- c. In addition to the required off-street parking for each residential use, one (1) off-street parking space for each bed and breakfast or AIRBnB guest room shall be provided.

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- d. Signs shall be limited to one non- illuminated sign, not exceeding one and one-half square feet. No off-premises signs are permitted.
- e. Submission of an acceptable site plan that meets off-street parking requirements and provides landscaping appropriate to a residential neighborhood.
- f. The City Council has the authority to modify the above requirements.

### ***Section 150.066 Earth Movement And Removal***

A written permit approved by the City Council shall be required to remove 50 cubic yards or more of earth material from any individual property within a calendar year.

### ***Section 150.067 Signs In Commercial Zone***

Any signs erected or to be erected in Commercial or Industrial zones shall be reviewed and approved by the City Council and shall meet the standards outlined below. A sign application may be picked up at city hall.

- a. *Principal signs.* A principal sign advertising the business may be a combination of freestanding, flush-mounted or projecting signs. Freestanding and projecting sign areas are computed by totaling both sides of the signs.
- b. *Sign area.* The amount of area of the sign is computed on a basis of one square foot of sign for each lineal foot of frontage the property or business has on the public right-of-way in the city. In the case of multiple businesses within the same building, the amount of frontage of the business within the building will be the determining factor. In the case of a corner lot, the sign size facing each street shall be limited to the amount of lineal frontage on each street. In no case shall the total signage exceed 200 square feet for each business.
- c. *Prohibited signs.* The following signs are prohibited in the city.
  1. Any flashing, moving, animated, blinking, or rotating signs whose illumination changes with time or which is designed in a manner to simulate motion. Time and temperature reader boards are excluded.



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2. The sign would extend, such as a roof sign, above the roof line of the building to which it is to be attached.
3. The Building or Zoning Official determines a sign to be in violation of ORS 810.230 which applies to signs creating confusion with or interfering with the effectiveness of traffic or signals.
4. The sign is placed on, affixed to or painted on a motor vehicle, vehicle, or trailer and placed on public or private property for the primary purpose of providing a sign not otherwise permitted by this chapter.
5. The sign is a private sign placed on, painted on, or affixed to a utility pole, tree, or rock.
6. The sign would bear or contain statements, words, or pictures of an obscene, indecent, or immoral character such as will offend the public morals or decency.
7. Projecting or freestanding signs which would project into the public right-of-way.
8. The sign advertises goods or services not available on the premises.

### ***Section 150.068 Wireless Telecommunications Facilities***

- A. *Application requirements.* An application for a wireless telecommunications facility shall comply with the following meeting, notice, and submittal requirements.
  1. *Neighborhood meeting.* Prior to scheduling a pre-application conference with the Planning Department staff, the applicant shall provide notice of and hold a meeting with interested owners of property nearby to a potential facility location. Notice shall be in writing and shall be mailed no less than ten days prior to the date set for the meeting to owners of record of property within: 1,320 feet for a tower or monopole no greater than 100 feet in height; and 2 000 feet for a tower or monopole at least 100 feet and no higher than 150 feet in height. Such notice shall not take the place of notice required by Section 150.110 through 150.113 of this chapter. A tower or monopole more than 150 feet shall require a variance as required in Section 150.110 through 150.113 of this chapter, but does not require additional notice requirements as set forth in Subsection (B) below of this section.

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2. *Pre-application conference.* The applicant shall attend a scheduled pre-application conference prior to submission of a land use application. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with the Planning Department staff, which consists of the City Recorder, Ordinance Officer and City Council.
3. *Submittal requirements.* An application for a conditional use permit for a wireless telecommunications facility shall include.
  - a. A copy of the blank lease form.
  - b. A copy of the applicant's Federal Communications Commission license.
  - c. A map that shows the applicant's search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles.
  - d. A copy of the written notice of the required neighborhood meeting and a certificate of mailing showing that the notice was mailed to the list of property owners falling within the notice area designated under division (A) of this section.
  - e. A written summary of the neighborhood meeting detailing the substance of the meeting, the time, date, and location of the meeting and a list of the meeting attendees.
  - f. A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, and any equipment shelter utility connections, and any fencing proposed to enclose the facility.
  - g. A copy of the design specifications including proposed colors and elevation of an antenna array proposed with the facility.
  - h. An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape.
  - i. A copy of a letter of determination from the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA)

## Halfway - Land Usage

whether or not aviation lighting would be required for the proposed facility.

- B. *Approval criteria.* An application for a wireless telecommunication facility will be approved upon findings that.
- a. The facility will not be located on irrigated land.
  - b. The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion the applicant must demonstrate that it has made a good faith effort to co-locate its antenna on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served.
  - c. The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residents.
  - d. The applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation, and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural, or topographic screening available.
  - e. A tower or monopole is finished with natural wood colors or other colors approved by the City Council.
  - f. A required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODA.
  - g. The form of lease for the site does not prevent the possibility of co-location of additional wireless telecommunication facilities at the site.
  - h. Any tower or monopole shall be designed in a manner that it can carry the antennas of at least two additional wireless carriers. This criterion may be

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satisfied by submitting that statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers.

- i. An approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner, or as set forth in the lease between the landowner and the applicant.

### *CONDITIONAL USES*

#### *150.080 Authorization To Grant Or Deny Conditional Uses*

- A. *Authority of City Council.* Conditional uses listed, and other uses not listed in this chapter may be permitted, enlarged, or otherwise altered upon receiving written authorization by the City Council in accordance with the standards and conditions in this article. In permitting a conditional use or the modification of a conditional use, the City Council may impose, in addition to those standards and requirements expressly specified by the ordinance, any additional conditions which the City Council considers necessary to protect the best interest of the surrounding property or the city as a whole.
- B. *Standards for conditional uses.*
  1. The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies of the city.
  2. Taking into account location, size, design, and operation characteristics, the proposal will have minimal adverse impact on the,
    - a. Livability

## Halfway - Land Usage

- b. Value
  - c. Appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
  - d. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.
  - e. The proposal will preserve assets of particular interest to the community.
  - f. The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes.
- C. *Placing conditions on a permit.* In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose conditions, which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the community as a whole. These conditions may include the following, however the City Council may impose additional conditions not listed below.
- 1. Increasing the required lot size or yard dimension.
  - 2. Limiting the height, size, or location of buildings.
  - 3. Controlling the location and number of vehicle access points.
  - 4. Increasing the street width.
  - 5. Increasing the number of required off-street parking spaces.
  - 6. Limiting the number, size, location and lighting of signs.
  - 7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - 8. Designating sites for open space.
  - 9. Requiring proper drainage and pest control.

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10. Placing time limits on the use and requiring periodic reviews.
11. Protecting the scenic values.

### *D. Procedure for taking action on a conditional use application.*

1. *Application for conditional use.* A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the City Recorder. The City Council may require other drawings or information necessary to an understanding of the proposed uses and its relationship to surrounding properties.
2. *Public hearings on conditional use.* Before the City Council may act on a request for a conditional use, it shall hold a public hearing following the notice procedures of Section 150.150 through 150.153.
3. *Notification action.* Within ten days after a decision has been rendered by the City Council with reference to a request for conditional use, the city shall provide the applicant with written notice of the decision of the Council.
4. *Time limit on a permit for conditional use.* An initial conditional use permit may be issued for a period not to exceed six (6) months. Should such conditional use permit be desired after the initial permit period, a written request for continuance must be submitted to the City Council for consideration. If approved, the initial permit will be extended for an additional six (6) months. Should such conditional use be desired after twelve (12) months, a written request for continuance must be submitted to the City Council for consideration. If approved, a new conditional use permit will be issued for the remainder of the calendar year and the following year (additional twelve (12) months). This process will continue each year of desired conditional use. After the initial twelve (12) months, a separate fee will be required for issuance of each permit.

*E. Resubmittal.* If a request is denied by the City Council, no new request for the same or a substantially similar proposal shall be filed within six months after the date of final denial. An application may be denied without prejudice and a waiver of the six-month restriction granted. If conditions have changed to an extent that further consideration of

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an application is warranted, the City Council, on its own motion, may consider new evidence and waive the six-month restriction.

*F. Final action.* Except as provided for under ORS 227.178, the city shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under ORS 227.180, within 120 days from the date a complete application is submitted to the city. Within 30 days of the receipt of an application, the city will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the 30-day period. The 120-day time period will commence on the date the application is deemed complete.

*G. Existing Land Uses*

1. Land uses which lawfully existed at the time of the adoption of the minimum necessary to accommodate the use of this ordinance and which would be considered as conditional uses in this chapter shall be considered as existing conditional uses. This includes uses prior to June 9, 2005.
2. An expansion, enlargement, or change of use to another listed conditional use shall be required to be approved by the City Council in accordance with this section.

*H. Revocation of conditional use permit.*

1. Any conditional use permit shall be subject to denial or revocation by the City Council if the application includes or included any false information, or if the conditions of approval have not been complied with or are not being maintained.
2. In order to consider revocation of a conditional use permit, the City Council shall hold a public hearing as prescribed under this section in order for the holder of a conditional use permit to show cause why the permit should not be revoked.
3. If the City Council finds that the conditions of approval have not been complied with or are not being maintained, a reasonable time shall be given for making corrections. If corrections are not made, revocation of the conditional use permit shall become effective ten days after the time specified.

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4. Reapplication for a conditional use which has been revoked cannot be made within one year after the date of the City Council 's action, except that the City Council may allow a new application to be considered if new evidence or a change in circumstances warrant it.

### ***SUBDIVISIONS AND PARTITIONING***

#### ***Section 150.095 Purpose***

It is the purpose of this subchapter, in accordance with the provisions of ORS Chapters 92 and 227, to provide for minimum standards governing the approval of land divisions within the city, including subdivision and land partitionings, as necessary to carry out the city's needs and policies for traffic movement, water supply, sewage disposal, drainage, and other community facilities, to improve land records and boundary monuments, and to ensure equitable processing of subdivision, partitioning, and other land division activities.

#### ***Section 150.096 Applicability***

No person may subdivide, partition, or otherwise divide land, or create a planned unit or cluster development, or create a street for the purpose of developing land, except in accordance with the provisions of this subchapter, this chapter, and ORS Chapter 92.

#### ***Section 150.097 Land Partitioning***

- A. *Applicability of regulations.* As defined in this section and this chapter, all land partitioning within the city, except as set forth in division (B) below, must be approved by the city as provided for in this section.
- B. *Exemptions.* The following land divisions shall be exempt from the land partitioning requirements set forth by this section and this chapter.
  1. The partitioning of a tract of land in which not more than one parcel is created and said parcel is being transferred to a public or semi-public agency for the purpose of a public road, street, canal, or utility right-of-way, or for public park, school, recreation facility, trail, bikeway, or other similar public purpose.



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2. The transfer of one parcel between two adjoining ownerships where an additional parcel is not created and where no new or additional dwellings or other structures are involved, and where the existing ownership reduced in size by the transfer is not reduced below the applicable minimum lot size.

C. *Filing procedures and requirements.* Any person proposing a land partitioning, or the authorized agent or their representative, shall prepare and submit ten copies of the tentative plan for the proposed partitioning, together with the prescribed application form and required filing fee, to the City Recorder.

1. The tentative plan of a proposed partitioning shall be drawn on a sheet 18 x 24 inches in size at a scale of one (1) inch equals (25) feet.
2. The plan shall include the following.
  - a. A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways, properties and land use patterns
  - b. A plan of the proposed partitioning showing tract boundaries and dimensions, the area of each tract or parcel, and the names, right-of-way widths, and improvement standards of existing roads.
  - c. Names and addresses of the landowner, the partitioner, the mortgagee if applicable, and the land surveyor employed (or to be employed) to make necessary surveys and prepare the final partitioning map.
  - d. A statement regarding provisions for water supply, sewage disposal, solid waste disposal, fire protection access, utilities and the like.
  - e. North point, scale, and date of map, and the property identification by tax lot, map number, section, township and range, subdivision lot and block, or other legal description.
  - f. Statement regarding past, present, and proposed use of the parcel(s) to be created, or the use for which the parcel(s) is to be created.

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- D. Partitioning.* An application and tentative plan for a partitioning shall be referred to the City Council for review and action within 30 days of its receipt by the City Council. The City Council may approve the application as submitted, approve with modifications or conditions, or deny the application.
- E. Requirements for approval-partitioning.* No partitioning shall be approved unless the following requirements are met.
1. The proposal is in compliance with the city 's comprehensive plan and the applicable zoning regulations.
  2. Each parcel is suited for the use intended or to be offered, including but not limited to sewage disposal, water supply, guaranteed access, and utilities.
  3. All public services deemed necessary are reasonably available or are proposed to be provided by the partitioner.
  4. Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, resource carrying capacities, or on any significant resources.
  5. An approved water rights plan as applicable.
- F. Survey and improvement requirements.* In the approval of any land partitioning, the need for a survey, and the need for street and other public facility improvements shall be considered and such may be required as a condition of approval. Any survey and/or improvement requirements that may be required for a subdivision or other land development may be required for a partitioning, including bonding or other assurance of compliance.
- G. Final map requirements.* Within 45 days of the approval of a partitioning, the partitioner shall have prepared and submitted to the City Council a final partitioning map prepared by a licensed surveyor and any other materials or documents required by the approval. The final map shall provide a certificate for approval of the subject partitioning by the City Council. Upon such approval, the petitioner shall file a copy of the final map with the City Recorder, the County Clerk, the County Surveyor, and the County Assessor. A final partitioning map prepared for this purpose shall comply with the recording requirements applicable to a final plat for a subdivision.

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*Statutory reference:*

For state law provisions, see ORS 92.090

### ***Section 150.098 Subdivisions***

- A. *Application.* Any person proposing a subdivision, or their authorized agent or representative shall submit an application for a subdivision to the City Recorder. Said application shall be accompanied with ten copies of either an outline development plan as provided for in division (B) below, or a tentative plan as set forth in division (C) below, together with improvement plans and other supplementary material as may be required, and the appropriate filing fee as established by the City Council. The time of filing shall be construed to be the time when all of the foregoing materials are received by the appropriate City Official and are certified as being complete.
- B. *Outline development plan (optional).* The submittal of an outline development plan in the subdivision application process is at the option of the applicant and/or developer. If an outline development plan prepared and submitted with the application for a subdivision, it shall include both maps and and written statements as set forth in this division
1. The map(s) which are part of an Outline Development Plan may be in schematic form, but shall be to scale (one (1) inch equals 25 feet) and shall contain the following information.
    - a. The existing topographic character of the land.
    - b. Existing and proposed land uses and the approximate location of buildings and other structures on the project site and adjoining lands.
    - c. The character and approximate density of the proposed development.
    - d. Public uses including schools, parks, playgrounds, and other public spaces or facilities proposed.
    - e. Common open spaces and recreation facilities and a description of their use.
    - f. Landscaping, irrigation, and drainage plans.



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1. *Scale of tentative plan.* The tentative plan of a proposed subdivision shall be drawn on a sheet 18 x 24 inches in size or multiples thereof at a scale of one (1) inch equals 25 feet or multiples thereof as approved by the City Council. (ORS 92.080).
2. *Information requirements.* The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan submittal shall be considered complete unless all such information is provided unless approved otherwise by the City Council.

### *a. General information required*

1. Proposed name of the subdivision.
2. Names, addresses, and phone numbers of owner of record and subdivider authorized agents or representatives, surveyor, and any assumed business names filed or to be filed by the owner or subdivider in connection with the development.
3. Date of preparation, north point, scale, and gross area of the development.
4. Identification of the drawing as a tentative plan for a subdivision.
5. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plants and streets.

### *b. Information concerning existing conditions.*

1. Location, names, and widths of existing improved and unimproved streets and roads within and adjacent to the proposed development.
2. Location of any existing features such as section lines, section corners, city and special district boundaries, and survey monuments.

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3. Location of existing structures, fences, irrigation canals and ditches, pipe-lines, water-ways, railroads, and natural features such as rock outcroppings, marshes, geological features, and natural hazards.
4. Location and direction of water courses, and the location of areas subject to erosion, high water tables, storm water runoff, and flooding.
5. Location, width, and use or purpose of any existing easements or right-of-ways within and adjacent to the proposed development.
6. Existing and proposed sewer lines, water mains, culverts, and underground or overhead utilities within and adjacent to the proposed development, together with pipe sizes, grades and locations.
7. Contour lines related to some established bench mark or other acceptable datum and having minimum intervals of not more than 20 feet.

### *c. Information concerning proposed subdivision.*

1. Location, names, width, typical improvements, cross-sections, approximate grades, curve radii and length of all proposed streets; and the relationship to all existing and projected streets.
2. Location, width, and purpose of all proposed easements or right-of-ways, and the relationship to all existing easements or right-of-ways.
3. Location of at least one temporary bench mark within the proposed subdivision boundary.
4. Location, approximate area, and dimensions of each lot, and proposed lot and block numbers.

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5. Location, approximate area and dimensions of any lot or area proposed for public, community, or common use, the use proposed and plans for improvements and/or development.
6. Proposed use, location, area and dimensions of any lot which is intended for nonresidential use and the intended use.
7. An outline of the area proposed for partial recording on a final plat if phased development and recording is contemplated or proposed.
8. Source, method, and preliminary plans for domestic water supply, sewage, disposal, solid waste collection and disposal, and all utilities.
9. Storm water and other drainage plans.

*D. Master development plan.* An overall master development plan shall be submitted for all developments planning to utilize phase or unit development. Said plan shall include, but not be limited to, the following elements.

1. Overall development plan, including phase or unit sequences.
2. Schedule of improvements initiation and completion.
3. Sales program timetable projection.
4. Development plans of any common elements or facilities.
5. Financing plan for all improvements.

*E. Supplemental information required.* The following supplemental information shall be submitted with the tentative plan for a subdivision.

1. Proposed deed restrictions or protective covenants, if such is proposed to be utilized for the proposed development.

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2. Reasons and justifications for any variances or exceptions proposed or requested to the provisions of this subchapter, the applicable zoning regulations, or any other document, ordinance, or regulation.

### *F. Tentative plan review procedures*

1. Within ten days of the receipt of a completed tentative plan filing, the City Recorder shall provide each City Council member with a copy of the subject plan for review.
2. Within five working days of the receipt of a completed tentative plan filing, the City Recorder shall notify the Superintendent of Public Works, the Fire Chief, the City Engineer representatives of any affected special district, utilities, school district, and any other identifiable public or private agency persons that the plan has been filed and provide an opportunity for each such person or party to review the plan.
3. Such persons or parties shall be provided not less than ten days nor more than 20 days to prepare and submit written reviews and recommendations regarding the subject proposed plan.
4. Within 45 days of receipt of notification of such filing by the City Recorder, the City Council shall conduct a public hearing on the proposed development plan in accordance with the notification and public hearing procedure requirements of Section 150.150 through 150.153. Within 15 days of such hearing the Council shall either approve, approve with modifications, conditionally approve, or disapprove the subject development plan, and set forth the findings, conclusions, and reasoning for the decision. The City Council may recess or continue the hearing for good cause for a period not to exceed 35 days. If no action is taken by the City Council within 120 days from the date of the notification of the City Council of the receipt of a completed application, the tentative plan as filed shall be deemed to be approved, and it shall be the duty of the City Recorder to certify such approval, on agreement of the applicant and/or developer, however, the 120-day limitation may be extended.
5. Following City Council approval of a tentative plan, said plan, together with the City Council's written decision and all accompanying information shall be forwarded to the City Council for informational review.



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- G. Tentative plan approval relative to final plat.* Approval of the tentative plan shall not constitute final acceptance of the final plat of the proposed subdivision for recording. However, approval of the tentative plan shall be binding upon the city for preparation of the final plat, and the city may require only such changes as are necessary for compliance with the terms of its approval of the tentative plan.
- H. Re-submission of denied tentative plan.* If the tentative plan for a subdivision is denied, re-submittal of an application for a subdivision of the subject property shall not be accepted by the city for a period of six (6) months after the date of the final action denying said plan. Re-submittal shall be considered a new filing, but shall require the applicant to consider all items for which the prior denial was based, in addition to the other filing requirements set forth by this document.
- I. Requirements for approval.* The City Council shall not approve an outline development plan or a tentative plan for a subdivision unless the Council finds, in addition to other requirements and standards set forth by this document and other applicable city ordinances, that;
1. The proposed development is consistent with applicable goals, objectives and policies set forth by the city's comprehensive plan.
  2. The proposal is in compliance with the applicable zoning regulations thereto.
  3. The subdivision will not create an excessive demand on public facilities and services required to serve the proposed development, or that the developer has proposed adequate and equitable improvements and expansions to such facilities with corresponding approved financing to bring such facilities and services up to an acceptable capacity level. (Goal 11).
  4. The development provides for the preservation of significant scenic, archaeological, natural, historic, and unique resources. (Goal 5).
  5. The proposed name of the subdivision is not the same as, similar to, or pronounced the same as the name of any other subdivision in the city or within a six-mile radius thereof, unless the land platted is contiguous to and platted as an extension thereof.

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6. The streets and roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction, and in all other respects unless the city determines it is in the public interest to modify the street or road pattern.
7. Streets and roads for public use are to be dedicated to the public without any reservation or restriction.
8. Street and roads for private use are approved by the city as a variance to public access requirements.
9. Adequate mitigation measures are provided for any identified adverse impacts on or by neighboring properties or their uses or on the natural environment.
10. Provisions are made for access to abutting properties that will likely need such access in the future, including access for vehicular and pedestrian traffic, public facilities and services, and utilities.
11. Provisions of the proposed development to provide for a range of housing needs particularly those types identified needed or being in demand. (Goal 10).
12. Before a house is occupied, that street and the access to that street must be paved to city standards, or surfaced with a material and specs approved in writing, by the City Council.
13. The following minimum geometric and structural design standards shall apply to all roads or streets created in subdivisions or major partitions of land.
  - a. *Right-of way*. Sixty feet for all roads or streets, except that a cul-de-sac shall have a turn-around radius of 50 feet; and an alley shall be 16 feet.
  - b. *Angle of intersection*. All roads or streets shall intersect at right angles where reasonably practical; in any event the smallest angle or any intersection shall be no less than 60 degrees.

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- c. *Radius of curvature.* The radius of curvature for the centerlines of arterials shall be 300 feet; 200 feet for collectors and 100 feet for all other roads and streets.
- d. *Tangents.* Where topographic conditions will allow, tangents between curves shall be 100 feet in length; tangents for arterials and collectors shall have a length of 100 feet prior to the point of intersection Of the right-of-way line of another street.
- e. *Grade.* Maximum of 6 % for arterials and 10 % for all other roads and streets.
- f. *Paving or surfacing width.* 40 feet for arterials; 16 feet for alleys and 30 feet for all others, except that the turn-around for cul-de-sacs shall have a paving radius of 40 feet.
- g. *Base.* Ten inches of compacted pit run gravels for all roads or streets.
- h. *Paving or surfacing.*
  - 1. Two inches of compacted asphalt concrete; two and one-half inches of oil-crushed rock mat (Macadam); or four inches of three-fourths inch -0 crushed rock.
  - 2. The paving or other surfacing of roads or streets shall be determined by the existing street surfaces to be extended into a subdivision or major partition. In any event, however, all roads or streets created shall have at least a three-fourths inch -0 crushed rock surface.

### J. *Final plat for a subdivision.*

#### 1. *Submission of final plat.*

- a. *Time requirement.* Within one year after the date of approval of the tentative plan, the subdivider shall prepare and submit the final plat that is in conformance with the tentative plan as approved and with all applicable conditions. The subdivider shall submit not less than ten prints of the original drawing and any supplemental information or material required

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by this document and by the tentative plan approval. Said filing shall be to the City Recorder. If the subdivider fails to file the final plat before the expiration of the one-year period, the tentative plan approval shall be declared null and void and a new submittal required if the subdivider wishes to proceed with the development.

- b. *Form of final plat.* The final plat shall be made in permanent black India type ink or silver having permanent photocopy. Upon material 18 x 24 inches in size, that is suitable for binding and copying, and that has acceptable characteristics of strength and permanency. Applicable standards set forth by state statute shall be complied with.

### 2. *Requirements of survey and plat of subdivision.*

- a. The survey for the plat of a subdivision shall be of accuracy that the error of closure shall not exceed one (1) foot in 4,000 feet.
- b. The survey and plat shall be made by a registered professional land surveyor. Surveyed corners shall be monumented to comply with State standards.
- c. The plat shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown.
- d. The locations and descriptions of all monuments shall be recorded upon all plats and the proper courses and distances of all boundary lines shown.

### 3. *Monument requirements.* Monumentation of all subdivisions and plats therefore shall be in compliance with the provisions of ORS 92.060 and 92.065.

### 4. *Information required on final plat.* In addition to that required by the tentative plan approval or otherwise required by law, the following information shall be shown on the final plat.

- a. All survey reference information.
- b. Tract, block, and lot boundary lines and street right-of-way and centerlines, with dimensions, bearings, or deflection angles. Tract boundaries and street bearings shall be to the nearest second; distances to the nearest 0.01 feet. No ditto marks are permitted.

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- c. Width of streets being dedicated. Curve data based on centerlines for streets on curvature; the radius, central angle, and length of curve shown.
  - d. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference.
  - e. Lot numbers beginning with the number "1" and numbered consecutively in each block.
  - f. Block numbers beginning with the number "1" with no omission or duplication.
5. *Certificates required on final plat.* The following certificates are required on the final plat.
- a. Certificate signed and acknowledged by all parties having record title interest in the and, consenting to the preparation and recording of the plat.
  - b. Certificate signed and acknowledged as above dedicating all land intended for public use.
  - c. Certificate with the seal of and signed by the land surveyor responsible for the survey and the final plat preparation.
  - d. Certificate for execution by the County Surveyor.
  - e. Certificate for execution by the Mayor.
  - f. Certificate for execution by the County Tax Collector.
  - g. Certificate for execution by the County Assessor.
  - h. Other certificates required by state law.
  - i. Certificate for approval for execution by the City Council.
6. *Supplemental information with final plat.* The following data, in addition to any other data required as a part of the tentative plan approval, shall be submitted with the final plat.

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- a. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary, and evidence of a clear and marketable title.
  - b. A copy of any deed restrictions or protective covenants applicable to the subdivision.
  - c. A copy of any dedication requiring separate documents such as for parks, playgrounds and the like.
  - d. A copy of any homeowners' association agreements proposed or required for the development.
  - e. For any and all improvements such as streets, sewer, water, utilities, and the like that are required or proposed as a part of the tentative plan approval, the following shall be required to be submitted with the final plat, and such shall be prepared by a licensed surveyor or engineer.
    1. Cross-sections of proposed streets, widths of roadways, types of surfacing, curb locations and specifications, width and location of sidewalks, other pedestrian ways and/or bikeways.
    2. Plans and profiles of proposed sanitary sewers, location of manholes, and proposed drainage facilities.
    3. Plans and profiles of proposed water distribution systems showing pipe sizes, location of valves, and fire hydrants as applicable.
    4. Specifications for the construction of all proposed utilities.
    5. Proof of guaranteed access to the primary serving street or highway, state, county, or city street or highway.
7. *Technical review of final plat.* Within five (5) working days of receipt of the final plat submittal, the City Recorder shall initiate a technical review of said submittal as provided below.

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- a. Notification of the receipt of and opportunity for review shall be given to the Superintendent of Public Works, the Fire Chief, City Engineer, City Attorney, representatives of any serving special districts, utility companies, and any other affected agencies. Said parties shall complete such technical plat review within ten days of such notice and shall submit findings to the City Council.
  - b. Based on such review, should the City Council determine that full conformity has not been made, the subdivider shall be advised of the needed changes or additions and shall be afforded a reasonable opportunity (not to exceed 30 days) to make such changes or additions.
8. *Council review and approval of the final plat.* Within 30 days following the receipt of the final plat with the results of the technical plat review, the City Council shall determine whether or not the submittal complies with this document and the tentative plan approval. If the City Council does not approve the final plat, it shall advise the subdivider of the reasons, and shall provide an opportunity to make corrections. If the Council approves the final plat, approval shall be indicated by the signature of the Mayor on said plat.
9. *Final plat approval requirements.* No final plat for a proposed subdivision shall be approved unless it is found to comply with the following minimum standards.
  - a. The final plat is found to be in strict compliance with the tentative plan approval and all conditions set forth.
  - b. Streets and roads for public use are dedicated without any reservation or restriction.
  - c. Streets and roads held for private use are clearly indicated.
  - d. The plat contains a donation to the public of all common improvements and public uses proposed or required as a condition of approval of the tentative plan.
  - e. All proposed or required improvements have either been completed and approved by the city, or that a bond, contract or other reassurance has been provided for and approved by the City Council.

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10. *Recording of final plat.* The subdivider shall, without delay, submit the final plat for the approval and signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within 45 days after the date of approval of the City Council. After obtaining all required approvals and signatures, the subdivider shall file the plat and an exact copy in the County Clerk's office. Not less than five copies of the recorded plat shall be provided to the City Recorder or City Council at the developer's expense.
- a. No plat shall be recorded unless all ad valorem taxes and special assessments, fees or other charges required by law to be placed upon the tax rolls which have become a lien or which will become a lien during the calendar year on the subdivision, have been paid.
  - b. No plat shall be recorded without a statement of water rights and a copy of the acknowledgment from the State Department of Water Resources under ORS 92.122.

For statutory provisions concerning subdivisions, see ORS 92.040, 92.050, 92.120, 197.175, 197.303 through 197.307, 227.175 and 227.178.

### ***EXCEPTIONS AND VARIANCES***

#### ***Section 150.110 Nonconforming Uses***

- A. A nonconforming use, building or structure may be continued, but may not be altered or expanded. The expansion of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is not an enlargement or expansion of nonconforming use. A nonconforming building or structure, which conforms with respect to use, may be altered or expanded if the alteration or expansion does not cause the structure to deviate further from the standards of this chapter. A nonconforming use that does not conform with respect to use, may be reconstructed, altered or replaced in the same location as long as the construction does not cause the structure to deviate any further from the standards of this chapter than the original structure.
- B. If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this chapter.
- C. If a nonconforming use is replaced by another use, the new use shall conform to this chapter.



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- D. Nothing contained in this chapter shall require any change in the plans, construction, alteration or designated use of a building or structure for which a permit has been issued by the city and construction has commenced prior to the adoption of this ordinance; provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit was issued.

### *Section 150.111 Authorization To Grant Or Deny Variances*

The City Council may authorize a variance from the requirements of this chapter where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of this chapter would cause an under or unnecessary hardship. In granting a variance, the City Council may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this chapter.

### *Section 150.112 Circumstances For Granting A Variance*

A variance may be granted only in the event that all of the following circumstances exist.

- A. Exceptional or extraordinary circumstances 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, topography, or other circumstances over which the owners of property since enactment of this chapter have had no control.
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
- C. The variance would not be materially detrimental to the purposes of this chapter, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.
- D. The variance requested is the minimum variance which would alleviate the hardship.

### *Section 150.113 Procedure For Granting A Variance*

- A. *Application for a variance.* A property owner may initiate a request for a variance by filing an application with the City Recorder.

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- B. *Public hearing on a variance.* Before the City Council may act on a request for a variance, it shall hold a public hearing following the notification and public hearing procedures of this section.
- C. *Notification of decision.* Within ten (10) days after a decision has been rendered by the City Council with reference to a request for a variance, the City Recorder shall provide the applicant with the notice of the decision of the City Council.
- D. *Time limit for a permit for a variance.* Authorization for a variance shall be void after six (6) months, unless substantial construction, as determined by the City Council, pursuant thereto has taken place. However, the City Council may, at its discretion, extend the authorization for an additional six (6) months on request.
- E. *Resubmittal.* If a request is denied by the city staff or City Council and no appeal is filed, or if upon review or appeal the denial affirmed, no new request for the same or substantially similar proposal shall be filed within six months after the date of final denial. An application may be denied without prejudice and a waiver of the six-month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the City Council, on its own motion, may consider new evidence and waive the six-month restriction.
- F. *Final action.* Except as provided for under ORS 227.178, the city shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under ORS 227.180, within 120 days from the date a complete application is submitted to the city. Within 30 days of receipt of an application, the city will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the 30-day period. The 120-day time period will commence on the date the application is complete.

### AMENDMENTS

#### *Section 150.125 Forms Of Amendments*

There are two types of amendments to this chapter.

- A. Amendment to the text (legislative revision).
- B. Amendment to the map (legislative revision or quasi-judicial change).

#### *Section 150.126 Legislative Revisions*

## **Halfway - Land Usage**

- A. Proposed amendments to this chapter shall be deemed legislative revisions if:
  - 1. The proposed amendment involves the text of this chapter.
  - 2. The proposed amendment involves the map, when such an amendment would have widespread and significant impact beyond the immediate area of the proposed amendment.
- B. Legislative revisions shall be initiated by:
  - 1. A majority vote of the City Council.
  - 2. A request by the City Attorney or City Planner.

### ***Section 150.127 Quasi-Judicial Revisions***

- A. A proposed amendment to this chapter shall be deemed a quasi-judicial change if the proposed amendment involves the zoning map and does not have widespread and significant impact beyond the immediate area of the proposed amendment.
- B. Quasi-judicial changes may be initiated by:
  - (1) Property owners or contract purchaser or an authorized agent.
  - (2) A majority vote of the City Council.
  - (3) A request by the City Attorney or City Planner.
- C. In case of a controversy as to whether an amendment is deemed a legislative or quasi-judicial matter, city staff shall make the initial determination. The staff decision may be appealed to the City Council.

### ***150.128 Hearing Requirements For Legislative Or Quasi-Judicial Revisions To The Zoning Ordinance***

## **Halfway -Land Usage and Development**

Public hearings, under the provisions of Section 150.129, shall be required for both legislative and quasi-judicial amendments to the zoning ordinance. A public hearing before the City Council is mandatory. (See procedures in Section 150.130 below.)

### ***Section 150.129 Notice Requirements***

For both legislative and quasi-judicial revisions to the zoning ordinance, a series of public notices are required. These notices are as follows.

- A. *Post-acknowledgement plan amendment notice to DLCD.* The Department of Land Conservation and Development requires notice of the first evidentiary hearing on a proposed amendment to jurisdiction's zoning ordinance to be submitted to the Department on their forms at least 45 days or advance of the first hearing. Notice must be in the Salem office 45 days or earlier than the date of the proposed hearing before the City Council.
- B. *Notices of both legislative and quasi-judicial hearings.* Notices of both legislative and quasi-judicial hearings must be published in the local newspaper following the requirements of division (D) below.
- C. *Legislative revisions-ballot measure 56.* Ballot Measure 56, passed by general vote in the 1998 election, requires specific notices be mailed to all affected landowners in the instance of a legislative revision in which a rezoning will occur. These must be mailed not more than 40 nor less than 20 days from the date of the first hearing within amendment.
- D. *Quasi-judicial hearings.* Quasi-judicial hearings require that notices to all affected property owners within 300 feet of the subject property be mailed at least 20 days before each hearing on the proposed amendments.

### ***Section 150.130 Legislative Or Quasi-Judicial Amendment Procedural Process***

The City Council shall conduct a public hearing on the proposed amendment. Within 45 days after the hearing, the City Council shall render a decision. The City Council must take final action on an amendment request. Amendments shall be made by ordinance.

### ***Section 150.131 Legislative Amendments***

## Halfway - Land Usage

Legislative amendments are broad-based amendments which impact the whole city, not just a specific neighborhood or area. Most text amendments are legislative. No specific hearing procedure is required. The City Council is acting as legislators, making new law for the city. It is suggested, in order to provide a sound format for the hearing process, that the quasi-judicial procedure be followed.

### *Section 150.132 Quasi-Judicial Hearing Requirements*

- A. The following criteria must be followed in deciding upon a quasi-judicial proceeding.
  1. The burden in all land use proceedings is upon the applicant, whether a zone change conditional use or variance is the subject of the hearing.
  2. The requested zone change or conditional use must be justified by proof that:
    - a. The change is in conformance with the comprehensive plan and also the goals and policies of the Plan.
    - b. The showing of public need for the rezoning and whether that public need is best served by changing the zoning classification on that property under consideration.
    - c. The public need is best served by changing the classification of the subject site in question as compared with other available property.
    - d. The potential impact upon the area resulting from the change has been considered.
  3. Approval criteria for amendments.
    - a. The applicant must show that the proposed change conforms with the comprehensive plan.
    - b. A plan or land use regulation amendment significantly affects a transportation facility if it:
      1. Changes the functional classification of an existing or planned transportation facility.

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2. Changes standards implementing a functional classification system.
  3. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility.
  4. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.
- c. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
1. Limiting allowed land uses to be consistent with the planned function of the transportation facility.
  2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule.
  3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.
- B. The courts will require a "graduated burden of proof" depending upon the drastic nature of the proposed rezoning.
- C. Procedural process of a quasi-judicial hearing.
1. Parties at a rezoning hearing must have an opportunity to be heard, to present and rebut evidence.
  2. There must be a record which will support the findings made by the decision makers.

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3. Pre-hearing contact must be disclosed by the decision-makers at the outset of the public hearing.

### ***Section 150.133 Notification Of Decision***

Within five working days after a final decision on an amendment to the comprehensive plan, zoning ordinance text, or plan/zone map, the City Recorder shall provide the applicant and the Department of Land Conservation and Development a complete copy of the City Council decision. Within five working days after a final decision, the city shall also provide notice of the decision to all persons who participated in the local proceedings and requested in writing that they be given notice. The notice shall meet the requirements of ORS 197.615.

### ***Section 150.134 Limitation Of Reapplications***

No application of a property owner for an amendment to a zone boundary shall be considered by the City Council within a six-month period immediately following a previous denial of such request, except the City Council may permit a new application if, in the opinion of the City Council, new evidence or a change of circumstances warrant it.

### ***Section 150.135 Record Of Amendments***

The Recorder shall maintain records of amendments to this chapter.

## ***ADMINISTRATIVE PROVISIONS***

### ***Section 150.150 Administration***

The City Recorder and Ordinance Officer are appointed by the City Council and shall have the power and duty to enforce the chapter provisions of this chapter. An appeal from a ruling by the City Recorder or Ordinance Officer regarding a requirement of the chapter may be made only to the City Council.

### ***Section 150.151 Public Hearing Notice***

- A. Notice to affected agencies. The city shall provide timely notice to Baker County or ODOT regarding any land use action on or adjacent to a county or state transportation facility as appropriate. Information that should be conveyed to reviewers include.

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1. Project location.
  2. Proposed land use action.
  3. Location of project access point(s).
- B. Additional information that could be supplied to the reviewer upon request (provided the information is available) includes a site plan showing the following.
1. Distance to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property.
  2. Number and direction of lanes to be constructed on the driveway, plus striping plans.
  3. All planned transportation features (lanes, signals, bikeways, walkways, crosswalks, and the like).
  4. Trip generation data or appropriate traffic studies.
  5. Parking and internal circulation plans for vehicles and pedestrians.
  6. Plat map showing property lines, right-of-way, and ownership of abutting properties.
  7. A detailed description of any requested variance.
- C. Each notice of hearing authorized by this chapter shall be published in a newspaper of general circulation in the city and posted at the city hall and two other conspicuous places in the city at least 20 days prior to the date of hearing.
- D. In addition, a notice of hearing on a conditional use, a variance, or an amendment to a zone boundary shall be mailed to owners of property within three hundred (300) feet of the property for which the variance, conditional use, or zone boundary amendment has been requested. The notice of hearing shall be mailed at least twenty (20) days prior to the date of the hearing. Said notice shall.
1. Explain the nature of the application and the proposed use or uses which could be authorized, ORS 197.763(3)(a).



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2. List the applicable criteria from the ordinance and the plan that apply to the application, ORS 197.763(3)(b).
  3. Set forth the street address or other easily understood geographical reference to the subject property, ORS 197.763 (3)(c).
  4. State the date, time, and location of the hearing, ORS 197.763(3)(d).
  5. State that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, precludes appeal to LUBA based on that issue, ORS 197.763(3)(3) and ORS 197.763(1)1.
  6. State that failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue, ORS 197.763(3)(e).
  7. Include the name of a local government representative to contact and a telephone number where additional information may be obtained, ORS 197.763(3)(9).
  8. State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, ORS 197.763(3)(h).
  9. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost, ORS 197.763(3)(i).
  10. Include a general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings, ORS 197.763(3)(10).
- E. If a proposed zone boundary amendment has been initiated by the City Council and is declared by the City Council to be a major reclassification, the mailing of individual notice is not required, but such additional means of informing the public as may be specified by the Council shall be observed.

### *Section 150.152 Building Permit Required*

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Prior to the erection, movement, reconstruction, extension, enlargement, or alteration of any building or structure, an authorization permit for such erection, movement, reconstruction, extension, enlargement, or alteration shall be obtained from the City Recorder after discussing with the Ordinance Officer. The applicant shall pay a fee as established by city ordinance at the time the application is filed. Once authorized by the city, the applicant will consult with the Baker County Building Department. If a building permit is required, it will be obtained from the Baker County Building Department.

### ***Section 150.153 Form Of Petitions, Applications, And Appeals***

All petitions, applications, and appeals provided for in this chapter shall be made on the forms provided by the city.

## ***GENERAL PROVISIONS***

### ***Section 150.165 Interpretation***

Where a provision of this chapter is less restrictive than another current ordinance or requirement of the city, the provision or requirement which is more restrictive shall govern.

### ***Section 150.166 Severability***

The provisions of this chapter are severable. If a section, sentence, clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision.

### ***Section 150.167 Abatement And Other Remedies***

In case a building or other structure is or is proposed to be located, constructed, maintained, repaired, altered, or used, or land is or is proposed to be used, in violation of this chapter, the building or land thus in violation shall constitute a nuisance and the city may, as an alternative to other remedies that are legally available for enforcing this chapter, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

### ***Section 150.999***

## **Halfway - Land Usage**

Violation of any provision of this chapter or of any amendment of this chapter is punishable upon conviction by a fine of not more than \$100 for each day of violation where the offense is a continuing offense.